

AMADOR SUPERIOR COURT LAW AND MOTION TENTATIVE RULINGS

Monday, July 12, 2021

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**TO REQUEST A HEARING ON ANY MATTER ON THIS CALENDAR, YOU MUST CALL THE COURT AT (209) 257-2692 BY 4:00 P.M. ON THE DAY PRECEDING THE HEARING. NOTICE OF THE INTENTION TO APPEAR MUST ALSO BE GIVEN TO ALL OTHER PARTIES.**

**IF THE CLERK IS NOT NOTIFIED OF A PARTY'S INTENTION TO APPEAR, THERE WILL BE NO HEARING AND THE TENTATIVE RULING WILL BECOME THE ORDER OF THE COURT. NO FURTHER NOTICE OF THE COURT'S RULING WILL BE PROVIDED.**

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**18-CVC-10670** MITCHELL, MICHAEL VS. PIFFER, SGT

**DEMURRER - DEFENDANT'S**

TENTATIVE RULING:

On the court's own motion, Defendant's Demurrer is continued to August 16, 2021 at 8:30 a.m. in Department 1.

As per Amador Local Rules of Court, rule 4.03, subdivision F, the tentative ruling procedures do not apply in any case in which a self-represented party in the custody of the California Department of Corrections and Rehabilitation. Plaintiff is incarcerated at MCSP. The parties are ordered to appear for hearing on the above tentative ruling and authorized to appear remotely.

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**19-CVC-11140** LAFRANK, ERICA VS. ATT CORP

**CIVIL MISCELLANEOUS MOTION - DEFENDANTS**

TENTATIVE RULING:

Defendant's Motion to Compel Responses and for Sanctions is DENIED.

The court shall impose a monetary sanction against any party, person or attorney who unsuccessfully makes or opposes a motion to compel a response to interrogatories, unless it finds that the one subject to sanction acted with substantial justification, or that other circumstances make the imposition of the sanction unjust. (CCP § 2030.290(c); 2031.320(b).)

The declaration of Plaintiff's counsel, Robert Lally, indicates that he contacted counsel for Defendant on May 29, 2021 and asked for an extension to respond to June 4, 2021. Counsel for Defendant responded "The answers were due on May 28, 2021. Can you get your answers in before Friday June 4, 2021? Jamali's depo in on June 4, 2021". (Lally Decl. ¶ 5.) Counsel then had telephone conversations in which it was discussed that Plaintiff had an appointment with the treating physician Dr. Smith, and that Defense counsel was tracking down another AT&T employee to obtain a statement, the result of which would result in a change of Plaintiff's discovery responses, etc. (Lally Decl. ¶ 8.)

Dr. Jamali's deposition was then continued from Friday, June 4, 2021 to Friday, June 11, 2021. Plaintiff's counsel believed he had until June 10, 2021 to provide responses, which he did.

The declaration of Robert Lally indicates there were circumstances making the imposition of sanctions unjust.

Unless a hearing is requested, this ruling is effective immediately. Neither further notice of the ruling nor a formal order per CRC 3.1312 is required.

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**19-CVC-11140** LAFRANK, ERICA VS. ATT CORP

**CIVIL MISCELLANEOUS MOTION - PLAINTIFF**

TENTATIVE RULING:

Plaintiff's Motion for Order Setting Compensation of Expert Witness Fees is DENIED.

Plaintiff offers no evidence that the hourly rates of the experts designated by Defendant are unreasonable or that Defendant's expert witness declarations do not comply CCP § 2034.260(c).

The court does not find that the Plaintiff acted with substantial justification. Defendant is awarded sanctions as requested.

Prevailing party is to prepare an order consistent with this ruling. Sanctions are payable within sixty (60) days of the court signing the order.

Unless a hearing is requested, this ruling is effective immediately. Neither further notice of the ruling nor a formal order per CRC 3.1312 is required.

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**19-CVC-11405**

MCCLOUD, KENNETH

VS.

SUTTER CREEK POLICE  
DEPARTMENT

**MOTION FOR SUMMARY JUDGMENT**

TENTATIVE RULING:

Defendants' unopposed Motion for Summary Judgment, filed January 14, 2021, is GRANTED.

A motion for summary judgment shall be granted when the moving party demonstrates "that there is no triable issue as to any material fact and that the moving party is entitled to judgment as a matter of law." (CCP § 437c(c).) In making its decision the court may rely on affidavits, declarations, or matters of which judicial notice may be taken. (CCP § 437c(b).) Once the moving party has met the burden of negating one necessary element of a claim, the responding party must then show that a triable issue of material fact exists as to the questioned cause of action. Otherwise summary judgment must be granted. (CCP § 437c(o)(2).) Any opposition to a motion for summary judgment must be filed and served not less than fourteen days preceding the noticed date of hearing. (CCP § 437c(a)(2).)

Plaintiff has failed to file opposition. Summary Judgment is entered in favor of Defendants on all claims.

The moving party is ordered to prepare a judgment and dismissal conforming to the court's order within ten (10) days of this ruling

Unless a hearing is requested, this ruling is effective immediately. Neither further notice of the ruling nor a formal order per CRC 3.1312 is required.

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**20-CVC-11670**

KATEN, JODI

VS.

POTTS, DONNA

**MOTION TO AMEND COMPLAINT**

TENTATIVE RULING:

Plaintiff's unopposed Motion for Leave to File Second Amended Complaint is GRANTED.

Plaintiff's Second Amended Complaint must be filed within ten (10) days of the date of this ruling.

Unless a hearing is requested, this ruling is effective immediately. Neither further notice of the ruling nor a formal order per CRC 3.1312 is required.