

Tentative Rulings for April 3, 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)

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.*

22CECG03958 *John Roe 927 D.W. v. County of Fresno*

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

24CECG01987 *Amrik Singh v. Mercedes-Benz USA, LLC is continued to Wednesday, April 9, 2025, at 3:30 p.m. in Department 501*

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Tentative Rulings for Department 501

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(35)

Tentative Ruling

Re: **Mooradian v. Aquino et al.**
Superior Court Case No. 22CECG02828

Hearing Date: April 3, 2025 (Dept. 501)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To deny without prejudice. Petitioner Gabriel Mooradian must file a new petition, with appropriate supporting papers and proposed orders, and obtain a new hearing date for consideration of the amended petition. In the event that oral argument is requested, both petitioner Gabriel Mooradian and plaintiff Nerissa Mooradian are excused from appearing.

Explanation:

Item 12 reports medical expenses. The petition indicates that each of St. Agnes Medical Center and CEP America California have an outstanding balance totaling \$287.22. No information or evidence was submitted to support the final balance owed, and particularly, the negotiated reductions of \$663.78 and \$156.69, respectively. Without this information, the court cannot conclude that all medical liens have been identified and/or will be otherwise disposed of.

Item 14, which seeks \$2,500.00 in attorney's fees, is unsupported by the evidence. While counsel attaches his fee agreement and brief declaration, the declaration in support of the reasonableness of the fees, the declaration fails to address 14 factors indicated. (Cal. Rules of Court, rule 7.955(b).) Given that counsel's representation is dual facing, with the minor's parent, at minimum, the declaration should indicate the amount of time spent in pursuit of the minor's claim in particular. (*Id.*, rule 7.955, subd. (b)(8).) Moreover, to the extent that the petition suggests that the minor's claims are ancillary to the parent's, it would seem inappropriate to attribute the entire filing fee for the complaint, of \$535.00, to the minor, under Item 13.

For the above reasons, the Petition is denied, without prejudice.

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 3/27/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Miriam Gonzalez v. Kia America, Inc.***
Superior Court Case No. 24CECG02857

Hearing Date: April 3, 2025 (Dept. 501)

Motion: by Plaintiff to Compel Defendant's Further Responses to
Request for Production of Documents, Set One

Tentative Ruling:

To grant plaintiff's motion to compel a further response to Request for Production of Documents, Set One, Request Number 31. To deny as to Request Number 30, without prejudice. Defendant Kia America, Inc., shall serve a verified supplemental response within 20 days of the date of the service of this order.

Explanation:

This motion arises out of a Complaint filed July 3, 2024, alleging violations of the Song-Beverly Act. On August 27, 2024, plaintiff propounded Request for Production of Documents, Set One, on defendant. Defendant served verified responses on October 1, 2024. On October 15, 2024, plaintiff's counsel sent meet and confer correspondence to defense counsel. On November 22, 2024, plaintiff's counsel requested to telephonically meet and confer with defense counsel. On November 26, 2024, counsel telephonically met and conferred. This began a discussion regarding search terms relevant to Request Number 30. On December 16, 2024, plaintiff filed a Request for Pretrial Discovery Conference. On December 17, 2024, counsel had a second telephonic discussion regarding the search terms, but defense counsel clarified that he had not discussed the potential search terms with defendant. On January 7, 2025, the court issued an Order providing defendant until January 13, 2025, to file an opposition. None was filed. On January 24, 2025, plaintiff filed her motion to compel. While plaintiff should have waited until the court granted permission to file her motion, the court will proceed to the merits in light of defendant's failure to oppose the Request for Pretrial Discovery Conference. The court also finds that plaintiff sufficiently met and conferred prior to filing her motion.

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.

For Request Number 30, the court finds that defendant's particularity objection has merit with regard to the definition of "SUBSTANTIALLY SIMILAR". (See Code Civ. Proc., § 2031.030, subd. (c)(1).) The court recognizes that plaintiff made efforts to meet and confer as to the definition of "SUBSTANTIALLY SIMILAR", but that these efforts did not result

in any agreement by the parties as to the definition. As such, the court denies plaintiff's motion to compel a further response to this request, without prejudice.

