Tentative Rulings for August 19, 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.***

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

21CECG01833 ***Ramon Huerta, et al. v. Batth Farms, Inc.*** **is continued to Tuesday, August 26, 2025, at 3:30 p.m., in Department 501.**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

Begin at the next page

(03)

Tentative Ruling

Re: ***Ford v. Lyons Magnus, LLC***
Case No. 24CECG05507

Hearing Date: August 19, 2025 (Dept. 501)

Motion: by Defendants for Order Compelling Arbitration and Staying Proceedings

Tentative Ruling:

To continue defendants' motion to compel arbitration to October 7, 2025, at 3:30 p.m. in Department 501. To order plaintiff to file a supplemental declaration by the close of business on September 23, 2025, stating when she was subjected to sexual harassment. Defendant shall file a responsive brief limited to no more than five pages by the close of business September 30, 2025.

If oral argument is timely requested, such argument will be entertained at 2:30 p.m. rather than 3:30 p.m.

Explanation:

Pursuant to California Code of Civil Procedure section 1281.2, "[o]n petition of a party to an arbitration agreement alleging the existence of a written agreement to arbitrate a controversy and that a party thereto refuses to arbitrate such controversy, the court shall order the petitioner and the respondent to arbitrate the controversy if it determines that an agreement to arbitrate the controversy exists, unless it determines that: (a) The right to compel arbitration has been waived by the petitioner; or (b) Grounds exist for the revocation of the agreement. (c) A party to the arbitration agreement is also a party to a pending court action or special proceeding with a third party, arising out of the same transaction or series of related transactions and there is a possibility of conflicting rulings on a common issue of law or fact." (Cal. Civ. Proc. Code § 1281.2, subds. (a)-(c), paragraph breaks omitted.)

"[W]hen a petition to compel arbitration is filed and accompanied by prima facie evidence of a written agreement to arbitrate the controversy, the court itself must determine whether the agreement exists and, if any defense to its enforcement is raised, whether it is enforceable. Because the existence of the agreement is a statutory prerequisite to granting the petition, the petitioner bears the burden of proving its existence by a preponderance of the evidence. If the party opposing the petition raises a defense to enforcement - either fraud in the execution voiding the agreement, or a statutory defense of waiver or revocation (see § 1281.2, subds. (a), (b)) - that party bears the burden of producing evidence of, and proving by a preponderance of the evidence, any fact necessary to the defense." (*Rosenthal v. Great Western Fin. Securities Corp*. (1996)14 Cal. 4th 394, 413.) Thus, in ruling on a motion to compel arbitration, the court must first determine whether the parties actually agreed to arbitrate the dispute,

and general principles of California contract law guide the court in making this determination. (*Mendez v. Mid-Wilshire Health Care Center* (2013) 220 Cal.App.4th 534.)

Here, defendants have met their burden of showing that the parties entered into an agreement to arbitrate any disputes that arise out of the employment relationship, including the types of claims that plaintiff has alleged here. Defendants have provided evidence that plaintiff signed the alternative dispute resolution agreement when she was hired by defendants in December 2018. (Obregon decl., ¶¶ 5-9.) The agreement states that it applies to "any and all disputes or controversies arising out of or relating to the relationship between" defendants and plaintiff. (Exh. A to Obregon decl.) The parties cannot resolve their dispute through informal negotiations or mediation, then the dispute "shall be submitted to binding arbitration…" (*Ibid*.) Both parties expressly waived their right to a jury trial regarding disputes covered by the agreement. (*Ibid*.)

The agreement also states that it is intended to cover "all disputes which may arise during the course or as a result of the employment relationship that are otherwise arbitrable under existing law, including, but not limited to, any rights or claims under … Age Discrimination in Employment Act; (4) the Equal Pay Act; (5) the California Fair Employment and Housing Act; (6) the California Labor Code); … (14) the California Business and Professions Code; and (15) the California Code of Civil Procedure. Additionally, all disputes regarding contractual claims, tort claims including, but not limited to, claims of … violation of public policy, harassment … and any claims under any other federal, state or local laws or regulations regarding employment discrimination, are subject to the Policy." (*Ibid*.)

Thus, defendants have presented sufficient evidence to meet their burden of showing that plaintiff entered into an agreement to arbitrate her claims against defendants, including her claims for gender discrimination, age discrimination harassment, wage and hour claims under the Labor Code, and violation of Business and Professions Code section 17200. As a result, the burden shifts to plaintiff to show that the agreement is unenforceable.

