



Superior Court
San Diego County, State of California

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The following is a TENTATIVE ruling for 1/28/2005,
Department 66, the Honorable Charles R. Hayes presiding.

Case Number IC833894

TENTATIVE RULING: The Court having read and considered Plaintiff/Cross-Defendant City Financial Mortgage Services Inc.'s Demurrer to the 4th Cause of Action for Unfair Business Practices; the Opposition filed thereto; the Cross-Complaint on file herein; and the Joint Brief Regarding Application of Calif. Proposition 64 to the case at bar, hereby rules as follows:

1. The declines to take judicial notice of Proposition 64 and the Voter Materials pertaining to the Proposition 64 as these materials were not lodged with the Court as required by California Rules of Court 323(c).
2. The Court declines to apply Proposition 64 retroactively to this pending litigation. [See Evangelatos v. Superior Court (1988) 44 Cal.3d 1188, 1194]
3. Plaintiff/Cross-Defendant's Demurrer to the 4th Cause of Action for Unfair Business Practices under B&P §17200 is overruled.
4. The Court having previously overruled the Demurrers to the 1st through 3rd Causes of Action and having granted the Motion to Strike the punitive damage allegations and prayer, hereby grants Defendants/Cross-Complainants five (5) Court days leave to amend to plead the corporation's ratification/authorization or advance knowledge within the meaning of Civil Code §3294. The remainder of the Motion to Strike was denied.

IT IS SO ORDERED.

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