For Request Number 31, the court finds that defendant's objections lack merit. Code of Civil Procedure section 871.26, subdivision (h)(8), specifically provides for the production of field service actions for the vehicle. As such, defendant is ordered to provide a supplemental response to this 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 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 4/1/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Ruben Artiz Hernandez v. Kia America, Inc.***
Superior Court Case No. 24CECG03497

Hearing Date: April 3, 2025 (Dept. 501)

Motion: by Plaintiffs to Compel Defendant's Further Responses to Request for Production of Documents, Set One

Tentative Ruling:

To grant plaintiffs' motion to compel further responses to Request for Production of Documents, Set One, as to Request Numbers 1-11, 13-18, 22-29 and 31, subject to the discussion below. To deny as to Request Numbers 12, 19-21 and 30. Defendant Kia America, Inc., shall serve verified supplemental responses within 20 days of the date of the service of this order.

Explanation:

This motion arises out of a Complaint filed August 14, 2024, alleging violations of the Song-Beverly Act. On October 7, 2024, plaintiffs propounded Request for Production of Documents, Set One, on defendant. Defendant served verified responses on November 14, 2024. On November 27, 2024, plaintiff's counsel sent meet and confer correspondence to defense counsel. After receiving no response, plaintiff's counsel sent further correspondence to defense counsel on December 11, 2024. After receiving no response, on December 20, 2024, plaintiff's counsel filed a Request for Pretrial Discovery Conference. On December 27, 2024, defense counsel responded to plaintiff's counsel's meet and confer correspondence. However, defense counsel did not file any opposition to the Request for Pretrial Discovery Conference. On January 8, 2025, the court issued an Order providing defendant until January 17, 2025, to file an opposition. None was filed. On January 27, 2025, plaintiffs filed their motion to compel. While plaintiffs should have waited until the court granted permission to file their motion, the court will proceed to the merits in light of defendant's failure to oppose the Request for Pretrial Discovery Conference. The court also finds that plaintiffs sufficiently met and conferred prior to filing their motion.

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. Additionally, for each of the responses where the court is ordering defendant to provide supplemental responses, defendant should do so in compliance with Code of Civil Procedure section 871.26, subdivision (h), in mind. Additionally, it appears that defendant is under the mistaken belief that plaintiffs are not entitled to discovery involving other vehicles of the

same year, make and model. A review of Code of Civil Procedure section 871.26, subdivision (h), should disabuse defendant of that notion.

Request Numbers 1-14

Request Numbers 1 through 14 seek documents relating to the subject vehicle. For Request Numbers 1 through 11 and 14, the court finds that defendant's objections lack merit, particularly in light of the expectations provided in Code of Civil Procedure section 871.26. As such, the court orders defendant to provide supplemental responses to these consistent with Code of Civil Procedure section 871.26, subdivision (h). To the extent that defendant asserts that it has produced documents in compliance, it should state so clearly. For Request Number 12, defendant has indicated that no such documents exist. As such, the court does not compel further responses to this request.

Request Numbers 15-22

Request Numbers 15 through 22 seek documents regarding defendant's Song-Beverly Act policies and procedures. For Request Numbers 15 through 18 and 22, the court is compelling further responses. However, the court agrees with defendant that the time frame for these requests should be narrowed to correspond with the year of the subject vehicle. As such, defendant's responses should include 2022 to the present for these requests.

For Request Numbers 19 through 21, the court denies plaintiff's motion to compel further responses to these. Plaintiff utilized the same arguments to address these requests as those for Request Number 15. However, the court does not find that those arguments sufficiently address good cause to require production of internal flow charts and calculation materials defendant may use. As such, the court denies plaintiff's motion to compel further responses to Request Numbers 19 through 21.

Request Numbers 23-29

Request Numbers 23 through 29 seek documents regarding defendant's warranty policies and procedures. The court is compelling further responses, consistent with Code of Civil Procedure section 871.26, subdivision (h). However, the court agrees with defendant that the time frame for these requests should be narrowed to correspond with the year of the subject vehicle. As such, defendant's responses should include 2022 to the present for these requests.

Request Numbers 30-31

Request Numbers 30 and 31 seek documents regarding similar customer complaints. For Request Number 30, the court finds that defendant's particularity objection has merit with regard to the definition of "SUBSTANTIALLY SIMILAR". (See Code Civ. Proc., § 2031.030, subd. (c)(1).) As such, the court denies plaintiffs' motion to compel a further response to this request, without prejudice.

For Request Number 31, the court finds that defendant's objections lack merit. Code of Civil Procedure section 871.26, subdivision (h)(8), specifically provides for the

production of field service actions for the vehicle. As such, defendant is ordered to provide a supplemental response to this 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 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** 4/1/2025.
(Judge's initials) (Date)