

TENTATIVE RULINGS–OCTOBER 23, 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.

FENNELLY V. THAYER: 07CV4990

Defendant's Motion for Summary Judgment

The defendant's request for judicial notice is hereby granted.

The defendant's objection to the admission of James Fennelly's Kaiser discharge summary is sustained. The defendant's remaining objections to evidence are overruled.

The defendant's motion for summary judgment is hereby granted. There is no triable issue of material fact regarding the instant case being barred by the statute of limitations.

Failure to comply with the requirements for a separate statement is a sufficient ground, in and of itself, to grant the motion. (C.C.P. §437c (b)(3).) The plaintiffs did not comply with the requirements of a separate statement. The plaintiffs did not dispute any of facts presented in the defendant's separate statement of material facts.

Plaintiffs submitted a separate statement of additional facts in dispute. However, the facts submitted fail to demonstrate a triable issue of material fact regarding the sanity of the plaintiffs at the time the right of action accrued. For example, there are no facts submitted regarding the time of the alleged insanity.

Defendant is to submit an order and proposed judgment in compliance with Rule 3.1312.

BRATTON V. CASTORENA: 09CV6018

Defendants' Demurrer to Complaint

Defendants failed to comply with Local Rule 4.03 (D). As such, this matter is continued to November 13, 2009 at 10:00 a.m. in Department 2. The defendants are to file and serve an amended notice of motion, in compliance with Rule 4.03 (D), 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.

GUTHRIE V. BURKE RANCH: 09CV6012

Defendant's Demurrer to the First Amended Complaint

Defendant's demurrer to the first amended complaint is sustained. Defendant failed to comply with Civil Code §1369.560. Defendant was given the opportunity to amend his complaint to state compliance with §1369.560 and he failed to do so. As such, leave to amend is 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.

JACKSON RANCHERIA BAND OF MIWUK INDIANS V. WORTH: 07CV5069

Defendants/Cross-complainants' Motion for Order Regarding Service on Dissolved Corporation

Defendants' unopposed motion for order regarding service on dissolved corporation, pursuant to Corporations Code §2011 (b) is hereby granted.

The Court will execute the proposed order submitted by the moving party.

WAGNER V. AMADOR COUNTY: 08CV5441

Defendant Amador Water Agency's Motion to Compel Discovery Responses and Request for Sanctions:

Defendant's unopposed motion to compel is hereby granted. Plaintiff is to provide responses to the discovery, without objections, within 20 days of the date of this order.

Defendant is awarded sanctions in the amount of \$310.00 (\$270.00 for attorney's fees, \$40.00 as 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.

Defendant Comanche Realty's Motion to Compel Discovery Responses and Request for Sanctions:

Defendant's unopposed motion to compel is hereby granted. Plaintiff is to provide responses to the discovery, without objections, within 20 days of the date of this order.

Defendant is awarded sanctions in the amount of \$300.00 (\$260.00 for attorney's fees and \$40.00 for 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.