

TENTATIVE RULINGS for CIVIL LAW and MOTION January 6, 2016

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Please take note that Yolo Superior Court is now located at 1000 Main Street, in Woodland.

Telephone number for the clerk in Department Eleven: (530) 406-6843
Telephone number for the clerk in Department Twelve: (530) 406-6778

TENTATIVE RULING

Case: R&A Associates, Inc. v. Flores
Case No. CV UD 15-859
Hearing Date: January 6, 2016 Department Eleven 9:00 a.m.

Plaintiffs R & A Associates, Inc. and Raymond Arjmand's motion to set aside the dismissal entered on October 13, 2015 is **DENIED**. (Code Civ. Proc., § 473, subd. (b).) Plaintiffs' counsel has not demonstrated that her mistake meets the requirements for discretionary relief under section 473.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312, or further notice is required.

TENTATIVE RULING

Case: Scaccia v. Scaccia
Case No. CV CV 14-1820
Hearing Date: January 6, 2016 Department Eleven 9:00 a.m.

There are currently eight (8) discovery motions filed by plaintiff Brian Scaccia on the Court's calendar on January 6, 7, and 11. Based on the repeated discovery disputes between the parties, and the discovery issues before the Court, the Court finds good cause to appoint a discovery referee in this matter. (Code Civ. Proc., § 639; Cal. Rules of Court, rule 3.920.) The parties shall meet and confer, and select three candidates for appointment. By no later than January 29, 2016, the parties shall file with the Court the names, business addresses, and telephone numbers of the proposed referees, rates, and State Bar numbers, if applicable. (Cal. Rules of Court, rule 3.922.)

All discovery motions currently pending before this Court on January 6, 7, and 11 will be heard by the selected referee. These matters are **VACATED**.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312, or further notice is required.

Case: **Turner v. Superior Court**
Case No. CV CV 15-517
Hearing Date: **January 6, 2016** **Department Twelve** **9:00 a.m.**

Defendants Superior Court of Yolo County, Thomas Warriner, and Paul Richardson's (collectively, "Defendants") demurrer to plaintiff Anthony R. G. Turner's ("Plaintiff") Complaint is **SUSTAINED** with leave to amend.

Plaintiff's Complaint was filed on April 16, 2015, in the Superior Court of Yolo County. After judges of the Yolo County Superior Court recused themselves, Judge Culhane was assigned to hear the matter under the terms of a Reciprocal Assignment Order.

Plaintiff's Complaint appears to allege causes of action for property damage, personal injury, general negligence, and intentional tort. Defendants contend the Complaint includes only one attached cause of action entitled Breach of Contract, but the Complaint has two attached causes of action, including claims for intentional tort and general negligence. Within those attachments, Plaintiff sets forth 14 handwritten pages of allegations, which also seem to include various other "causes of actions."

Plaintiff's allegations seem to arise from an arraignment and default pertaining to appearances in the Superior Court of Yolo County on one or three dates in January and March 2015, but it is unclear whether Judge Richardson or Judge Warriner presided over the hearings in question. Damages are sought for loss of use of property, general damage, property damage, loss of earning capacity, and other damages stemming from what Plaintiff characterizes as Fraud, Slander, Defamation, Breach of Fiduciary-Contract, Account Fraud, Falsification of Public Records, Judicial Perjury, Duty of Care, Duty of Loyalty, and violation of Due Process and Equal Protection. (Complaint at p. 3.)

Defendants demur to the Complaint on several grounds, including that Plaintiff has failed to bring the action in compliance with the Government Claims Act (Gov't Code §§ 900 et seq.), Judge Warriner and Judge Richardson are entitled to absolute judicial immunity in the exercise of their official judicial functions, and Plaintiff's Complaint is ambiguous and uncertain (Code Civ. Proc. § 430.10(f)).

Pursuant to the Government Claims Act, a claimant must present a civil complaint for money damages to the court executive offer of that court before filing a lawsuit against a public entity or public employee, including a judicial officer. (Gov't Code §§ 810.2, 811.2, 811.4, 911.2, 915(c)(1), 945.4, and 950.2.) Failure to allege compliance with the presentation requirements of the Act and that the claim has been rejected is fatal to a cause of action. (*State v. Superior Court* (2004) 32 Cal.4th 1234, 1240-1241.) Defendants contend the instant Complaint fails to plead facts demonstrating compliance with the Act and, therefore, fails to state facts sufficient to constitute a cause of action.

In the Judicial Council form Complaint, however, Plaintiff has checked the boxes stating that he was required to comply with a claims statute and has complied with applicable claims statutes. (Complaint at p. 2.) To the extent Defendants are contend that Plaintiff had to allege more specific facts about his compliance, the Court rejects the argument. The Court presumes that by reducing the claims-compliance component of the form to a check-the-box process, the Judicial

Council was facilitating compliance with applicable pleading requirements. Furthermore, Defendants have not cited authority for the proposition that a plaintiff seeking damages against a public entity or public employee cannot comply with pleading requirements by filling out a Judicial Council form complaint. Absent such authority, the Court must conclude that compliance is properly pled, at least for purposes of a demurrer.

Defendants next demur on the ground that Judge Richardson and Judge Warriner are entitled to absolute immunity from civil liability for acts performed in their judicial capacity. (*City of Santa Clara v. County of Santa Clara* (1969) 1 Cal.App.3d 493, 498.) A judge will not be deprived of immunity even if the action taken was in error, was done maliciously, or was in excess of his authority; rather, he will be subject to liability only when he has acted in the "clear absence of all jurisdiction." (*Stump v. Sparkman* (1978) 435 U.S. 349, 356-57.) While it appears that the alleged actions of Judge Richardson and Judge Warriner almost certainly fall within the scope of judicial immunity, the Court declines to address the argument because it finds the Complaint too uncertain to determine what is actually being alleged against the judges.

Defendant finally demurs on the ground that the Complaint is hopelessly uncertain as there are no discernible facts or allegations to establish the elements of any recognizable legal theory. The Court agrees. It is difficult to determine from the Complaint the specific causes of action Plaintiff is alleging, what facts support each purported cause of action, and against whom each cause of action is being asserted. However, due to the general uncertainty of the complaint, the Court cannot conclusively ascertain that there is no possibility of curing the defects. As such, Defendants' demurrer is **SUSTAINED**, but leave to amend is granted.

Plaintiff may file a First Amended Complaint no later than February 19, 2016. Plaintiff is advised that his First Amended Complaint must adhere to the rules regarding the form and format of papers presented for filing as set forth in Rule 2.100, et seq., of the California Rules of Court, including separating each cause of action and identifying the specific party against whom each cause of action is directed. (See Cal. R. Ct. 2.112.)

Defendants' response to be filed and served within 15 days of service of the amended complaint, 20 days if served by mail.

Although not required by rule or statute, Plaintiff should attach a copy of this minute order to the amended complaint to facilitate the filing of the document.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312, or further notice is required.