

Tentative Rulings – June 9, 2005

To request a hearing on any matter on this calendar, you must call the Court at (209) 223-6360 by 4:30 p.m. today. Notice of the intention to appear must also be given to all other parties. If the clerk is not notified of a party's intention to appear, there will be no hearing and the tentative ruling becomes the order of the court.

DUQUETTE v. GRIFFIN et al – 04CV3276 – Motion of Plaintiff's Counsel to Withdraw as Attorney of Record

There is no tentative ruling in this matter as the mandatory Judicial Council form for the notice of motion does not allow the moving party to comply with Local Rule 4.03 (tentative ruling procedure). Appearances are required

HARLEY DAVIDSON v. STEELE – 03CV2853 – Defendant's Demurrer to the First Amended Complaint

The defendant's demurrer to the first amended complaint is overruled. The defendant demurred to the complaint on the grounds of uncertainty and misjoinder of parties. These are special demurrers, which are prohibited in limited jurisdiction cases.

A party may request the exemption of a limited jurisdiction case from the procedural restrictions imposed by the economic litigation statutes. (Code of Civil Procedure Section 90, et seq.) However, an order exempting the matter from economic litigation is required before a special demurrer can be filed.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 391 is needed, nor is further notice of this ruling required.

PLYMOUTH EMPIRE MINE PROPERTIES, INC. v. DERANIA – 05CV3693 - Defendant's Motion to Amend General Denial

The defendant's motion for leave to amend his general denial is granted. The general denial filed on April 7, 2005, is amended to allege that defendant, Peter M. Derania, answers the complaint in his individually capacity and not in his capacity of trustee of the Robert P. Derania 1981 Trust.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 391 is needed, nor is further notice of this ruling required.

PLYMOUTH EMPIRE MINE PROPERTIES, INC. v. DERANIA –
05CV3693 - Plaintiff's Demurrer to General Denial

Based on the order granting the defendant leave to amend his general denial, the plaintiff's demurrer to the defendant's general denial is denied without prejudice. The general denial, with amendment, supercedes the original pleading.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 391 is needed, nor is further notice of this ruling required.

PLYMOUTH EMPIRE MINE PROPERTIES, INC. v. DERANIA –
05CV3693 - Defendant's Motion to File Cross-Complaint

The defendant's motion for leave to file a cross complaint is denied without prejudice. The proposed cross complaint is not adequately identified as a cross complaint. Rather, the pleading is identified as a complaint for unlawful detainer. Defendant failed to comply with California Rules of Court, Rule 201(f)(6) which requires that the nature of the paper submitted for filing be properly identified.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 391 is needed, nor is further notice of this ruling required.

PLYMOUTH EMPIRE MINE PROPERTIES, INC. v. DERANIA –
05CV3693 - Defendant's Motion for Title Report

The defendant's unopposed motion for a copy of the title report is granted. The court notes that plaintiff file a non-opposition to the motion that includes a copy of the Preliminary Title Report dated February 7, 2005.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 391 is needed, nor is further notice of this ruling required.

VILLAGE CONCEPTS, INC. v. PHILLIP C. DIORIO – 03CV2634 –
Motion to Vacate Judgment

On the court's own motion this matter is continued to June 30, 2005, at 3:15 p.m., in Dept. 2 of this court. The motion is subject to the court's tentative ruling procedures. (Local Rule 4.03.)