In her opposition, plaintiff contends that the agreement is void and unenforceable because she has alleged claims for sexual harassment and failure to prevent harassment, and thus she cannot be compelled to arbitrate her claims, as the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act (EFAA) bars forced arbitration of such claims. Under the EFAA, "Notwithstanding any other provision of this title, at the election of the person alleging conduct constituting a sexual harassment dispute or sexual assault dispute, or the named representative of a class or in a collective action alleging such conduct, no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with respect to a case which is filed under Federal, Tribal, or State law and relates to the sexual assault dispute or the sexual harassment dispute." (9 U.S.C.A. § 402, subd. (a).)

"An issue as to whether this chapter applies with respect to a dispute shall be determined under Federal law. The applicability of this chapter to an agreement to arbitrate and the validity and enforceability of an agreement to which this chapter applies shall be determined by a court, rather than an arbitrator, irrespective of whether the party resisting arbitration challenges the arbitration agreement specifically or in

conjunction with other terms of the contract containing such agreement, and irrespective of whether the agreement purports to delegate such determinations to an arbitrator." (9 U.S.C.A. § 402, subd. (b).)

"The term 'sexual harassment dispute' means a dispute relating to conduct that is alleged to constitute sexual harassment under applicable Federal, Tribal, or State law." (9 U.S.C.A. § 401, subd. (4).)

"The EFAA applies only to any dispute or claim that arises or accrues on or after the date of the enactment of the Act and does not have retroactive effect. The EFAA was enacted on March 3, 2022." (*K.T. v. A Place for Rover* (E.D. Pa., Oct. 31, 2023, No. CV 23-02858) 2023 WL 7167580, at *3, citing *Johnson v. Everyrealm, Inc*. (2023) 657 F.Supp.3d 535, 550.)[1]

A plaintiff must "plausibly plead" a claim for sexual harassment or assault under federal, state, or tribal law in order to invoke the EFAA and prevent enforcement of an arbitration agreement. (*Yost v. Everyrealm, Inc*. (S.D.N.Y. 2023) 657 F.Supp.3d 563, 585.) In other words, the allegations must be sufficient to survive a motion to dismiss under Federal Rule 12(b)(6). (*Ibid*.) Also, as long as the plaintiff pleads a plausible sexual assault or harassment claim, the EFAA also blocks arbitration of the entire case containing that claim. (*Id*. at p. 586; see also *Johnson v. Everyrealm, Inc*., *supra*, at pp. 558-561.)

Here, plaintiff has plausibly pled claims for sexual harassment and failure to prevent sexual harassment in her first amended complaint. The California Fair Employment and Housing Act (FEHA) prohibits harassment based on gender or sexual orientation and failure by the employer to prevent sexual harassment in the workplace. (Cal. Govt. Code, § 12940, subd. (j)(1).) "To establish a prima facie case of a hostile work environment, [plaintiff] must show that (1) she is a member of a protected class; (2) she was subjected to unwelcome harassment; (3) the harassment was based on her protected status; (4) the harassment unreasonably interfered with her work performance by creating an intimidating, hostile, or offensive work environment; and (5) defendants are liable for the harassment." (*Ortiz v. Dameron Hospital Assn.* (2019) 37 Cal.App.5th 568, 581, citation omitted.)

In the present case, plaintiff alleges that she is a female over the age of 40 and a member of the LGBTQ+ community. (FAC, ¶ 14.) She alleges that she was subjected to discrimination and harassment due to her gender, age, and sexual orientation. (*Id*. at ¶ 15.) She also alleges that defendants' employees frequently made lewd comments about her and her girlfriend, who also was an employee of defendants, whenever they walked together on their breaks. (*Id*. at ¶ 16.) She further alleges that defendants' employees whistled and catcalled her and her girlfriend when they walked together on their breaks. (*Id*. at 17.) These lewd comments, whistling, and catcalling were so pervasive that defendants created a hostile work environment because they occurred every day, sometimes twice a day, for a year. (*Id*. at ¶ 18.) Defendants had actual or constructive knowledge of the employees' harassment because they occurred so

[1] While federal District Court decisions are not binding on this court, the court intends to rely on them as persuasive authorities, as they are currently the only available authorities interpreting the relatively new EFAA statute.

frequently, and defendants failed to take any corrective action. (*Id*. at ¶ 19.) Plaintiff alleges that, as a result of the harassment, she suffered severe emotional distress, loss of earnings, medical expenses, benefits plus expenses incurred in obtaining substitute employment. (*Id*. at ¶ 79.)

