

Tentative Rulings for January 29, 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)

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.*

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 for Department 403

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Tentative Ruling

Re: **Edgar Martinez-Martinez v. General Motors LLC**
Superior Court Case No. 23CECG01723

Hearing Date: January 29, 2025 (Dept. 403)

Motion: By Plaintiff to Compel Further Responses to Special Interrogatories and Requests for Production of Documents and for Monetary Sanctions

Tentative Ruling:

To continue to Thursday, March 13, 2025 at 3:30 p.m. in Department 403. The parties are to further meet and confer, taking into consideration Code of Civil Procedure section 871.26, no later than February 11, 2025. The parties are to file a joint separate statement which removes any interrogatories or requests for production which are no longer at issue following these meet and confer efforts. The separate statement is to be filed no later than February 27, 2025.

Explanation:

On August 1, 2024, the court denied plaintiff's request for pretrial discovery conference and directed the parties to comply with this court's Directives and Admonitions for Discovery in Song-Beverly Litigation. The court attached the Directives and Admonitions to the order denying the request for pretrial discovery conference.

On October 4, 2024, the court found that the current dispute would not benefit from a pretrial discovery conference, granted plaintiff permission to file motions to compel, and cautioned the parties to review certain portions of the Directives and Admonitions it had previously provided to the parties.

Effective January 1, 2025, Code of Civil Procedure section 871.26 codified expectations for timelines and procedures in civil actions seeking restitution or replacement of a motor vehicle. While the motion to compel was filed prior to the enactment of this code section, the court finds that the code section was developed similarly to how this court had already been guiding parties in Song-Beverly litigation. As such, the parties should review this code section and comply with it. Particularly relevant here are subdivisions (h) and (j). Subdivision (h) clarifies documents which "shall" be provided by the defendant or manufacturer. Subdivision (j) articulates the monetary sanctions for failing to comply with this code section. Notably, subdivision (b) provides that the parties are to provide the later described documents within 60 days after filing the answer or other responsive pleading, without awaiting a discovery request.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order

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Tentative Ruling

Re: ***In re: Oscar Antonio Garcia***
Superior Court Case No. 25CECG00039

Hearing Date: January 29, 2025 (Dept. 403)

Motion: Petition to Approve Compromise of Disputed Claim of Minor

Tentative Ruling:

To deny without prejudice. In the event that oral argument is requested the minor is excused from appearing.

Explanation:

The settlement agreement was not attached to the petition, but the court has taken judicial notice of the settlement agreement purportedly involving this minor, copies of which were attached to the related petitions concerning his three minor siblings, filed in Nos. 25CECG00038, 25CECG00040, and 25CECG00041. The initial problem with the petition is that the minor Oscar Antonio Garcia is ostensibly not named in the settlement agreement. There is a minor identified as "Oscar Alejandro Antonio-Kuripeth," but there is no "Oscar Antonio Garcia." The court cannot just assume that the reference in the settlement agreement is to this minor. In the event petitioner can show that this minor was intended to be referred to in the settlement agreement, the petition also cannot be granted for the reasons stated below.

The petition indicates that the total settlement with defendant is \$700,000, and that this will be split equally between the decedent's four minor children. (Petn., p. 3.) The attorney's declaration also states that this is the settlement amount and division. However, the settlement agreement attached to the other minors' petitions states that the total settlement is \$680,000, with each minor to receive \$170,000. The petition cannot be granted given this discrepancy.

Finally, the settlement agreement indicates that, in addition to this court's approval of the minors' compromises, the agreement is expressly conditioned on executed releases of all the other parties involved in or related to the accident, namely Fermin Morales, Florencio Ramos, Saul Morales, and Leobardo Hernandez. It would be premature, if not futile, to approve this compromise before seeing evidence that these releases have been obtained. "The law neither does nor requires idle acts." (Civ. Code, § 3532.)

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order

adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling

Issued By: **JS** **on** **1/28/2025** .

(Judge's initials)

(Date)

