

**TENTATIVE RULINGS for LAW and MOTION**  
**February 20, 2020**

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](http://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 Nine (530) 406-6819  
Telephone number for the clerk in Department Ten (530) 406-6816

**TENTATIVE RULING**

**Case:** Roser v. FCA US LLC, et al.  
Case No. CV CV 16-1756  
**Hearing Date:** February 20, 2020 Department Ten 9:00 a.m.

Defendants FCA US LLC’s and Hoblit Chrysler Jeep Dodge’s motion to enforce settlement agreement pursuant to Code of Civil Procedure section 998 is **GRANTED**. (Code Civ. Proc., § 998; *Pazderka v. Caballeros Dimas Alang, Inc.* (1998) 62 Cal.App.4<sup>th</sup> 658, 671-672.)

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:** Steffen v. Union Pacific Railroad Co.  
Case No. CV PM 15-500  
**Hearing Date:** February 20, 2020 Department Ten 9:00 a.m.

Defendant and cross-complainant Tim Paxin’s Pacific Excavation, Inc.’s (“Paxin”) request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

Paxin’s evidentiary objection to Defendants and cross-complainants Union Pacific Railroad Company’s and Brian Kline’s (“Union Pacific and Brian Kline”) evidence, the entire declaration of Dean C. Alberson, Ph.D. is **OVERRULED**.

Union Pacific and Brian Kline’s evidentiary objections to Paxin’s and defendant-cross-complainant Granite Construction Company LLC’s (“Granite”) evidence numbers 1 and 2 are **SUSTAINED**. (Evid. Code, § 1200.)

Granite’s objections 1-9 to Union Pacific and Brian Kline’s evidence are **OVERRULED**.

Granite’s motion for summary judgment or alternatively summary adjudication is **DENIED**. (Code Civ. Proc., § 437c, subd. (p)(2).) Granite failed to present evidence or inferences from

evidence to show that plaintiff's injuries would have been the same had the light pole functioned as intended. Union Pacific and Brian Kline presented admissible evidence that shows that there is a triable issue as to whether defendant Granite Construction Company, Inc.'s negligence was a substantial factor in causing plaintiff's injuries and whether the defect was latent or patent. (Union Pacific and Kline's UMF nos. 9-26, Granite's UMF nos. 5, 7, 13, 16, 20-37; *Union Pacific Railroad Company v. Ameron Pole Products* (2019) 43 Cal.App.5th 974; *Sanchez v. Swinerton & Walberg Co.* (1996) 47 Cal.app.4th 1461, 1466-1472.)

Paxin's motion for summary judgment or alternatively summary adjudication is **DENIED**. (Code Civ. Proc., § 437c, subd. (p)(2).) Union Pacific and Brian Kline have standing to bring the opposition to Paxin's motion for summary judgment or alternatively summary adjudication. (*Union Pacific Railroad Company v. Ameron Pole Products* (2019) 43 Cal.App.5th 974.) Paxin failed to present evidence or inferences from evidence to show that plaintiff's injuries would have been the same had the light pole functioned as intended. Union Pacific and Brian Kline presented admissible evidence that shows that there is a triable issue as to whether defendant Granite Construction Company, Inc.'s negligence was a substantial factor in causing plaintiff's injuries and whether the defect was latent or patent. (Union Pacific and Kline's UMF nos. 9-26; Paxin's UMF nos. 19-34, 40-41; *Union Pacific Railroad Company v. Ameron Pole Products* (2019) 43 Cal.App.5th 974; *Sanchez v. Swinerton & Walberg Co.* (1996) 47 Cal.app.4th 1461, 1466-1472)

The parties are **DIRECTED TO APPEAR**.

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:** Timothy, Stewart & Lekos Seed Co. v. Bornt & Sons, Inc. et al.  
Case No. CV CV 19-2439

**Hearing Date:** February 20, 2020 Department Nine 9:00 a.m.

Defendants Bornt & Sons, Inc., Mara Capital, LLC, Greenwise Materials, Inc., Bornt Family Farms, Bornt Equipment Leasing, LLC, Alan J. Bornt, Mary Bornt, Christian Sanchez, and Alan Graeme's motion to transfer venue of this action to Imperial County is **DENIED**. (Code Civ. Proc., § 395, 395.5) As the moving party, defendant must overcome the presumption that plaintiff has selected a proper venue: "(I)t is the moving defendant's burden to demonstrate that the plaintiff's venue selection is not proper under any of the statutory grounds." (*Fontaine v. Superior Court (Cashcall, Inc.)* (2009) 175 Cal.App.4th 830, 836.) Defendant fails to establish that none of the venue possibilities apply here, i.e., Yolo County was the place where the contract was to be performed. (*Anaheim Extrusion Co. v. Sup.Ct. (Classic Molding Co.)* (1985) 170 Cal.App3d 1201, 1203.)

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.