

TENTATIVE RULINGS—APRIL 20, 2007

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.

Akhtar v. Powers: 06CV4277

Defendant's Demurrer

There is no tentative ruling in this matter, pursuant to Local Rule 4.03 (F).

Weiner v. McCarthy: 07CV4643

Defendant's Demurrer & Motion to Strike

Plaintiff filed an amended complaint pursuant to Code of Civil Procedure section 472. Said amendment renders the demurrer and motion to strike moot. Therefore, the demurrer and motion to strike are denied.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 3.1312 is needed, nor is further notice of this ruling required.

County of Amador v. McClure, et al.: 07CV4652

Defendant Waste Connections of California, Inc. dba Amador Disposal Service's Motion to Strike

Defendant's Motion to Strike is granted with 20 days leave to amend.

The grounds for a motion to strike must appear from the face of the pleadings or from matters of which judicial notice may be taken. (C.C.P. §437.)

C.C.P. §436 provides:

The court may, upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper: (a) Strike out any irrelevant, false, or improper matter inserted in any pleading. (b) Strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court.

A copy of the contract, which the plaintiff alleges was breached, is attached to the Complaint as Exhibit B. Therefore, it is deemed part of the Complaint and may be considered in ruling on the instant motion.

There is no provision in the contract for attorneys' fees. Plaintiff has not provided statutory authority for the request for attorneys' fees. Therefore, the request for attorneys' fees is without authority and the motion to strike is granted. However, as there is a possibility that the plaintiff could amend the complaint to state a valid claim for attorneys' fees, Plaintiff is granted twenty (20) days leave to amend.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 3.1312 is needed, nor is further notice of this ruling required.