

TENTATIVE RULINGS for LAW and MOTION **September 15, 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
Telephone number for the clerk in Department Nine (530) 406-6819

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: **Cage v. Bright People Foods, Inc.**
Case No. CV CV 19-881
Hearing Date: September 15, 2020 Department Nine 9:00 a.m.

Plaintiff Carl Cage's request to dismiss without prejudice his "PAGA" claim for violation of Labor Code section 2699 is **GRANTED**. Defendants Bright People Foods, Inc., Michael Vinnicombe, and Rita Vinnicombe's motion to bifurcate is **DENIED AS MOOT**. A judicial tribunal will consider only an existing controversy and as a general rule will not decide a moot question or speculative, theoretical or abstract question or proposition, or a purely academic question, or to give an advisory opinion. (*Wilson v. Los Angeles County Civil Service Commission* (1952) 112 Cal.App.2d 450, 452-453.)

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.

TENTATIVE RULING

Case: **Matthews v. Buckhorn Cafe, Inc.**
Case No. CV CV 19-1038
Hearing Date: September 15, 2020 Department Ten 9:00 a.m.

Defendant Buckhorn Cafe, Inc.'s unopposed motion to compel discovery responses and deem admissions admitted is **GRANTED**. (Code Civ. Proc., §§ 2030.290, 2031.300, 2033.280.)

Plaintiff shall serve verified responses, without objections, together with any responsive documents by no later than October 6, 2020.

Monetary sanctions are **GRANTED IN PART**, against plaintiff in the amount of \$60.00. (Roth decl., ¶ 8; Code Civ. Proc., §§ 2023.010, 2033.280.) Mr. Roth failed to indicate who prepared the instant motion, and any statement about another counsel’s time spent on the motion is hearsay. (Evid. Code, § 1200.) The Court declines to award sanctions for time not yet incurred. Plaintiff shall pay the sanction by October 15, 2020.

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.

TENTATIVE RULING

Case: **McDonald v. City of West Sacramento**
Case No. CV CV 20-729

Hearing Date: **September 15, 2020** **Department Nine** **9:00 a.m.**

Defendant City of West Sacramento’s request for judicial notice is **GRANTED**. (Evid. Code, § 452, subd. (d).)

Defendant’s general and special demurrers to the first cause of action in plaintiff’s complaint are **OVERRULED**. (Code Civ. Proc., § 430.10, subds. (e) & (f).) Plaintiff has alleged sufficient facts to constitute a cause of action for violation of Labor Code section 1102.5. (*Manavian v. Department of Justice* (2018) 28 Cal.App.5th 1127, 1141; Complaint, ¶¶ 14, 30, 32, 35, 46, 49.)

Defendant’s general and special demurrers to the second and third causes of action in plaintiff’s complaint are **SUSTAINED WITH LEAVE TO AMEND**. (Code Civ. Proc., § 430.10, subds. (e) & (f).) The alleged violation of the Public Safety Officers Procedural Bill of Rights Act (“POBRA”) occurred after plaintiff’s employment. (*Melkonians v. Los Angeles County Civil Service Com.* (2009) 174 Cal.App.4th 1159, 1174; Complaint, ¶¶ 35-36, 38-42, 52-55.) To the extent that plaintiff alleges POBRA violations during his employment, the complaint is uncertain. (Code Civ. Proc., § 430.10, subd. (f).) Plaintiff failed to plead the required elements for his third cause of action and, as presently pled, the alleged misrepresentations are privileged. (CACI no. 2711; *Neal v. Gatlin* (1973) 35 Cal.App.3d 871, 877; see also Civ. Code, § 47, subd. (c); Complaint, ¶¶ 35, 38, 40-41)

Defendant’s motion to strike portions of plaintiff’s complaint is **GRANTED IN PART WITHOUT LEAVE TO AMEND**. The Court strikes paragraph 59 of the complaint and paragraph 3 of plaintiff’s prayer for relief. (Gov. Code, § 818.) Labor Code section 1054 has “a punitive purpose, to deter violations and encourage private enforcement.” (*Marshall v. Brown*

(1983) 141 Cal.App.3d 408, 419.) Therefore, defendant, a public entity, cannot be liable for such damages. (Gov. Code, § 818.) In all other respects, the Court denies defendant's motion to strike.

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: **Scaccia v. Scaccia**
Case No. CV CV 14-1820
Hearing Date: **September 15, 2020** **Department Ten** **9:00 a.m.**

Parties are **DIRECTED TO APPEAR.**