

TENTATIVE RULINGS for CIVIL LAW and MOTION October 11, 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 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.

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

TENTATIVE RULING

Case: Maass v. Gaines
Case No. CV CV 16-1088

Hearing Date: October 11, 2016 Department Eleven 9:00 a.m.

Defendants Carol Gaines and Ron Gaines's motion to strike plaintiff's prayer for punitive damages is **GRANTED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 436; Civ. Code, § 3294.) *Taylor v. Superior Court* (1979) 24 Cal.3d 890, establishes that a plaintiff states a claim for punitive damages for intoxicated driving when one becomes intoxicated and thereafter drives a car while in that condition, despite knowledge of the safety hazard created thereby. (*Id.* at p. 896.) Plaintiff pleads that defendants Carol and Ron Gaines drove "while under the influence of alcohol in violation of California Vehicle Code sections 23152(a), 23152(b), 23153(a), 23153(b) and 22350, so as to cause it to collide with the vehicle PLAINTIFF was traveling in[.]" (Complaint, ¶ 8.) But plaintiff does not plead facts indicating a conscious disregard of the risk such intoxication posed. (*Taylor*, supra, at p. 893 [wherein it was pled that defendant was an alcoholic "well aware of the serious nature of his alcoholism" and of his "tendency, habit, history, practice, proclivity, or inclination to drive a motor vehicle while under the influence of alcohol"; and that Stille was also aware of the dangerousness of his driving while intoxicated."].)

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