

**BRUMBAUGH**  
**v.**  
**APPALOOSA ROAD COMMUNITY SERVICE DISTRICT**

**21CV45171**

**DEMURRER**

Defendant Appaloosa Road Community Service District demurs, pursuant to Code of Civil Procedure section 430.10, to the Second Amended Petition for Writ of Mandamus, the Court previously having sustained their demurrer to the First Amended Petition, with leave to amend. The accompanying declaration of Teresa Kayatta establishes that counsel conferred prior to the filing of the present demurrer and petitioner's counsel agreed to substitute a third amended petition upon conferring with his client but to date has not signed a stipulation regarding same. Concerned about statutory time limits, respondent filed the present demurrer. No opposition has been filed to the demurrer. The Court interprets the uncontroverted assertion that petitioner's counsel agreed to file a third amended petition, in conjunction with the lack of filed opposition to the demurrer, as a tacit admission of the shortcomings of the current pleading. Therefore, the Demurrer is SUSTAINED, with 10 days' leave to amend. The Court does not expect any further amendment of the petition will be allowed.

The clerk shall provide notice of this ruling to the parties forthwith. Defendant to prepare a formal Order pursuant to Rule of Court 3.1312 in conformity with this ruling.

**WELLS FARGO BANK NA**

**v**

**JONES**

**19CF13112**

**DEFENDANT'S MOTION TO DISMISS**

Defendant Anthony Jones moves for an order dismissing this action.

Moving party has failed to comply with Local Rule 3.3.7, enacted January 1, 2018, in that the Notice of Motion does not include the mandatory language regarding the Court's tentative ruling system. Pursuant to said local rule, lack of compliance provides a specific ground to deny any such procedurally-deficient motion. Based solely upon moving party's failure to comply with Local Rule 3.3.7, the motion is DENIED, without prejudice to refile, to the extent it otherwise is timely and appropriate pursuant to relevant statutes. However, the Court additionally notes that all authorities cited by Defendant are to the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and/or federal appellate cases, none of which are applicable to a state court proceeding such as this; even had defendant complied with the procedural local rule, the motion would be denied on this substantive basis.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal order is required.