Tentative Rulings for January 14, 2026
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.

25CECG02962 ***Ivan Gonzalez v. Inter-Con Security Systems, Inc*. is continued to Thursday, January 15, 2026, at 3:30 p.m. in Department 403.**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 403

Begin at the next page

(41)

Tentative Ruling

Re: ***Juana Padilla v. General Motors, LLC***
Superior Court Case No. 25CECG00412

Hearing Date: January 14, 2026 (Dept. 403)

Motion: By Plaintiff to File Affidavit of Venue Subsequent to Filing of Complaint

Tentative Ruling:

To grant plaintiff's motion to file an affidavit of venue subsequent to the filing of the complaint, as proposed in exhibit "1" attached to plaintiff's moving papers. Plaintiff shall file the affidavit within 10 days, which will run from service by the clerk of the minute order.

Explanation:

The plaintiff, Juana Martinez Padilla (Plaintiff) filed "lemon law" claims against the defendant manufacturer, General Motors LLC (GM), and claims against the defendant dealer, Prieto Automotive dba Chevrolet GMC of Sanger (Prieto Automotive), under the Automobile Sales and Finance Act (ASFA; Civ. Code, § 2981.9 et seq.).

Any ASFA action on a conditional sale contract is subject to the venue provisions of Civil Code section 2984.4, which require the plaintiff to file, concurrently with the complaint, an affidavit stating facts showing that the action has been commenced in a superior court and location described in that section as a proper place for the trial of the action. Alternatively, the plaintiff may state these facts in a verified complaint, but the facts may not be stated on information or belief. When the affidavit is filed with the complaint, a copy of the affidavit must be served with the summons. (Civ. Code, § 2984.4, subd. (c).) If a plaintiff fails to state the required facts in a verified complaint or file a concurrent affidavit, the subdivision goes on to provide:

> [N]o further proceedings may occur, but the court shall, upon its own motion or upon motion of any party, dismiss the action without prejudice. The court may, on terms that are just, permit the affidavit to be filed subsequent to the filing of the complaint and a copy of the affidavit shall be served on the defendant. The time to answer or otherwise plead shall date from that service.

(*Ibid.*)

Plaintiff now moves under Civil Code section 2984.4 to file an affidavit of venue subsequent to the filing of the complaint. Plaintiff correctly states that no case interprets the phrase "terms that are just" as it is used in Civil Code section 2984.4, but the phrase "just terms" is found in other statutes. For example, Code of Civil Procedure section 631, subdivision (g), allows the court, in its discretion, to grant relief from a jury trial waiver on

"just terms," and Code of Civil Procedure section 473, allows the court to permit amendments and grant relief from default "upon any terms as may be just."

Plaintiff notes federal courts have held "just terms" means "without gratuitous harm to the parties," citing *Strandlund v. Hawley* (8th Cir. 2008) 532 F.3d 741, 745.) GM does not oppose Plaintiff's motion and Prieto Automotive has no obligation to respond to Plaintiff's complaint until Plaintiff serves the required affidavit. The court concurs with Plaintiff's showing of no apparent harm in permitting the required affidavit to be filed as requested at this early stage. Therefore, the court grants Plaintiff's motion to file an affidavit of venue subsequent to the filing of the complaint, as proposed in exhibit "1" attached to Plaintiff's moving papers.

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: lmg on 1-12-26.
(Judge's initials) (Date)

(47)

Tentative Ruling

Re:	***Susan Garcia v. Steven Garcia*** Superior Court Case No. 25CECG01612
Hearing Date:	January 14, 2026 (Dept. 403)
Motion:	Motion for Interlocutory Judgment of Partition by Sale and Appointment of Partition Referee

Tentative Ruling:

The motion for interlocutory judgment of partition by sale and appointment of partition referee is denied.

