

SUPERIOR COURT OF CALIFORNIA,



MINUTE ORDER

DATE: 05/09/2011

TIME: 03:03:00 PM

DEPT: [REDACTED]

JUDICIAL OFFICER PRESIDING: [REDACTED]

CLERK: [REDACTED]

REPORTER/ERM: [REDACTED]

BAILIFF/COURT ATTENDANT: [REDACTED]

CASE NO. [REDACTED] CASE INIT. DATE: 04/12/2010

CASE TITLE: [REDACTED]

CASE CATEGORY: Civil - Unlimited CASE TYPE: Fraud

EVENT ID/DOCUMENT ID: [REDACTED]

EVENT TYPE: Demurrer to Amended Complaint

APPEARANCES

There are no appearances by any party.

The Court, having taken the above-entitled matter under submission on 5/6/2011, now makes the following ruling:

The Court's tentative ruling posted on the internet is modified as follows:

Demurrer to 2<sup>nd</sup> Amended Complaint:

Grant the parties' request for judicial notice.

Sustain the demurrers to the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 10<sup>th</sup> Cause of Actions. **Counsel to amend the complaint by May 12, 2011 before 4 pm.**

Overrule the demurrers to the 7<sup>th</sup>, 8<sup>th</sup>, and 9<sup>th</sup> Cause of Actions.

*7<sup>th</sup> = Waight Foreclosure*

As to res judicata, regardless of whether Defendant argument has merit, the Court cannot apply the doctrine of res judicata at this time based on the outcome of the UD action. The appeal in the UD action is still pending. See, Franklin & Franklin v. 7-Eleven Owners for Fair Franchising, 85 Cal.App.4<sup>th</sup> 1168, 1174.

As to the 1<sup>st</sup> through 4<sup>th</sup> Cause of Actions for fraud, deceit, intentional misrepresentation, and negligent misrepresentation: