

## **TENTATIVE RULINGS—JULY 11, 2008**

**To request a hearing on any matter on this calendar, you must call the Court at (209) 257-2692 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.**

**ALBERTA HALE LAND TRUST V. BONNEAU: 05CV3880**

### ***Plaintiff's Motion for Leave to File Third Amended Complaint***

Plaintiff's unopposed motion for leave to file a third amended complaint is hereby granted. Plaintiff is to file a third amended complaint within 15 days of the date of this order.

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.

**ROEN V. COUNTY WATER AGENCY: 07CV4747**

### ***Defendant Dr. Ralph Milanovich Revocable Living Trust's Motion for Summary Judgment or, in the Alternative, Summary Adjudication of Issues***

Defendant's Motion for Summary Judgment is hereby denied. There is a triable issue of material fact as to whether the defendant was negligent by failing to take any action to prevent further slippage of the land in question.

Defendant's Motion for Summary Adjudication is hereby denied. Defendant failed to comply with the separate statement requirements outlined in California Rules of Court, Rule 3.1350. The failure to comply with said requirements is grounds for denial of the motion. (see C.C.P. §437c (b)(1).) Defendant failed to separately identify each cause of action and its respective supporting facts. Therefore, it is impossible to ascertain which "facts" support each cause of action.

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.

**GALLEGOS V. HUBBARD: 07CV4830**

### ***Defendants Maria Calub and Joy Development Co.'s Motion for Summary Judgment or, in the Alternative, Summary Adjudication of Issues***

#### **Evidentiary Issues:**

Preliminarily, the defendants failed to comply with the requirements of California Rules of Court 3.1354 and Plaintiffs failed to comply with CRC 3.1116 (c).

Defendants' objections 1, 2, 3, 5, and 7 are overruled. Defendants' objection 6 is sustained. Defendants' objection 4 is overruled in part. Objection 4 is overruled to the extent the statement is supported by the deposition testimony of Gabriela Gallegos. It is sustained as to the admission of the deposition testimony of Maria Calub.

Defendants' request for judicial notice is granted.

The evidence presented in Defendants' exhibits 5A and 5B is inadmissible, as the defendants failed to properly authenticate the same.

**Merits:**

Defendants' motion for summary judgment is denied. There is a triable issue of material fact regarding whether the defendants failed to disclose the Animal Damage Report to the defendants and whether any such failure was a breach of the defendants' fiduciary duty.

The defendants' motion for summary adjudication is denied. As noted herein above, there is a triable issue of material fact, as to the negligence cause of action, regarding whether the defendants failed to disclose the Animal Damage Report to the defendants and whether any such failure was a breach of the defendants' fiduciary duty. Similarly, there is a triable issue of material fact, as to each misrepresentation cause of action, regarding whether the defendants failed to disclose certain facts to the plaintiffs, which they were duty bound to disclose.

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.