Explanation:

Plaintiff, Susan M. Garcia, ("Plaintiff') seeks an interlocutory judgment pursuant to California Code of Civil Procedure sections 872.710, 872.720 and 872.820 to partition property located at 4914 East Laurel Avenue, Fresno, California 93727 ("Real Property"). Plaintiff further moves the court for an order appointing Jackson Wyche and Receivership Specialists as Referee ("Referee") with full authority to place the Real Property for sale, pursuant to Code of Civil Procedure sections 873.010 and 873 .510.

Interlocutory Judgment

Plaintiff seeks a determination that she owns a 3/7th interest in the subject property, whereas defendants: Kathy Ann Perez, f.k.a. Kathy A. Garcia Kirklin; Steven Joseph Garcia; Cindy Marie Diaz; and Thurmond Russell Mawyer, are each entitled 1/7th interest in real property.

Plaintiff filed this action on April 4, 2025. Defendants Cindy Diaz; Thurmond Russell Mawyer and Kathy Ann Kirkland each filed answers on June 9, 2025; June 9, 2025 and June 13, 2025, respectively. Steven Joseph Garcia's status is defaulted.

Plaintiff attaches copies of the three answers filed. (Plaintiff's Request for Judicial Notice; Exhibits 3-5.) Each of the answers filed, dispute the ownership percentage owned, alleged by the plaintiff. (*Ibid.*)

Plaintiff seeks an interlocutory judgment under Code of Civil Procedure sections 872.710, 872.720 and 872.820 determining the ownership percentages. Code of Civil Procedure section 872.710, subdivision (a) states: "At the trial, the court shall determine whether the plaintiff has the right to partition." (Code Civ. Proc., § 872.710, subd. (a).) "If the court finds that the plaintiff is entitled to partition, it shall make an interlocutory judgment that determines the interests of the parties in the property and orders the partition of the property and, unless it is to be later determined, the manner of partition." (Code Civ. Proc., § 872.720, subd. (a).) Viewed together, sections 872.710, subdivision (a)

and 872.720, subdivision (a) indicate that a court's determination regarding an interlocutory judgment is to be made at trial, or by means of a properly filed dispositive motion as allowed under the Code of Civil Procedure. (See also *Bacon v. Wahrhaftig* (1950) 97 Cal.App.2d 599, finding no partition can be had until the interests of all the parties have been ascertained and settled by a trial.)

Under these circumstances, plaintiff has not submitted a motion for summary judgment in compliance with Code of Civil Procedure section 437c. Nor has plaintiff filed a motion for judgment on the pleadings in compliance with Code of Civil Procedure sections 438 and 439.

As such, the Court DENIES the motion for interlocutory judgment of partition

Appointment of Jackson Wyche as Referee

The Court finds plaintiff's motion to be premature. As such, the Court DENIES the motion for appointing Jackson Wyche as referee.

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 lmg on 1-13-26.
(Judge's initials) (Date)

(47)

Tentative Ruling

Re: ***Lydia Morales v Maria Arroyo***
Superior Court Case No. 25CECG03022

Hearing Date: January 14, 2026 (Dept. 403)

Motion: Demurrer

Tentative Ruling:

To take the demurrer off calendar for failure to meet and confer. (Code Civ. Proc., § 430.41.)

Explanation:

A party demurring is required to meet and confer, in person, by telephone, or by video conference with prior to filing the motion, and file and serve with the motion a declaration detailing the meet and confer efforts. (Code Civ. Proc., §§ 430.41, subd. (a).) The court requires strict compliance with the meet and confer requirement. Accordingly, the motion is taken off calendar. Defendants can challenge the COmplaint after meeting and conferring as required.

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: lmg on 1-13-26.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: ***Damari Cruz v. Fruit Harvest Family, Inc.***
Superior Court Case No. 25CECG01992

Hearing Date: January 14, 2026 (Dept. 403)

Motion: to Compel Arbitration and Stay Action

Tentative Ruling:

To grant defendants' motion to compel arbitration of plaintiff's claims and stay plaintiff's court action pending the arbitration of plaintiff's claims.

