

DEPARTMENT TEN
JUDGE CHRISTINE DONOVAN
707-207-7310

**TENTATIVE RULINGS
AND
PROBATE PREGRANTS**

CALENDAR DATE: October 7, 2024

ADVISEMENTS

Probate Notes: Probate notes are available in individual cases and are not posted on the public website. For more information on how to access case information through the court's public portal, please visit <https://portal.solano.courts.ca.gov>.

Civil Tentative Rulings and Probate Pregrants: Current procedures to advise the court of appearances and nonappearances in response to tentative rulings and pregrants remain unchanged. Probate pregrants and tentative rulings are not posted for conservatorships, guardianships, or any ex parte matters.

Appearances by Zoom: Remote appearances by Zoom are permitted except for MSCs, TMCs, trials or evidentiary hearings, or cases in which in-person appearances have been ordered. Persons appearing by Zoom are to be in appropriate attire. They are also to be in a quiet place where they can speak without interruption and clearly hear the proceedings.

Zoom Meeting ID: 161 313 3097

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**PREGRANTS AND TENTATIVE RULINGS
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9:00 CALENDAR

LINE

1

**IN RE LVNV FUNDING LLC v LOLA SOBAYO
CL23-00552**

Demurrer by DEFENDANT LOLA SOBAYO

TENTATIVE RULING

The function of a demurrer is to test the legal sufficiency of a pleading. It assumes as true the facts alleged in the pleading, even if improbable, and simply tests whether those facts state a viable cause of action. C.C.P. §430.10; Edmon & Karnow (Weil & Brown), Civil Procedure Before Trial, §7:5, p. 7(I)-5, and §§7:43 and 7:44, pp. 7(I)-25 and 7(I)-26.

Unlike other causes of action, claims for common counts do not require any ultimate facts to be pled to support them. Edmon & Karnow (Weil & Brown), Civil Procedure Before Trial, §6:126, pp.6-40 and 6-41.

Defendant's "demurrer" did not attack any of the common counts (nor as described above could such attacks support the sustaining of a demurrer to common counts).

Defendant instead included arguments more appropriately raised, if at all, in a motion to quash service of summons.

However, a defendant who files any document with the court acknowledging the court's personal jurisdiction over him or her waives the right to contest service. Edmon & Karnow (Weil & Brown), Civil Procedure Before Trial, §§3:158 et seq., p. 3-57 [any participation in the action in a manner that recognizes the court's jurisdiction is a general appearance waiving the right to contest service; §4:411, p. 4-70 ["filing an answer or demurrer or other motion (than one to quash) constitutes a general appearance (waiving any right to contest service)"]].

Defendant here filed a "demurrer", not a motion to quash; and has since filed a cross-complaint, acknowledging the court's personal jurisdiction over her.

There are other defects in Defendant's demurrer, but these are enough to require the court to overrule the demurrer.

Defendant's answer to the complaint is due ten (10) days after service of this order, or her default may be entered.

LINE

3

**IN RE WELLS FARGO BANK, N.A. v ZACKARY SUAREZ
CL24-01257**

Notice Of Motion and Motion for an Order Deeming the Truth of the Matters Specified in Plaintiff's Request for Admissions as Admitted

TENTATIVE RULING

The unopposed motion is granted.

LINE

21

IN RE ROSE H.A. NG, TRUST v ANTHONY O. LEWIS, ET AL.
FCS053606

LEWIS's Motions for Reconsideration and Vacatur of June 25, 2024 Judgment

TENTATIVE RULING

Defendant and Cross-Complainant ANTHONY O. LEWIS ("LEWIS") moves for reconsideration of the court's June 25, 2024 judgment finding in favor of Plaintiff and Cross-Defendant ROSE H.A. NG ("NG") on NG's cause of action for quiet title and LEWIS's causes of action for ejectment, reformation of deed, declaratory relief, and injunctive relief, and reforming LEWIS's deed to disputed real property to conform to the judgment. LEWIS simultaneously moves for that judgment to be vacated and a new judgment entered.

LEWIS perfected an appeal of the court's June 25, 2024 judgment on August 13, 2024. Per Code of Civil Procedure section 916, subdivision (a) that appeal stays proceedings in the trial court upon the appealed judgment or order and on matters embraced therein or affected thereby. This court cannot hear a motion to reconsider or vacate the judgment while the appeal of the judgment is pending.

LEWIS's motions are taken off calendar. They may be placed back on calendar at LEWIS's request following either the issuance of the remittitur or dismissal of the appeal.