

TENTATIVE RULINGS

FOR: July 9, 2018

The Court may exercise its discretion to **disregard** a late filed paper in law and motion matters. (Cal. Rules of Court, rule 3.1300(d).)

Unlawful Detainer Cases – Pursuant to the restrictions in Code of Civil Procedure section 1161.2, no tentative rulings are posted for unlawful detainer cases and appearances are required.

Court Reporting Services – The Court does not provide official court reporters in proceedings for which such services are not legally mandated. These proceedings include civil law and motion hearings. If counsel want their civil law and motion hearing reported, they must arrange for a private court reporter to be present. Go to <http://napacountybar.org/court-reporting-services/> for information about local private court reporters. Attorneys or parties must confer with each other to avoid having more than one court reporter present for the same hearing.

CIVIL LAW & MOTION CALENDAR – Hon. Rodney Stone, Dept. I (Criminal Courts Bldg.-1111 Third St.) at 8:30 a.m.

Hidden Glen Partners, LLC. v. City of Napa

26-55542

PLAINTIFF HIDDEN GLEN PARTNERS, LLC'S MOTION FOR JUDGMENT ON THE PLEADINGS

TENTATIVE RULING:

Plaintiff Hidden Glen Partners, LLC (HGP) requests judicial notice of the First Appellate District's December 13, 2016 Opinion, and the December 5, 2013 Statement of Decision issued in this case. Defendant the City of Napa requests judicial notice of the First Appellate District's December 19, 2012 Opinion. The requests are GRANTED in accordance with the precepts set forth in *People v. Harbolt* (1997) 61 Cal.App.4th 123, 126-27 [discussing the limited purposes for which a court may take judicial notice of a court record: "Evidence Code sections 452 and 453 permit the trial court to take judicial notice of the existence of judicial opinions and court documents, along with the truth of the results reached in the documents such as orders, statements of decision, and judgments but cannot take judicial notice of the truth of hearsay statements in decisions or court files, including pleadings, affidavits, testimony, or statements of fact."].)

HGP's motion for judgment on the pleadings is DENIED. In order to prevail on a motion for judgment on the pleadings as a plaintiff, HGP must establish "that the complaint states facts sufficient to constitute a cause or causes of action against the defendant and the answer does not state facts sufficient to constitute a defense to the complaint." (Code Civ. Proc., § 438, subd. (c)(1)(A).) The standard for granting a motion for judgment on the pleadings is essentially the same as that applicable to a general demurrer, that is, under the state of the pleadings, together with matters that may be judicially noticed, it appears that a party is entitled to judgment as a matter of law. (*Schabarum v. Cal. Legislature* (1998) 60 Cal.App.4th 1205, 1216 (citations omitted).) "[J]udgment on the pleadings must be denied where there are material factual issues that require evidentiary resolution." (*Id.*)

HGP contends it is entitled to judgment, as a matter of law, based on certain findings the Court of Appeal made in its December 13, 2016 Opinion. Specifically, that the City breached the park related agreements on February 9, 2006. Ignoring the specific issue on review ó whether HGP has adequately alleged a cause of action ó HGP interprets the Court of Appeal's opinion as an evidentiary finding in its favor. Even if this were accurate, breach is but one element of a claim for breach of contract.

To recover for breach of contract, HGP must prove by a preponderance of the evidence that: (1) there was a contract; (2) HGP did all of the things that the contract required HGP to do; (3) all of the conditions required for the City's performance occurred; (4) the City failed to do something that the contract required it to do; and (5) HGP was harmed by the breach of contract. (CACI No. 303.) None of the elements have been determined on trial.

On appeal was this Court's March 18, 2014 ruling on the City's motion for judgment on the pleadings. In its motion, the City contended that, based on the findings on the bifurcated issue of equitable estoppel, HGP's complaint did not state facts to constitute a cause of action, entitling the City to judgment on the pleadings pursuant to Code of Civil Procedure section 438. Viewing the case as embodying a single contract, this Court concluded HGP's contract claim was time-barred. HGP appealed the ruling on the City's motion for judgment on the pleadings. Thus, the issue on appeal was, at its core, whether HGP had adequately alleged a claim. The Court of Appeal has determined HGP has indeed alleged a breach of contract claim and the allegations support but one date for purposes of breach and accrual. Ultimately, the appellate court concluded its "Breach/Accrual Date" analysis as follows:

We therefore conclude Hidden Glen is bound by its alleged and advocated 2006 breach/accrual time frame and it cannot challenge the judgment on the pleadings on the ground its complaint can reasonably be read as asserting a March 2009 breach date.

The opinion directs the parties as to the *allegations* on which they are to proceed to trial, and nothing more. Accordingly, the Court disagrees with HGP's position that the appellate court has found, as a matter of law, that the City has breached the park related agreements.

To clarify, the appellate court has found: (a) the allegations support two sets of contractual obligations and the agreements between the parties should be analyzed as one for construction of a park topped by irrigated turf and a construction of a park at all; (b) HGP is barred from pursuing the irrigated turf agreement; and (c) according to the City's allegations, the City breached the contract, if at all, in February 2006. The matter must now proceed with a jury trial on HGP's breach of contract claims based on the City's refusal to build any park at all without additional access for construction.

Based on the foregoing, the Court concludes HGP has failed to meet its burden as the moving party. It has failed to establish "that the complaint states facts sufficient to constitute a cause or causes of action against the defendant *and* the answer does not state facts sufficient to constitute a defense to the complaint." (Code Civ. Proc., § 438, subd. (c)(1)(A) (emphasis added).)