<u>Tentative Rulings for March 26, 2025</u> <u>Department 502</u>

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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<u>Tentative Ruling</u>

Re: Linda Schnell v. Ford Motor Company

Superior Court Case No. 23CECG02095

Hearing Date: March 26, 2025 (Dept. 502)

Motion: By Defendant Ford Motor Company for Summary

Adjudication

Tentative Ruling:

To deny.

Explanation:

"'Summary judgment is granted when there is no triable issue as to any material fact and the moving party is entitled to judgment as a matter of law.'" (Lopez v. Superior Court (1996) 45 Cal.App.4th 705, 713, quoting Code Civ. Proc. § 437c(c).) Summary judgment is properly directed toward the entire complaint and not portions thereof. (See Barnick v. Longs Drug Stores, Inc. (1988) 203 Cal.App.3d 377, 384; Khan v. Shiley, Inc. (1990) 217 Cal.App.3d 848, 858-859.)

Summary adjudication is the proper mechanism for challenging a particular, "cause of action, an affirmative defense, a claim for punitive damages, or an issue of duty." (Paramount Petroleum Corp. v. Superior Court (2014) 227 Cal.App.4th 226, 242.) However, "[a] motion for summary adjudication shall be granted only if it completely disposes of a cause of action, an affirmative defense, a claim for damages, or an issue of duty." (Code Civ. Proc. § 437c(f)(1); see also Catalano v. Superior Court (2000) 82 Cal.App.4th 91, 97 [piecemeal adjudication prohibited].)

The ultimate burden of persuasion rests on defendant, as the moving party. The initial burden of production is on defendant to show by a preponderance of the evidence, that it is more likely than not that a given element cannot be established or that a given defense can be established. (Aguilar v. Atlantic Richfield Co. (2001) 25 Cal.4th 826, 850.)

If defendant carries this initial burden of production, the burden of production shifts to plaintiff to show that a triable issue of material fact exists. Plaintiff does this if he can show, by a preponderance of the evidence, that it is more likely than not that a given element can be established or that a given defense cannot be established. (Aguilar, supra, 25 Cal.4th at pp. 850, 852.)

Here, Defendant Ford Motor Company moves for summary adjudication on the fraudulent concealment cause of action, asserting that Plaintiffs have presented factually devoid discovery responses regarding Defendant's exclusive or superior knowledge.

"In moving for summary judgment, "[t]he defendant may ... present evidence that the plaintiff does not possess, and cannot reasonably obtain, needed evidence—as through admissions by the plaintiff following extensive discovery to the effect that he has discovered nothing." (Aguilar v. Atlantic Richfield Co. (2001) 25 Cal.4th 826, 855.) If plaintiffs respond to comprehensive interrogatories seeking all known facts with boilerplate answers that restate their allegations, or simply provide laundry lists of people and/or documents, the burden of production will almost certainly be shifted to them once defendants move for summary judgment and properly present plaintiffs' factually devoid discovery responses."

(Andrews v. Foster Wheeler LLC (2006) 138 Cal.App.4th 96, 106-07.)

It is not enough for a defendant to show merely that a plaintiff 'has no evidence' on a key element of plaintiff's claim. The defendant must also produce evidence showing the plaintiff cannot reasonably obtain evidence to support that claim. (Aguilar, supra, 25 Cal.4th at pp. 854-855; Gaggero v. Yura (2003) 108 Cal.App.4th 884, 891.) This is where the motion falls short.

Defendant describes the discovery that was produced by Plaintiffs as showing that Plaintiffs cannot establish Defendant's exclusive or superior knowledge of an alleged defect involving the vehicle's transmission. (UMF Nos. 5-13.) This does show that Plaintiffs have not produced evidence to Defendant supporting Defendant's exclusive knowledge. However, Defendant failed to address the question of whether Plaintiffs cannot reasonably obtain evidence to support Plaintiffs' claims of Defendant's exclusive knowledge. As such, Defendant has not met its initial burden of production in moving for summary adjudication.

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: _	KCK	on	03/24/25		
	(Judge's initials)		(Date)		