

Tentative Rulings for March 11, 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 Ruling

Re: **Jane Roe 2 v. Riverdale Assembly of God Church, Inc.**
Superior Court Case No. 22CECG01108

Hearing Date: March 11, 2025 (Dept. 403)

Motion: By Defendant the Southern California District Council of the Assemblies of God for Summary Judgment or, in the alternative, Summary Adjudication

Tentative Ruling:

To grant plaintiffs' continuance request. (Code Civ. Proc., § 437c, subd. (h).) The new hearing date is Thursday, May 1, 2025, at 3:30 p.m. in Department 403. The opposition and reply due dates shall run from the new hearing date. *The opposing and reply briefs shall comply with all procedural requirements, including those specified in the Rules of Court.*

To overrule defendants' objection to the declaration of Brian Forsythe paragraphs 9 and 12, all other objections are not relevant for determination of the motion. (Code Civ. Proc., § 437c, subd. (q).)

Explanation:

In considering motions for summary judgment/adjudication, the court is guided by the principle that such motions are "drastic measure[s] which deprive[] the losing party of trial on the merits." [Citations.]” (*Bahl v. Bank of America* (2001) 89 Cal.App.4th 389, 395.) Consequently, “[i]f it appears from the affidavits submitted in opposition to a motion for summary judgment or summary adjudication, or both, that facts essential to justify opposition may exist but cannot, for reasons stated, be presented, the court shall deny the motion, order a continuance to permit affidavits to be obtained or discovery to be had, or make any other order as may be just.” (Code Civ. Proc., § 437c, subd. (h), emphasis added.)

Essentially, where “discovery is incomplete, the motion for summary judgment should not be granted.” (*Krantz v. BT Visual Images, LLC* (2001) 89 Cal.App.4th 164, 174; see also *Insalaco v. Hope Lutheran Church of West Contra Costa County* (2020) 49 Cal.App.5th 506, 519 [“an affidavit demonstrating that facts essential to justify opposition may exist but have not been presented to the court because the party has not been diligent in searching for the facts through discovery, the court's discretion to deny a continuance is strictly limited.”].)

Plaintiffs' opposing declaration, although silent on counsel's diligence in pursuing discovery, nevertheless explains that sufficient competing evidence is the subject of anticipated discovery (see e.g. Forsythe Decl. ¶ 12) and notes the involvement of unique nuances stemming from an ongoing criminal investigation. (*Id.* ¶9.) Counsel's declaration (which is signed under penalty of perjury) notes specific items to be included

in the prospective discovery requests - items which appear reasonably attendant to clarifying defendant's relationship with the perpetrator and thus germane to refuting defendant's contentions. (*Id.* ¶ 12.)

Therefore, plaintiffs' request for a continuance is granted. (Code Civ. Proc. § 437c, subd. (h).)

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: **Img** **on** **3-7-25** .

(Judge's initials)

(Date)