

TENTATIVE RULINGS for CIVIL LAW and MOTION
September 25, 2015

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 Three: (530) 406-6888
Telephone number for the clerk in Department Ten: (530) 406-6722
Telephone number for the clerk in Department Eleven: (530) 406-6843

TENTATIVE RULING

Case: Kane v. Valley Slurry Seal Company
Case No. CV CV 08-2483
Hearing Date: September 25, 2015 Department Ten 4:00 p.m.

Plaintiffs Robert Kane, Ahmad Lloyd, Kosol Main, Jose Galan, and Javier Parra’s motion for attorneys’ fees:

Defendants’ evidentiary objection nos. 1-4, 9-10, 13, 18, 20-21, 23-24, 29-32, 43, and 47 to the declaration of Eric Kingsley are **SUSTAINED**. (Evid. Code, §§ 403 & 1200.) The remainder of the objections to this declaration are **OVERRULED**.

Defendants’ evidentiary objection nos. 1-3, 5-29, 31, and 36-37 to the declaration of Richard Donahoo are **SUSTAINED**. (Evid. Code, §§ 403 & 1200.) The remainder of the objections to this declaration are **OVERRULED**.

Defendants’ request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

Plaintiffs’ motion for attorneys’ fee is **DENIED**. (Code Civ. Proc., § 1021.15). Plaintiffs have not shown that their “personal financial stake in the outcome was not so disproportionate to the cost of litigation that the lawsuit would not have been brought without the additional incentive of an award of attorneys’ fees.” (*Satrap v. Pacific Gas and Electric* (1996) 42 Cal.App.4th 72, 78.) The settlement negotiations indicate that the plaintiffs’ “expected recovery was always more than enough to warrant incurring the costs of litigation.” (*Id.* at 79).

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.

Defendants Valley Slurry Seal Company and Valley Slurry Seal Emultech's motion to tax costs:

Defendants Valley Slurry Seal Company and Valley Slurry Seal Emultech's evidentiary objection nos. 1-3 to the declaration of Eric Kingsley, submitted with the memorandum of costs, are **OVERRULED**. Objection no. 4 is **SUSTAINED**. (Evid. Code, § 1200.)

Defendants' evidentiary objection nos. 1-6, and 8-12, to the declaration of Eric Kingsley, submitted with their reply, are **OVERRULED**. Objection No. 7 is **SUSTAINED**. (Evid. Code, § 1200.)

Defendants' evidentiary objection nos. 1-5, and 7-9, to the declaration of Richard Donahoo, submitted with their reply, are **OVERRULED**. Objection No. 6 is **SUSTAINED**. (Evid. Code, § 1200.)

Defendants' request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

The Court rules as follows on specific cost items:

1. Filing and motion fees (Item 1). The motion to tax this item is **GRANTED IN PART**, in the amount of \$8,184.68. Plaintiffs have not segregated the messenger/delivery fees from the allowable filing fees, and have not shown that these messenger fees were reasonable and necessary. (*Nelson v. Anderson* (1999) 72 Cal.App.4th 111, 132.) The Court charged plaintiffs \$420.00 in error in fees for filing motions in limine. Plaintiffs should make a written request for a refund for these fees to the Yolo Superior Court Civil Division.
2. Depositions (Item 4). The motion to tax this item is **GRANTED IN PART**, in the amount of \$6,275.39. Plaintiffs have substantiated \$12,112.84 in recoverable deposition travel costs in counsel's declarations. (Donahoo Decl. Exh. 28; Kingsley Decl., Exh. 14.) Plaintiffs have substantiated \$13,800.77 in recoverable deposition (taking and transcribing) costs in counsel's declarations. (Donahoo Decl. Exh. 19; Kingsley Decl., Exh. 4.)
3. Service of process (Item 5). The motion to tax this item is **GRANTED IN PART**, in the amount of \$3,477.36. Plaintiffs have substantiated \$1,490.64 for service of civil subpoenas on witnesses. (Donahoo Decl., Exh. 24.)
4. Court-ordered witness fees (Item 8). The motion to tax the entirety of this item is **GRANTED**. The fees were not for a court-ordered expert. (Code Civ. Proc., § 1033.5, subd. (a)(8); *Sanchez v. Pacificare Health Systems* (1999) 75 Cal.App.4th 946, 949-50.)
5. Models, blowups, and copies of exhibits (Item 11). The motion to tax this item is **GRANTED IN PART**, in the amount of \$9,518.00. The Court reduces by three-quarters the fees paid to Litigation Support Professionals.
6. Court reporter fees (Item 12). The motion to tax this item is **GRANTED**, in the amount of \$6,621.67.
7. Class administration costs. The motion to tax this item is **DENIED**. The Court will allow this item in its discretion. (Code Civ. Proc., § 1033.5, subd. (c)(4).)

8. Court teleconferencing. The motion to tax this item is **GRANTED**, in the amount of \$510.00. The Kingsley and Donahoo declarations only support \$1,335.00, and the Court will not allow late fees to be passed on to defendants. (Kingsley Decl., Exh. 6; Donahoo Decl., Exh. 22.) The Court will allow the remainder in its discretion. (Code Civ. Proc., § 1033.5, subd. (c)(4).)
9. Document retrieval. The motion to tax this item is **GRANTED**. Plaintiffs do not show that these costs were reasonably necessary.
10. Messenger and delivery. The motion to tax this item is **GRANTED**. Plaintiffs do not show that these costs were reasonably necessary.
11. Translation. The motion to tax this item is **DENIED**. The Court will allow this item in its discretion. (Code Civ. Proc., § 1033.5, subd. (c)(4).)
12. Travel - trial and hearing. The motion to tax this item is **GRANTED**. Plaintiffs do not show that these costs were reasonably necessary.

The Court declines to apportion plaintiffs' award of costs based on the degree of success it achieved in the litigation.

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: **People v. \$1,108 U.S. Currency**
Case No. CV PT 15-520
Hearing Date: **September 25, 2015** **Department Three** **10:00 a.m.**

The People's motion for reconsideration is **GRANTED**. The Court's order on June 9, 2015, directing the People to return the currency is **VACATED**. The People are **DIRECTED TO APPEAR** to advise the Court of the status of the pending criminal proceedings against John Turkovich.

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: **West Sacramento Area Flood Control Agency v. Saenz**
Case No. CV ED 15-832
Hearing Date: **September 25, 2015** **Department Eleven** **9:00 a.m.**

Plaintiff West Sacramento Area Flood Control Agency's unopposed motion for an order of possession is **GRANTED**. (Code Civ. Proc., § 1255.410.)

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.