

Tentative Rulings for October 19, 2020

Department 10

**To request oral argument, you must notify Judicial Secretary
Vanessa Siojo at (760) 904-5722
and inform all other counsel no later than 4:30 p.m.**

This court follows California Rules of Court, Rule 3.1308 (a) (1) for tentative rulings (see Riverside Superior Court Local Rule 3316). Tentative Rulings for each law & motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at <https://www.riverside.courts.ca.gov/OnlineServices/TentativeRulings/tentative-rulings.php>. If you do not have Internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

To request oral argument, no later than 4:30 p.m. on the court day before the hearing you must (1) notify the judicial secretary for Department 10 at (760) 904-5722 and (2) inform all other parties of the request and of their need to appear telephonically, as stated below. If no request for oral argument is made by 4:30 p.m., the tentative ruling **will become the final ruling** on the matter effective the date of the hearing. **UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.**

IN LIGHT OF THE CORONAVIRUS PANDEMIC; AND UNTIL FURTHER NOTICE, COUNSEL AND SELF-REPRESENTED PARTIES MUST APPEAR AT ANY LAW AND MOTION DEPARTMENT TELEPHONICALLY WHEN REQUESTING ORAL ARGUMENTS. IN-PERSON APPEARANCES WILL NOT BE PERMITTED.

TELEPHONIC APPEARANCES: On the day of the hearing, call into one of the below listed phone numbers, and input the meeting number (followed by #):

- Call-in Numbers: 1 (213) 306-3065 or 1 (844) 621-3956 (TOLL FREE)
- Meeting Number: **801-128-935#**
- Press # again

Please **MUTE** your phone until your case is called and it is your turn to speak. It is important to note that you must call fifteen (15) minutes prior to the scheduled hearing time to check in or there may be a delay in your case being heard.

For additional information and instructions on telephonic appearances, visit the court's website at <https://riverside.courts.ca.gov/PublicNotices/Webex-Appearances-Public-Access.pdf?rev=05-29-2020-09:54:48am>.

1.

RIC1902401	BAUMER VS F&B HEALTHCARE	DEMURRER TO ANSWER OF COMPLAINT OF CATHERINE BAUMER AS TO SUN MAR MANAGEMENT SERVICES FILED BY CATHERINE BAUMER
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Tentative Ruling:

Hearing continued to December 2, 2020, 8:30 AM, Department 10. Demurring party must satisfy its obligation to meet and confer under Code of Civil Procedure section 430.41, subdivision (a), and to file a declaration under section 430.41, subdivision (a), subsection (3).

Demurring party must meet and confer in person or by telephone with the opposing party to determine whether the parties can reach an agreement that would resolve the objections raised in the demurrer. Demurring party must identify the specific causes of action or defenses that it believes are subject to demurrer and provide opposing party with legal authorities for the claimed defects. The opposing party must provide legal authorities showing that the pleadings are legally sufficient or, in the alternative, how the opposing party can amend to cure any defects.

After meeting and conferring, demurring party must do one of the following at least ten days before the continued hearing date:

- (1) vacate the hearings on the demurrer;
- (2) file with the court a declaration that the opposing party has agreed to file an amended pleading before the continued hearing date; or
- (3) file with the court a declaration explaining how the parties met and conferred, what issues they discussed, and why they could not resolve the issues raised.

The court will not accept further briefing.

2.

RIC1902857	NIX VS SHORE ACRES MOBILE HOME PARK	MOTION FOR SUMMARY ADJUDICATION ON COMPLAINT OF JERRY NIX BY JERRY NIX
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Tentative Ruling:

Vacated. Court received notice of settlement on October 9, 2020.

3.

RIC2000404	KINNEY VS CITY OF CORONA	MOTION FOR SUMMARY JUDGMENT ON WRIT OF MANDAMUS (MANDATE) OF ALISHA KINNEY BY CITY OF CORONA
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Tentative Ruling:

Motion denied.

Court overrules Plaintiff's objections because they do not comply with California Rules of Court, rule 3.1354.

The City of Corona does not argue that it did not violate the CPRA, and fails to meet its initial burden that the matter is moot. The City claims that Petitioner in this case has received the information she requested from the City because another person (Austin), represented by the same lawyer in a separate case, requested and received the same information. (See Undisputed Material Facts 1-5.) The City's reasoning is that because Petitioner's lawyer received (through

other means) the information that Petitioner requested here, that receipt must be imputed to Petitioner. The problem is that Petitioner's request was separate from Austin's request, whether or not she shared a lawyer with Austin.

Moreover, Petitioner raises a triable issue of fact. Petitioner asserts that on 12/23/19, Petitioner made her CPRA request (Petitioner's Responsive Separate Statement [PRSS], Petitioner's Additional Material Facts [PAMF] No. 6); on 1/6/20, the City denied her request (PRSS, PAMF No. 7); that the City asserted the requested information was "confidential" (PRSS, PAMF No. 8); that the City did not provide any other basis for the denial (PRSS, PAMF No. 9.); that the City did not attempt to demonstrate that the information was exempt, despite the CPRA requirement to do so (PRSS, PAMF No. 10); that the information is not exempt (PRSS, PAMF No. 11); that the City tried to call Petitioner instead of putting its denial in writing (PRSS, PAMF No. 12); and that after denying Petitioner's request, the City admittedly disclosed the requested information to another member of the public (PRSS, PAMF No. 13.) The City did not dispute these facts in its reply.

There is a triable issue of fact as to whether the City violated the California Public Records Act (CPRA) by withholding public information and by failing to respond to CPRA requests.