Therefore, plaintiff has alleged sufficient plausible facts to state valid claims for harassment and failure to prevent harassment under California law. (9 U.S.C. § 402, subd. (a); *Yost v. Everyrealm, Inc*., *supra*, 657 F.Supp.3d at p. 585; *Johnson v. Everyrealm, Inc*., *supra*, 657 F.Supp.3d at pp. 558-561.) However, plaintiff's complaint is vague about exactly *when* the sexual harassment occurred. The EFAA only applies if the harassment occurred after March 3, 2022. (*Johnson, supra*, at p. 550.) Plaintiff was employed by defendants from November of 2018 to June of 2024. (FAC, ¶ 13.) She alleges that she was subject to sexual harassment every day "for a year." (FAC, ¶ 18; Ford decl., ¶ 5.) Yet she does not specify exactly when the harassment took place, other than that it occurred over the course of a year. As a result, it is possible that all of the harassment occurred sometime after she was hired in November of 2018 but before the effective date of the EFAA in March of 2022, in which case the EFAA would not apply.

Without more information about exactly when the sexual harassment occurred, it is impossible to determine whether the EFAA applies to plaintiff's claims and bars enforcement of the arbitration agreement. Therefore, the court intends to continue the hearing on the motion to compel arbitration and order plaintiff to file an additional declaration with more detailed facts about when the harassment occurred. The court will also allow defendant to file a supplemental brief responding to plaintiff's evidence.

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 8/18/2025.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Pannu v. Volkswagen Group of American, Inc., et al.***
Superior Court Case No. 24CECG02928

Hearing Date: August 19, 2025 (Dept. 501)

Motion: by Defendants for Summary Judgment or, alternatively, Summary Adjudication

Tentative Ruling:

To deny the alternative motion in all respects.

If oral argument is timely requested, such argument will be entertained at 2:30 p.m. rather than 3:30 p.m.

Explanation:

Summary judgment law turns on issue finding rather than issue determination. (*Diep v California Fair Plan Ass'n* (1993) 15 Cal.App.4th 1205, 1207.) The court does not decide the merits of the issues, but merely discovers, through the medium of affidavits or declarations, whether there are issues to be tried and whether the parties possess evidence that demands the analysis of a trial. (*Melamed v City of Long Beach* (1993) 15 Cal.App.4th 70, 76; *Molko v Holy Spirit Ass'n* (1988) 46 Cal.3d 1092, 1107; *Schwoerer v Union Oil Co.* (1993) 14 Cal.App.4th 103, 110.) In short, the motion is not a substitute for a bench trial.

If the moving party carries this initial burden of production, the burden of production shifts to the opposing party to show that a triable issue of material fact exists. In determining whether any triable issues of material fact exist, the court must strictly construe the moving papers and liberally construe the declarations of the party opposing summary judgment. Any doubts as to whether a triable issue of material fact exist are to be resolved in favor of the party opposing summary judgment/adjudication. (*Barber v. Marina Sailing, Inc.* (1995) 36 Cal.App.4th 558, 562; see also *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 900 ["Summary adjudication is a drastic remedy and any doubts about the propriety of summary adjudication must be resolved in favor of the party opposing the motion."].)

In the case at bench, defendants Volkswagen Group of America, Inc., and CJ's Road to Lemans Corp., dba Audi Fresno, move for summary judgment of plaintiff's complaint alleging violations of the Song-Beverly Warranty Act. Defendant General Motors contends that all of plaintiff's claims are barred under the Song-Beverly Consumer Warranty Act, as a used vehicle sold without a new warranty issued with the sale. (*Rodriguez v. FCA US LLC* (2024) 17 Cal.5th 189, 206.). Defendants contend it is undisputed that plaintiff purchased a used 2021 Audi RS6 (UMF Nos. 1, 4, 7) and that neither defendant issued or extended any warranties as part of the sale of the vehicle. (UMF Nos. 2-3, 5-6, 8-9).

