

Tentative Rulings for January 16, 2025  
Department 403

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

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There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) *The above rule also applies to cases listed in this "must appear" section.*

23CECG00543      *Phifer v. Fountain*

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The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

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(Tentative Rulings begin at the next page)

# **Tentative Rulings for Department 403**

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(35)

**Tentative Ruling**

Re: **Garcia v. Royer et al.**  
Superior Court Case No. 20CECG03454

Hearing Date: January 16, 2025 (Dept. 403)

Motion: By Defendant Alphagraphics, Inc. for Summary Judgment

**Tentative Ruling:**

To grant. Defendant Alphagraphics, Inc. is directed to submit a proposed judgment consistent with this order within five days of service of the minute order by the clerk.

**Explanation:**

On October 17, 2022, plaintiff Tammy Jean Garcia ("Plaintiff") filed the instant action for two causes of action: (1) motor vehicle collision; and (2) negligence. The Complaint is brought against, among others, defendant Alphagraphics, Inc. ("AGI"). Plaintiff alleges that on December 7, 2018, at the intersection of West Ashlan Avenue and North Arthur Avenue in Fresno, California, Plaintiff sustained damages as a result of a collision with defendant Ryan Royer, another party to the action. AGI now moves for summary judgment.

A trial court shall grant summary judgment where there are no triable issues of material fact and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc. §437c, subd. (c); *Schacter v. Citigroup* (2009) 47 Cal.4th 610, 618.) The issue to be determined by the trial court in consideration of a motion for summary judgment is whether or not any facts have been presented which give rise to a triable issue, and not to pass upon or determine the true facts in the case. (*Petersen v. City of Vallejo* (1968) 259 Cal.App.2d 757, 775.)

The moving party bears the initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he or she carries this burden, the burden shifts to plaintiff to make a prima facie showing of the existence of a triable issue. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 849.) A defendant has met his burden of showing that a cause of action has no merit if he has shown that one or more elements of the cause of action cannot be established, or that there is a complete defense to that cause of action. (*Ibid.*) Once the defendant has met that burden, the burden shifts to the plaintiff to show a triable issue of one or more material facts exists as to the cause of action or a defense thereto. (*Ibid.*)

AGI submits that there are no triable issues of material fact in general as to it on each of the first cause of action, for motor vehicle collision, and the second cause of action, for negligence. AGI submits the following facts based on deposition testimony and relevant documents.



(35)

**Tentative Ruling**

Re: **Garcia v. Royer et al.**  
Superior Court Case No. 20CECG03454

Hearing Date: January 16, 2025 (Dept. 403)

Motion: By Defendant CT Scribes, Inc. for Summary Judgment

**Tentative Ruling:**

To grant. Defendant CT Scribes, Inc. is directed to submit a proposed judgment consistent with this order within five days of service of the minute order by the clerk.

**Explanation:**

On October 17, 2022, plaintiff Tammy Jean Garcia ("Plaintiff") filed the instant action for two causes of action: (1) motor vehicle collision; and (2) negligence. The Complaint is brought against, among others, defendant CT Scribes, Inc. ("CT Scribes"). Plaintiff alleges that on December 7, 2018, at the intersection of West Ashlan Avenue and North Arthur Avenue in Fresno, California, Plaintiff sustained damages as a result of a collision with defendant Ryan Royer ("Royer"). CT Scribes now moves for summary judgment.

A trial court shall grant summary judgment where there are no triable issues of material fact and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc. §437c, subd. (c); *Schacter v. Citigroup* (2009) 47 Cal.4th 610, 618.) The issue to be determined by the trial court in consideration of a motion for summary judgment is whether or not any facts have been presented which give rise to a triable issue, and not to pass upon or determine the true facts in the case. (*Petersen v. City of Vallejo* (1968) 259 Cal.App.2d 757, 775.)

The moving party bears the initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he or she carries this burden, the burden shifts to plaintiff to make a prima facie showing of the existence of a triable issue. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 849.) A defendant has met his burden of showing that a cause of action has no merit if he has shown that one or more elements of the cause of action cannot be established, or that there is a complete defense to that cause of action. (*Ibid.*) Once the defendant has met that burden, the burden shifts to the plaintiff to show a triable issue of one or more material facts exists as to the cause of action or a defense thereto. (*Ibid.*)

CT Scribes submits that there are no triable issues of material fact in general as to it on each of the first cause of action, for motor vehicle collision, and the second cause of action, for negligence, based on the theory of respondeat superior. CT Scribes submits the following facts based on deposition testimony and relevant documents.

CT Scribes is owned by Dean Titus. (Statement of Undisputed Material Facts ["UMF"] No. 1.) Royer was a non-managerial employee of CT Scribes during the periods of the Complaint. (*Id.*, No. 3.) Royer worked on account management and sales. (*Id.*, No. 4.) In that role, Royer was not required to use his personal vehicle, nor was it requested. (*Id.*, No. 5.) CT Scribes provides a stipend to employees that could be used for travel, but was not limited to use of a personal vehicle. (*Id.*, No. 6.) CT Scribes understood that Royer used the stipend for gas as a travel expense. (*Ibid.*) Beyond the stipend, CT Scribes did not reimburse Royer for any use of a personal vehicle for CT Scribes-related work. (*Id.*, No. 8.) Royer's primary work place was 3950 North Chestnut Diagonal, Suite 107, Fresno, California. (*Id.*, No. 9.) Around 6:30 p.m. on December 7, 2018, Plaintiff and Royer were involved in a motor vehicle accident at or near the intersection of West Ashlan Avenue and North Arthur Avenue in Fresno, California. (*Id.*, No. 10.) On the date of the accident, Royer lived on Mayfair Boulevard in Fresno, California. (*Id.*, No. 11.) Mayfair Boulevard is southwest from the worksite, and southeast from the incident location. (*Ibid.*) At the time of the incident, Royer was traveling to a friend's home for the purpose of spending time with the friend. (*Id.*, No. 12.) The purpose of the travel was not work-related. (*Id.*, No. 13.) Royer was unable to identify any discussion or report of the incident to representatives of CT Scribes from the date of the incident to the date of this lawsuit. (*Id.*, No. 17.) CT Scribes has no record of a report of the accident. (*Id.*, No. 18.) There is no record that Royer used his personal vehicle for the business of CT Scribes on the date of the incident. (*Id.*, No. 19.) CT Scribes had a company-owned vehicle available to employees for business needs. (*Id.*, No. 20.)

Based on the above, CT Scribes has met its burden to show no triable issues of material fact as to the first and second causes of action for motor vehicle collision and negligence based on respondeat superior. CT Scribes was not directly involved in the accident, and the individual who was, Royer, was traveling to a friend's home for the purpose of spending time with the friend. The visit was not work-related. Accordingly, the burden shifts to Plaintiff to demonstrate a triable issue. Plaintiff did not oppose.

Royer opposes. However, as CT Scribes argues, Royer is not the plaintiff in this matter, and therefore lacks standing. For the purposes of summary judgment:

A defendant or cross-defendant has met that party's burden of showing that a cause of action has no merit if the party has shown that one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to the cause of action. Once the defendant or cross-defendant has met that burden, the burden shifts to the plaintiff or cross-complainant to show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto. The plaintiff or cross-complainant shall not reply upon the allegations or denials of its pleadings to show a triable issue of material fact exist, but, instead, shall set for the specific facts showing that a triable issue of material fact exists as to the cause of action or a defense thereto. (Code Civ. Proc. § 437c, subd. (p)(2), emphasis added.)