Explanation:

"[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 Code Civ. Proc. § 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.)

In the case at bench, defendants Fruit Harvest Family, Inc. and Kingsburg Fruit Packing, Inc. ("defendants") have presented evidence of plaintiff Damari Yesenia Figuroa Cruz ("plaintiff") having signed an arbitration agreement on August 19, 2024 with Fruit Harvest Family, Inc. (Verified Petn., ¶¶ 6-8, Exhs. 3-4.) Plaintiff does not challenge the existence of the agreement but does challenge its enforceability. Plaintiff asserts the agreement is unconscionable and should not be enforced.

Federal Arbitration Act

Plaintiff argues that the Federal Arbitration Act does not apply, as defendants made no argument as to interstate commerce. However, the arbitration provision clearly states that the provisions of the Federal Arbitration Act apply, which plaintiff acknowledges with her signature. (Verified Petn., ¶¶ 5-6, Exhs. 2-3.) The parties may agree to follow the Federal Arbitration Act, as they did here. (*Victrola 89, LLC v. Jaman Properties 8 LLC* (2020) 46 Cal.App.5th 337, 355.)

Procedural Unconscionability

The doctrine of unconscionability has " 'both a "procedural" and a "substantive" 'element,' the former focusing on ' "oppression" ' or ' "surprise" ' due to unequal bargaining power, the latter on ' "overly harsh" ' or ' "one-sided" ' results." (*Armendariz v. Foundation Health Psychcare Services* (2000) 24 Cal.4th 83, 114.) To invalidate an arbitration agreement, the court must find both procedural and substantive unconscionability. (*Id*. at p. 122; *Stirlen v. Supercuts, Inc.* (1997) 51 Cal.App.4th 1519, 1533; *Mercuro v. Superior Court* (2002) 96 Cal.App.4th 167, 174.)

Plaintiff contends that the arbitration provision is procedurally unconscionable as a contract of adhesion, is "buried" in the multi-page handbook among several other onboarding documents, does not make available the rules governing the arbitration, was pre-signed by the employer, and any opt-out provision was illusory.

Here, the contract was drafted by the employer and preprinted for plaintiff's signature. As such, it is a contract of adhesion and supports finding some amount of procedural unconscionablity. However, courts frequently enforce employment arbitration agreements that are contracts of adhesion, as long as they are not also substantively unconscionable. "Arbitration clauses in employment contracts have been upheld despite claims that the clauses were unconscionable because they were presented as part of an adhesion contract on a take-it-or-leave-it basis. In finding the arbitration clause in *Lagatree* was not unconscionable, the court noted that, 'as *Gilmer* and its progeny make clear, the compulsory nature of a predispute arbitration agreement does not render the agreement unenforceable on grounds of coercion or for lack of voluntariness.'" (*Giuliano v. Inland Empire Personnel, Inc.* (2007) 149 Cal.App.4th 1276, 1292, citations omitted.)

The evidence presented by plaintiff supports minimal procedural unconscionability. Although plaintiff argues the arbitration agreement was buried in the handbook, the arbitration section was set apart with a bolded heading of "ALTERNATIVE DISPUTE RESOLUTION" with a bolded subheading of "Submission of Employment Disputes to Arbitration" and acknowledged by a separate signature of plaintiff under the clear title "AGREEMENT AND ACKNOWLEDGEMENT OF RECEIPT OF POLICY ON BINDING ARBITRATION OF ALL DISPUTES." (Verified Petn., ¶¶ 5-6, Exhs. 2-3.) Similarly, the opt-out provision in the handbook was clearly labeled in bold as "Opt Out" and reiterated in the signed acknowledgement of the arbitration policy, stating "I understand that I may opt out of the ADR Policy[.]" (*Ibid*.) Plaintiff has presented no evidence to support her argument that the agreement was "buried," nor that the opt-out provision was illusory. There is no evidence plaintiff was not aware of the presence of the arbitration agreement and opt-out provision within the handbook to contradict her signature acknowledging her agreement with the arbitration policies and her ability to opt out.

