

**Tentative Rulings for March 13, 2025**  
**Department 501**

**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.*

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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 501**

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(36)

**Tentative Ruling**

Re: ***Diamond PEO, LLC v. Esmar Management Group Incorporated***  
Superior Court Case No. 24CECG00770

Hearing Date: March 13, 2025 (Dept. 501)

Motions (x3): by Plaintiff Diamond PEO, LLC for Order Compelling Defendant Esmar Management Group Incorporated's Responses to (1) Form Interrogatories; (2) Special Interrogatories; (3) Requests for Production of Documents; and for Monetary Sanctions

**Tentative Ruling:**

To grant and to award monetary sanctions in the total amount of \$880 against defendant Esmar Management Group Incorporated and its counsel of record, Jason E. Guerra, jointly and severally, payable within 20 days of the date of this order, with the time to run from the service of this minute order by the clerk.

Defendant Esmar Management Group Incorporated shall serve verified responses without objections, to plaintiff's Form Interrogatories, Set One, Special Interrogatories, Set One, and Request for Production of Documents, Set One, no later than 20 days from the date of this order, with the time to run from the service of this minute order by the clerk.

**Explanation:**

Interrogatories and Document Production

Defendant has had ample time to respond to the discovery propounded by plaintiff, and it has not done so. Failing to respond to discovery within the 30-day time limit waives objections to the discovery, including claims of privilege and work product protection. (Code Civ. Proc., §§ 2030.290, subd. (a), 2031.300, subd. (a); see *Leach v. Sup.Ct. (Markum)* (1980) 111 Cal.App.3d 902, 905-906.)

Monetary Sanctions

Sanctions are mandatory unless the court finds that the party acted "with substantial justification" or other circumstances that would render sanctions "unjust." (Code Civ. Proc., §§ 2030.290, subd. (c) [Interrogatories], 2031.300, subd. (c) [Document demands].) Since no opposition was filed, no facts were presented to warrant finding sanctions unjust. The court finds it reasonable to allow only 2 hours for the preparation of these simple discovery motions at the hourly rate of \$350, provided by counsel, and \$180

for the cost of filing these motions. Therefore, the total amount of sanctions awarded is \$880.

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:** DTT on 3/11/2025.  
(Judge's initials) (Date)

(27)

**Tentative Ruling**

Re: **Jasmine Martinez v. General Motors, LLC**  
Superior Court Case No. 23CECG04927

Hearing Date: March 13, 2025 (Dept. 501)

Motions: by Plaintiff for an Order Compelling Further Responses to Plaintiff's Request for Production of Documents, set one

**Tentative Ruling:**

To grant. Within 20 days of service of the order by the clerk, defendant General Motors, LLC ("GM") shall provide further verified responses to demand nos. 7, 10, 16, 18-22, 24-27,43, and 46. (Code Civ. Proc., § 2031.310.)

To the degree that disputes persist, the supplemental responses to be served by GM are new responses triggering new meet and confer obligations, compliance with Local Rule 2.1.17 and filing in accordance with Code of Civil Procedure section 2031.310, subdivision (c).

**Explanation:**

In deciding discovery disputes, the court is guided by the principle that discovery requests are generally afforded liberal construction. (See Code of Civ. Proc., § 2017.010; *Williams v. Superior Court* (2017) 3 Cal.5th 531, 541 (*Williams*).) A motion seeking further responses to a request for production "shall set forth specific facts showing good cause justifying the discovery sought by the demand." (Code Civ. Proc., § 2031.310 subd. (b)(1); *Calcor Space Facility, Inc. v. Superior Court, supra*, 53 Cal.App.4th at p. 223.) Good cause is typically established by identification of a disputed and consequential fact and explanation how the propounded discovery will tend to prove or disprove that fact. (See *Digital Music News LLC v. Superior Court* (2014) 226 Cal.App.4th 216, 224, disapproved on another ground by *Williams, supra*, 3 Cal.5th at p. 557, fn. 8.)

Plaintiff's Complaint alleges several defects – ignition, transmission, and air conditioning, among others – that plagued the subject vehicle. (Complaint, ¶ 12.) The subject discovery requests refine the alleged defects into two categories: electrical and air conditioning, and largely seek documents responsive to complaints and remedial efforts attendant to vehicles of the same year, make, and model as the subject vehicle. The discovery sought thus appears relevant to proving the basis for relief under the Song-Beverly Consumer Warranty Act (Civ. Code, § 1790, et seq.) - especially the elements of nonconformity and failure to repair. (*Oregel v. American Isuzu Motors, Ins.* (2001) 90 Cal.App.4th 1094, 1101.)

