

These are the tentative rulings for civil law and motion matters set for Tuesday, October 25, 2016, at 8:30 a.m. in the Placer County Superior Court. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by 4:00 p.m. today, Monday, October 24, 2016. Notice of request for oral argument to the court must be made by calling (916) 408-6481. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date, and after approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.

NOTE: Effective July 1, 2014, all telephone appearances will be governed by Local Rule 20.8. More information is available at the court's website, www.placer.courts.ca.gov.

EXCEPT AS OTHERWISE NOTED, THESE TENTATIVE RULINGS ARE ISSUED BY COMMISSIONER MICHAEL A. JACQUES AND IF ORAL ARGUMENT IS REQUESTED, ORAL ARGUMENT WILL BE HEARD IN DEPARTMENT 40, LOCATED AT 10820 JUSTICE CENTER DRIVE, ROSEVILLE, CALIFORNIA.

1. M-CV-0062269 Wells Fargo Financial Nat'l Bank vs. Saner, Lawrence A.

The motion to dismiss is dropped from the calendar as no moving papers were filed with the court.

2. M-CV-0065153 Pankoski, Jasmine vs. Sirstad, Dawn

The minor's compromise petition is granted. If oral argument is requested, the appearance of the minor at the hearing is waived.

3. M-CV-0065180 Peterson-Parada, Kimberley vs Riolo, Stephen Anthony

Plaintiff's motion to vacate OSC re dismissal hearing is granted pursuant to CCP§473(b).

The OSC re dismissal currently set for November 1, 2016 is vacated.

The matter is set for a further case management conference on November 1, 2016 at 10:00 a.m. in Department 40.

4. M-CV-0066079 Lopez, Ysidro vs Kocsis, Sandra

The appearances of the parties are required for the hearing on the motion for reconsideration. The hearing shall be held at 8:30 a.m. in Department 31 before Judge Pro Tem David Bills.

5. S-CV-0029141 Cooley, David, et al vs. Centex Homes

Plaintiff's Motion to Strike and/or Tax Costs

The motion is denied as Blazona's is the prevailing party in light of the dismissal and entitled to the reasonably necessary costs outlined in its cost memo. Blazona is awarded revised costs in the amount of \$9,830.55.

Cross-Defendant Sacramento A-1 Door's Motion for Good Faith Settlement

The unopposed motion is granted. Based on the standards set forth in *Tech-Bilt v. Woodward Clyde & Associates* (1985) 38 Cal.3d 488, the settlement at issue is within the reasonable range of the settling cross-defendant's proportionate shares of liability for plaintiffs' injuries and therefore is in good faith within the meaning of CCP§877.6.

6. S-CV-0035073 Ruiz, Victor Tony Jr. vs. Union Pacific Railroad Company

Defendant Bridgestone Retail Operations, LLC's Motion for Summary Judgment

Ruling on Request for Judicial Notice

Defendant's request for judicial notice is granted.

Ruling on Motion

The unopposed motion is granted. The trial court shall grant a motion for summary judgment if "all the papers submitted show that there is no triable issue as to any material fact and the moving party is entitled to a judgment as a matter of law." (CCP§437c(c).) A party to the action may also move for summary adjudication if that party contends there is no merit to one or more of the causes of action. (CCP§437c(f)(1).) However, a motion for summary adjudication shall only be granted where it completely disposes of a cause of action. (*Ibid.*) In reviewing a motion for summary judgment, the trial court must view the supporting evidence, and inferences reasonably drawn from such evidence, in the light most favorable to the opposing party. (*Aguilar v. Atlantic Richfield Company* (2001) 25 Cal.4th 826, 843.) In this instance, defendant has presented sufficient evidence, which is not opposed to by plaintiff, that it did not perform any of the work on the inner liner of the left rear tire nor did any of its employees, agents, or representatives repair the subject tire. (Defendant's SSUMF Nos. 2, 3.) Since plaintiff does not present a triable issue of material fact as to his claim for negligence against the moving defendant in the second cause of action, the motion is granted.

