

TENTATIVE RULINGS for CIVIL LAW and MOTION **April 11, 2017**

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 on Yolo Court's 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.

Telephone number for the clerk in Department Three: (530) 406-6888

TENTATIVE RULING

Case: **Kane v. Giannini**
Case No. CV UD 16-1275
Sebahia v. Kane
Case No. CV CV 16-2136
Hearing Date: **April 11, 2017** **Department Three** **9:00 a.m.**

Defendants Jihad Ben Sebahia and Eric Giannini's demurrer to the first amended complaint ("FAC") in Case No. CV UD 16-1275, is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) The Court takes judicial notice of the FAC. (Evid. Code, § 452, subd. (d).) Plaintiffs have pled sufficient facts to constitute the first and third causes of action, and they have no standing to make arguments on behalf of Charlene Giannini with respect to the second cause of action.

Defendants John and Rosalie Kane's demurrer to the complaint in Case No. CV CV 16-2136 is **SUSTAINED**. (Code Civ. Proc., § 430.10, subd. (c).) The Court takes judicial notice of Exhibits 1 through 3 attached to defendants' request for judicial notice. (Evid. Code, § 452, subd. (d).) There are two actions pending between the same parties on the same cause of action. Accordingly, the proceedings in Case No. CV CV 16-2136 are **STAYED**, pending disposition of the cross-complaint in Case No. CV UD 16-1275. (*Branson v. SunDiamond Growers* (1994) 24 Cal.App.4th 327, 335.)

Defendants Jihad Ben Sebahia and Eric Giannini's motion to deem related, reclassify, and consolidate is **GRANTED IN PART**. As the proceeding in Case No. CV CV 16-2136 has been abated and stayed, the motion to deem related and consolidate the two cases is **DENIED**. The motion to reclassify the case as an unlimited civil case is **GRANTED**. (Code Civ. Proc., 403.030.) *Jellinek v. Superior Court* (1991) 228 Cal.App.3d 652, 656, does not appear to apply to this case based on the dismissal of the small claims case without prejudice.

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.