Despite the apparent good cause and relevancy, defendant characterizes plaintiff's discovery requests as a "discovery free for all" seeking "the entire universe of GM documents ...." (Opp. at p. 3:16-18) and explains that "plaintiff does not need one single page more from GM to pursue her claims." (*Id.* at p. 2:3.) Although defendant

secondarily contends the subject requests are overbroad and seek confidential information, such objections are not supported by evidence of undue burden (*Coriell v. Superior Court* (1974) 39 Cal.App.3d 487, 492-493) and defendant has not moved for a protective order in the almost one year since the requests were served. In addition, defense counsel's opposition declaration demonstrates no response to plaintiff's counsel's June, 2024 meet and confer efforts - the absence of participation significantly detracts from the veracity of defendant's objections. (See *Masimo Corp. v. The Vanderpool Law Firm, Inc.* (2024) 101 Cal.App.5th 902, 911 [harshly describing a failure to appropriately respond to opposing counsel's meet and confer efforts as an affront to civility and professionalism].)

Therefore, the motion is granted.

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:** DTT on 3/11/2025.  
(Judge's initials) (Date)

(35)

**Tentative Ruling**

Re: **Real v. Vested Enterprises, Inc. et al.**  
Superior Court Case No. 21CECG02679

Hearing Date: March 13, 2025 (Dept. 501)

Motion: by Defendant Amazon.com, Inc., for Protective Order

**Tentative Ruling:**

To grant and quash the subpoena.

**Explanation:**

This motion was filed without leave of court. Defendant Amazon.com, Inc., ("defendant") failed to request for a Pretrial Discovery Conference under Superior Court of Fresno County Local Rules, Rule 2.1.17. Rule 2.1.17 specifies that, with exceptions not applicable here:

no motion under sections 2016.010 through 2036.050, inclusive, of the California Code of Civil Procedure shall be heard in a civil unlimited case unless the moving party has first requested an informal Pretrial Discovery Conference with the Court and such request for a Conference has either been denied and permission to file the motion is expressly granted via court order or the discovery dispute has not been resolved as a consequence of such a conference and permission to file the motion is expressly granted after the conference.

Plaintiff Daniel Real ("plaintiff") objects on the grounds of Rule 2.1.17. Ordinarily, this would be sufficient for the court to take the matter off calendar for failure to comply with local rules. However, under the present circumstances and for this occasion only, the court finds that the dispute would not have benefited from an informal discovery conference and a motion would have been authorized, and proceeds in spite of the above.

Defendant seeks a protective order precluding the deposition of Jeff Bezos (Bezos), its former chief executive officer and present executive board member. (See Mayer Decl., ¶ 4.) Defendant submits that Bezos is subject to the apex doctrine, precluding the taking of his deposition absent a showing of peculiar knowledge and no less intrusive means to obtain such evidence. Plaintiff opposes.

Both parties cite to *Liberty Mutual Insurance Company v. Superior Court* (1992) 10 Cal.App.4th 1282. There is no general dispute as to the apex doctrine. Where a party seeks to depose a corporate president or other official at the highest level of corporate management, and that official moves for a protective order to prohibit the deposition, there is only one primary consideration. (*Liberty Mutual Ins. Co., supra*, at p. 1289.) The

party seeking the deposition shown good cause that the official has unique or superior personal knowledge of discoverable information. (*Ibid.*) Absent such a showing, a protective order should issue. (*Ibid.*)

Plaintiff submits that he has propounded various sets of discovery regarding the issue of safety. (Torres Decl., ¶ 7.) Though plaintiff states that the responses to discovery were insufficient, plaintiff did not seek to compel further responses. While plaintiff is entitled to conduct discovery on this issue, plaintiff fails to demonstrate good cause as to how Bezos has unique or superior personal knowledge of the issue. (See *generally id.*, ¶ 12, Ex. G.) At most, plaintiff submits a statement not made to the deponent that Bezos made a statement. Moreover, plaintiff's evidence suggests there are two other executive vice presidents in the hierarchy prior to Bezos. (*Id.*, ¶ 12, Ex. G, p. 122:16-25.)

Finally, there appears to be a dispute as to whether Bezos is an employee of defendant which would subject Bezos to production. Counsel for defendant affirmatively states that Bezos is a third-party witness. (Mayer Decl., ¶ 4.) This is not refuted by plaintiff in opposition, who merely argues summarily that Bezos directly controls, present tense, defendant's logistics operations.<sup>1</sup>

For the above reasons, the motion for a protective order is granted, and the subpoena of Jeff Bezos is quashed.<sup>2</sup>

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:** DTT on 3/12/2025.  
(Judge's initials) (Date)

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<sup>1</sup> Plaintiff cites to page 122 of the deposition Exhibit G, which indicates only that Bezos was the CEO at the time.

<sup>2</sup> The court issues no rulings as to plaintiff's Objections. The evidence submitted on reply is improper, and the court did not consider it.