In opposition, plaintiffs assert they were sold a new vehicle, evidenced by the purchase contract labeling the vehicle as "new" and what plaintiff Jasbir Pannu was told by the salespersons at Audi Fresno. (AMF Nos. 1-2.) Defendants have objected to the plaintiff's representations of what she was told about the vehicle in her declaration as hearsay, however the objections are overruled. The same purchase contract is offered as evidence by both parties, with defendants arguing there is a mistake in the contract indicating the vehicle was new and plaintiff asserting that "new" means she purchased a new vehicle. (Paul Decl., ¶ 8, Exh. A.) There is a clear dispute as to whether the vehicle was represented as new or used at the time of the sale. Accordingly, summary judgment and summary adjudication are denied.

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 8/18/2025.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Knight v. Kelley et al.***
Superior Court Case No. 23CECG04258

Hearing Date: August 19, 2025 (Dept. 501)

Motion: by Plaintiff Amy L. Knight for Distribution

Tentative Ruling:

To continue the motion for distribution to October 8, 2025, 3:30 p.m. in Department 501. The parties are authorized to file an additional supplemental brief on or before 5:00 p.m. on October 1, 2025.

If oral argument is timely requested, such argument will be entertained at 2:30 p.m. rather than 3:30 p.m.

Explanation:

Plaintiff Amy L. Knight ("plaintiff") moves for distribution of funds under Code of Civil Procedure sections 872.630, 873.520, 873.610, 873.640, 873.650, 873.680, 873.720, 873.730, 873.950 and 873.960. None of these statutes are for distribution. The statutes between, and including, 872.630 and 873.730 outline procedure before the entering of interlocutory judgment and to confirm the sale, both of which have already occurred in this action. The remaining statutes of section 873.950 and 873.960 refer to a partition by appraisal, which did not occur in this action due to the parties' stipulation for an order for sale. Though the notice is defective, both parties appear to address the actual statute for which relief is sought, distribution in accordance with Code of Civil Procedure section 873.820. Plaintiff's motion primarily seeks a fee award, constituting a cost of partition where the fees incurred were for the common benefit. (Code Civ. Proc., § 874.010, subd. (a).) Comparatively, defendant Christopher Kelley ("defendant") not only opposes the motion insofar as it seeks a fee award, but seeks to establish the disbursement of the residue among the parties in proportion to their equitable shares.

Neither party, including plaintiff as the moving party, sufficiently establishes that their fees incurred in this action were for the common benefit. The court, which is well appraised of the history of this action, finds that nearly all of the fees submitted for consideration, by both parties, were not substantially for the common benefit. The original purpose of the action was to force a sale, and sought relief, among other things, to eject individuals then living at the property. Service of the summons and complaint on defendant occurred at the property that is the subject of this action.

Likewise, seeking interlocutory judgment by sale failed on several attempts because the parties, collectively, disputed their proportional interests in the property. Plaintiff then filed for relief under the Partition of Real Property Act for a court-supervised appraisal. The purpose of the Partition of Real Property Act is to provide the moving party with the right to a court-supervised right of first refusal, which begins with an appraisal.

(Code Civ. Proc., § 874.311 *et seq.*; *id.*, § 874.317.) On October 3, 2024, the court granted Plaintiff's sought relief to invoke the Partition of Real Property Act. These efforts were, in any event, abandoned, roughly one week after the order for a court-supervised appraisal, through the parties' stipulation dated October 9, 2024, for an order of sale. The stipulation for order became the order of the court on October 14, 2024.

The only action in this matter that was truly for the common benefit was to get approval of the sale. The ex parte application was submitted as a jointly stipulated application. Upon review of the billing records from counsel for each party, it does appear that counsel for plaintiff, solely, originated the application. The court therefore awards 2 hours of billed time, reflecting fees expended for the common benefit. However, the time entries reflect a billing rate of $500, whereas the declaration states a rate of $325. The court finds $325 as the reasonable rate, and awards $650 as costs in favor of plaintiff.

As to actual disbursement of the residue in proportion to equitable shares, neither party sufficiently addresses the issues on equity. No evidence was submitted in satisfaction to attribute the several satisfied liens on the real property to one party or the other. No admissible evidence was submitted to support the imposition of credits and debits for or against a party.[1]

For the above reasons, the court continues this hearing, to show cause as to why the distribution should not be made in equal shares. The matter is continued to October 8, 2025, 3:30 p.m. in Department 501. The parties are directed to submit admissible evidence, with proper foundation, to address the distribution of the residue.