7. S-CV-0036687 Ferlito, Gaspare vs. General Motors, LLC

The appearances of the parties are required for the hearing on plaintiff's motion for leave to file a first amended complaint. While the court is inclined to grant the

motion, the timing of the request prejudices defendant as it significantly changes plaintiff's theory regarding the statute of limitations only a few months before trial. Defendant currently has a motion for summary judgment that will essentially be mooted by the filing of an amended complaint and defendant will not have sufficient time before trial to bring another motion for summary judgment; bring other dispositive motions; or conduct further discovery on the new theory.

In order to alleviate the prejudice to defendant, the court is inclined to continue the trial and related trial dates. The parties are to meet and confer prior to the hearing to present three alternative dates for trial at the time of the hearing.

8. S-CV-0037343 Alizadeh, Mitra vs. U.S. Bank National Association, et al

Defendant's Demurrer to the First Amended Complaint (FAC) was previously continued to November 29, 2016, 8:30 a.m., in Department 40 by agreement of the parties.

9. S-CV-0037383 Doe, Jane vs. Bangerter, Riley, et al

Defendant's motion to quash subpoena, or in the alternative for a protective order is granted in part. As it pertains to motion to quash, defendant's request is denied. However, the business records sought in plaintiff's August 17, 2016 subpoena are subject to a protective order in favor of defendant to limit their distribution and protect his rights to confidentiality. The parties are to meet and confer regarding the specific terms of the protective order.

10. S-CV-0037871 Kline, Tina vs. Morrison, Maria D., et al

Defendant Maria Morrison's Motion to Deny Application for Good Faith Settlement

The motion is granted. The application of defendants Devin Wright and Acerro Real Estate Services, Inc. for good faith settlement does not include sufficient supporting declarations to satisfy the *Tech-Bilt* factors or a determination that the settlement was entered into without fraud, duress, and/or coercion. Until such time as the application is sufficiently supported, the court declines to grant the application.

Defendant Maria Morrison's Petition to Compel Arbitration

The petition is granted solely as to plaintiff Tina Kline. Pursuant to California law, a trial court shall order arbitration if it determines that an agreement to arbitrate the controversy exists, unless it is shown that either (1) the petitioner waived the right to compel arbitration, (2) grounds for revocation of the agreement exist, or (3) a party to the arbitration agreement is also a party to a pending court action or special proceeding with a third party arising out of the same transaction. (CCP§1281.2.) The arbitration statutes evidence a strong public policy in favor of arbitration that is frequently approved and enforced by the courts. (*Madden v. Kaiser Foundation Hospitals* (1976) 17 Cal.3d 699, 706; *Laswell v. AG Seal Beach, LLC, et al.* (2010) 189 Cal.App.4th 1399, 1405.) "A

strong public policy favors the arbitration of disputes, and doubts should be resolved in favor of deferring to arbitration proceedings.” (*Rowe v. Exline* (2007) 153 Cal.App.4th 1276, 1282; *Laswell, supra*, at p. 1405.) Defendant has established the existence of an arbitration provision between herself and plaintiff and plaintiff has not sufficiently established a basis to challenge the arbitration provision. Nonetheless, the arbitration provision is applicable only as to plaintiff Tina Kline and does not apply to the remaining defendants. The remainder of this action is stayed pending the arbitration between plaintiff and defendant Maria Morrison. (CCP§1281.4.)

An OSC re status of arbitration is set for January 24, 2017 at 11:30 a.m. in Department 40.

11. S-CV-0038137 Glic Real Estate Holding, LLC vs. Jeter, Russell D., et. al.

Plaintiff’s unopposed application for order confirming appointment of receiver and issuance of preliminary injunction is granted. The court incorporates by reference the findings and orders outlined in the proposed order lodged with the court by plaintiff on October 17, 2016.

12. S-CV-0038285 Marques-Christopher, Anthony vs Nunes, Joseph, et al

The demurrer is dropped from the calendar. A first amended complaint was filed on October 12, 2016.

These are the tentative rulings for civil law and motion matters set for Tuesday, October 25, 2016, at 8:30 a.m. in the Placer County Superior Court. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by 4:00 p.m. today, Monday, October 24, 2016. Notice of request for oral argument to the court must be made by calling (916) 408-6481. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date, and after approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.