

## **TENTATIVE RULINGS—JANUARY 9, 2009**

**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.**

**WATTS V. CALIFORNIA PARKS Co.: 08CV5589**

### ***Demurrer***

Defendants' demurrer to the complaint is hereby sustained with leave to amend. Plaintiff is to file and serve an amended complaint within 20 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.

### ***Motion to Strike***

Defendants' motion to strike the punitive damage allegations from the complaint is hereby granted with leave to amend. Plaintiff is to file and serve an amended complaint within 20 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.

**MEYERS V. COUNTY OF AMADOR, ET AL.: 07CV4650**

### ***Defendant State of California's Motion for Summary Judgment***

The defendant's motion for summary judgment is hereby denied. Defendant failed to meet its burden to demonstrate there were no triable issues of material fact. Specifically, Defendant failed to address the theory that the embankment owned by Defendant may constitute a dangerous condition because it is adjacent to the curve on Climax Road and persons using Climax Road with due care may be placed in peril because of the danger posed by said embankment. As State failed to meet its burden, the burden never shifted to the plaintiff and/or codefendant County of Amador to demonstrate the existence of a triable issue of material fact.

Oral argument on the motion will be heard on January 9, 2009 at 10:00 a.m. in Department 2. The Court will make a final ruling on the matter, including ruling on all evidentiary objections, subsequent to any oral argument presented. The Court notes the disposition of the evidentiary objections does not affect the substantive ruling on the motion. The Court's finding that the defendant did not meet its burden does not depend upon the evidence presented, as Defendant simply failed to address said theory in its motion.