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 8/18/2025.
(Judge's initials) (Date)

[1] Unless counsel has personal knowledge of the information set forth in the declaration, counsel's declaration is not to be used as a substitution for proper foundation.

(35)

Tentative Ruling

Re: ***Iler v. Fresno Community Hospital and Medical Center***
Superior Court Case No. 23CECG03097

Hearing Date: August 19, 2025 (Dept. 501)

Motion: (1) by Plaintiff Henry Justin Iler to Quash Subopenas
(2) by Plaintiff Henry Justin Iler for Reconsideration

Tentative Ruling:

To order the motions off calendar for failure to file moving papers.

If oral argument is timely requested, such argument will be entertained at 2:30 p.m. rather than 3:30 p.m.

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 8/18/2025.
(Judge's initials) (Date)

(20)

Tentative Ruling

Re: ***Ryder Truck Rental, Inc. v. Major Transportation Services, Inc.***
Superior Court Case No. 24CECG04818

Hearing Date: August 19, 2025 (Dept. 501)

Motion: for Summary Judgment

Tentative Ruling:

To deny.

If oral argument is timely requested, such argument will be entertained at 2:30 p.m. rather than 3:30 p.m.

Explanation:

Plaintiff Ryder Truck Rental moves for summary judgment on the Complaint's sole cause of action for breach of contract. Plaintiff contends that defendant owes $90,192.62 pursuant to Truck Lease and Service Agreement between the parties, pursuant to which defendant leased five vehicles from plaintiff.

A plaintiff moving for summary judgment or summary adjudication of a cause of action (here there is just the one cause of action for breach of contract) must "prove[ ] each element of the cause of action entitling the party to judgment on that cause of action." (*Paramount Petroleum Corp. v. Superior Court* (2014) 227 Cal.App.4th 226, 241.) That includes proving up damages when damages are an element of the cause of action. (Weil & Brown, *Cal. Practice Guide: Civ. Proc. Before Trial* (TRG 2020) ¶ 10:32.)

Aside from pointing to plaintiff's records showing that plaintiff maintains that $90,192.62 is owed by defendant, plaintiff produces no factual information supporting or substantiating this figure. For example, the moving papers contain no information about when the five vehicles were returned to plaintiff, or discussion of the contractual lease requirements that would provide the basis for plaintiff's damages calculation. Defendant points out that there is conflicting information in this regard, with defendant claiming that four of the vehicles were returned on October 31, 2022, while plaintiff's records reflect that these vehicles were returned on November 2, 2022. (See Gill Decl., ¶ 5, Exhs. B, C.) That discrepancy alone is enough to require denial of the motion.

Plaintiff produces other documents in support of the motion, including a notice of default and notice of termination of the lease agreement. Other than pointing out that these documents exist in plaintiff's system or files (Mandell Decl, ¶¶ 13, 14, Exhs. 3 4), there is no showing that they were actually sent to defendant, and defendant denies receiving them (see Gill Decl., ¶¶ 9-11).

The moving papers also make reference to defendant's discovery responses. Plaintiff's counsel produces the discovery *propounded* on defendant, including requests for admission, form interrogatories, special interrogatories, and request for production of documents (see Velen Decl., Exh. 1), and states that defendant served responses to the discovery requests (Velen Decl., ¶ 4), but does not produce the responses. Plaintiff produces two pages of documents that were produced by defendant (Velen Decl., ¶ 5, Exh. 2), implying that those are the only documents produced, but not explicitly saying so. It is unclear what this is supposed to establish, as it is not addressed at all in the discussion. In the introduction plaintiff asserts that it "moves for summary Judgment based on Defendant's lack of evidence to support its denial of liability to Plaintiff's Complaint" (MPA 3:10-11), references the document production and discovery responses (which are not provided; see MPA p. 3), and states that "[n]o other proof to support Defendant's position of denial was provided" (MPA 3:25-26). That claim is unsupported by evidence submitted with the motion and entirely lacking in foundation, as the discovery responses were not provided.

Finally, the court overrules defendant's evidentiary objections. First, the objections do not comply with California Rules of Court, rule 3.1354. Second, the court finds that the records submitted with the motion (which are not sufficient to carry plaintiff's burden) are adequately authenticated as business records.

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 8/18/2025 .
(Judge's initials) (Date)