

## **TENTATIVE RULINGS–OCTOBER 16, 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.

**LYMAN V. PLYMOUTH EMPIRE PROPERTIES: 08CV5212**

### ***Defendant Ione Band of Miwuk Indians' Motion for Summary Judgment or, in the Alternative, Summary Adjudication of Issues***

Defendant failed to comply with Local Rule 4.03 (D). As such, the Court finds good cause to continue the hearing of this matter to October 30, 2009 at 10:00 a.m. in Department 2. The defendant is to file and serve an amended notice of motion by October 23, 2009.

This ruling constitutes the final ruling of the Court. Oral argument is not available and no further notice of the ruling will be provided.

### ***Defendant Plymouth Empire Properties' Motion for Summary Adjudication & Plaintiffs' Motion for Summary Adjudication:***

Based upon the aforementioned ruling on Defendant Ione Band of Miwuk Indians' motion, the Court hereby continues the hearing on the instant motions to October 30, 2009 at 10:00 a.m. in Department 3.

This ruling constitutes the final ruling of the Court. Oral argument is not available and no further notice of the ruling will be provided.

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

### ***Defendants' Motion for Attorney's Fees***

Defendants' motion for attorney's fees is hereby granted in part.

Probate Code §16247 is not applicable to the instant action. Therefore, the defendants are not entitled to fees pursuant to said statute.

However, the defendants are entitled to fees pursuant to Section 19 of the Bylaws of the Alberta Hale Land Trust and Corporations Code §5238.

As the defendants are entitled to fees, the Court must determine the amount thereof. The Court hereby finds the appropriate lodestar figure is \$75,000.00 (300 hours at \$250.00 per hour). (see generally Margolin v. Regional Planning Comm. (1982) 134 Cal.App.3d 999, 1004-1005; see also Serrano v. Priest (1977) 20 Cal.3d 25, 49.) The Court finds none of the adjustment factors would warrant making any adjustment to the lodestar figure. (see generally Margolin v. Regional Planning Comm., supra, at 999, 1004-1005; see also Serrano, supra, 49.)

Therefore, based upon the foregoing, the defendants are awarded \$75,000.00 in costs.

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.

***Plaintiff's Motion to Tax Costs***

Plaintiff's motion to tax costs is granted in part and denied in part.

Plaintiff's motion to tax costs is granted as to the CourtCall fees requested. The motion is denied on all other grounds.

As such, the defendants' are awarded costs of \$87,108.77, which is inclusive of the attorney's fees awarded in the defendants' motion for attorney's fees ruled upon herein above.

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.

**ZAIGER V. BABCOCK CONSTRUCTION: 08CV5742**

***Plaintiff's Motion for Summary Judgment***

Defendant failed to comply with Local Rule 4.03 (D). As such, the Court finds good cause to continue the hearing of this matter to November 20, 2009 at 10:00 a.m. in Department 2. The defendant is to file and serve an amended notice of motion by October 30, 2009.

This ruling constitutes the final ruling of the Court. Oral argument is not available and no further notice of the ruling will be provided.