

TENTATIVE RULINGS for LAW and MOTION
August 14, 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. 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 Ten (530) 406-6816

NOTICE: Effective May 4, 2020, all court appearances are by Zoom or Conference call. Yolo Superior Court Virtual Courtroom and conference call information is posted on the Yolo Court's Website at www.yolo.courts.ca.gov.

TENTATIVE RULING

Case: FedEx Corporate Services, Inc. v. Puroast Coffee Company, Inc.
Case No. CV CV 20-202
Hearing Date: August 14, 2020 Department Ten 9:00 a.m.

The Court declines to rule on plaintiff FedEx Corporate Services, Inc.'s evidentiary objections as the evidence objected to is not germane to the disposition of the instant motion. (Code Civ. Proc., § 437c, subd. (q).)

Plaintiff FedEx Corporate Services, Inc.'s motion for summary judgment is **DENIED**. (Code Civ. Proc., § 437c, subd. (p)(1).) Triable issues of material fact exist as to the amount of money that defendant owes plaintiff and whether the amounts on plaintiff's statement of account were sent to defendant. (Code Civ. Proc., §§ 337a; *Trafton v. Youngblood* (1968) 69 Cal.2d 17, 25; UMF 2-4.) The Court does not consider the additional evidence attached to plaintiff's reply because it was not authenticated and plaintiff failed submit this evidence with its moving papers. (Evid. Code, § 1400; *San Diego Watercrafts, Inc. v. Wells Fargo Bank, N.A.* (2002) 102 Cal.App.4th 308, 316.)

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: Roser v. FCA US LLC
Case No. CV CV 16-1756
Hearing Date: August 14, 2020 Department Ten 9:00 a.m.

Defendants FCA US LLC and Hoblit Chrysler Jeep Dodge's request for judicial notice is **DENIED**. (Evid. Code, §§ 452, 453.) The proffered documents are irrelevant to the Court's determination of the instant motion. (*People v. Rowland* (1992) 4 Cal.4th 238, 268 fn. 6.)

Defendants' motion for judgment on the pleadings is **GRANTED WITH LEAVE TO AMEND**. (Code Civ. Proc., §§ 438.) Plaintiff's third cause of action for fraudulent inducement-concealment is barred by the economic loss rule because plaintiff has failed to plead facts "demonstrat[ing] harm above and beyond a broken contractual promise." (*Food Safety Net Services v. Eco Safe Systems USA, Inc.* (2012) 209 Cal.App.4th 1118, 1130; Complaint, ¶¶ 159-179.) Absent allegations of affirmative misrepresentations, plaintiff's third cause of action does not satisfy the narrow *Robinson* exception. (*Robinson Helicopter Co., Inc. v. Dana Corp.* (2004) 34 Cal.4th 979, 990-991 & 993; Complaint, ¶ 16.)

The notice of motion does not provide notice of this Court's tentative ruling system as required by Local Rule 11.4(b). Counsel for moving party, or the moving party if unrepresented by counsel, is ordered to notify the opposing party or parties immediately of the tentative ruling system.

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