

TENTATIVE RULINGS-DECEMBER 4, 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.

FIA CARD SERVICES V. NESLER: 08CV5766

Plaintiff's Motion for Summary Judgment

The plaintiff's motion for summary judgment is hereby denied.

Undisputed fact (a) states, "Defendant(s) entered into a Credit Card Agreement with Plaintiff." Said fact is supported by the Declaration in Support of Motion for Summary Judgment, pg. 7, lines 13-20, and attached exhibits. Line 18-20 of the declaration states, 'At the time the account was established, a document setting forth the terms of the agreement was mailed to the defendant. A true and correct copy is attached as Exhibit '1'.' Exhibit 1 is a generic "Credit Card Agreement." There is no indication it was actually sent to the defendant, on what date it was sent, etc.

The entire declaration is boilerplate. There are no dates indicating when the account was authorized, when the card holder agreement was sent to the defendant and when the defendant first incurred charges to the account.

As such, the plaintiff has met its burden to demonstrate there are no triable issues of material fact. As such, the burden never shifted to the defendant to demonstrate the existence of a triable issue.

Therefore, based upon the foregoing, the motion 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.

PALLINO RECEIVABLES V. BPL ELECTRIC: 08CV5716

Plaintiff's Motion to Compel Responses to Discovery, Order for Genuineness of Documents and Truth of Matters Asserted and Imposition of Monetary Sanctions

Plaintiff's unopposed motion is hereby granted. Plaintiff is awarded sanctions in the amount of \$900.00.

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.

SUTTER AMADOR HOSPITAL V. BLASINGAME: 07CV4672

Defendant's Motion for Leave to File First Amended Cross-Complaint

Defendant's motion for leave to file first amended cross-complaint is hereby granted. The proposed amended cross-complaint attached as an exhibit to the motion is hereby deemed to be the amended cross-complaint.

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.