Similarly, the arbitration agreement separate from the handbook clearly labels section 7 as "Arbitration" in bold, and advises the employee (also in bolded language) to "Please read and revie[w] this arbitration agreement carefully. Your signature belo[w] indicates that you agree to resolve any and all disputes, controversies or claims that may arise or relate to your employment through arbitration. The Company [w]ill not retaliate

or discriminate against you if you choose not to sign this agreement." (Verified Petn., ¶ 8 5-6, Exh. 4.)

The failure to attach the AAA rules where they are available on the internet does not support finding procedural unconscionability. (*Peng v. First Republic Bank* (2013) 219 Cal.App.4th 1462, 1472; *Lane v. Francis Capital Mgmt. LLC* (2014) 224 Cal.App.4th 676, 689-690.) That AAA has since renamed its rules was not shown to prevent plaintiff from finding the AAA Employment Rules should she have desired to.

Plaintiff offers no authority that renders Fruit Harvest Family, Inc.'s signature as inauthentic solely due to having been signed on a different day than when plaintiff signed.

Substantive Unconscionability

Mandatory arbitration clauses in employment contracts are enforceable if they provide essential fairness to the employee. (*Armendariz v. Foundation Health Psychcare Services, Inc., supra,* 24 Cal.4th at pp. 90-91; see also *24 Hour Fitness v. Superior Court* (1998) 66 Cal.App.4th 1199, 1212 [arbitration clause in employee handbook was not unconscionable where it provided all parties with substantially same rights and remedies].) In the employment context, an agreement must include the following five minimum requirements designed to provide necessary safeguards to protect unwaivable statutory rights where important public policies are implicated: (1) a neutral arbitrator; (2) adequate discovery; (3) a written, reasoned, opinion from the arbitrator; (4) identical types of relief as available in a judicial forum; and (5) that undue costs of arbitration will not be placed on the employee. (*Armendariz, supra,* 24 Cal.4th at p. 102.)

Plaintiff argues these minimum standards are not met because there is no guarantee of a neutral arbitrator, inadequate provisions for discovery, no requirement for the arbitrator to issue a written award, no assurance of all forms of statutory relief (e.g. attorney's fees and injunctive relief), and silence on the allocation of cost.

First, the arbitration agreement provides that arbitration shall take place "before a single neutral arbitrator" selected in accordance with the FAA and AAA rules. (See Verified Petn., Exh. 4, English Version, Section 7, Item 6(b).) Second, the ability to conduct discovery is provided for subject to the CAA and Code of Civil Procedure. (*Id*., Section 7, Item 6(e).) Third, the agreement provides the "arbitrator shall issue a written arbitration decision revealing the essential findings and conclusions upon which the decision and/or award is based." (*Id*., Section 7, Item 10.) Fourth, the agreement provides that the arbitrator will apply the substantive law and law of remedies of the state in which the claim arose, and does not appear to limit the relief available to plaintiff. (*Id*., Section 7, Item 6(c).) Fifth, the agreement provides that the employer "shall be responsible for the arbitrator s fees and costs to the extent they exceed any fee or cost that Employee would be required to bear if the action were brought in court." (*Id*., Section 7, Item 13(b).)

Accordingly, the court finds the arbitration agreement meets the minimum requirements set forth in *Armendariz*.

Plaintiff's additional arguments that the agreement is substantively unconscionable are unpersuasive. The lack of time limitation to bring a claim does not infect the agreement with unconscionability, as the claim must be one arising from, relating to, or having a relationship or connection with employment. Thus, a lack of explicit time limitation is limited to employment disputes and therefore reasonably is connected to the duration of employment.

Defendant Fruit Harvest Family, Inc. has met its burden of demonstrating the existence of a valid arbitration agreement covering the claims of plaintiff's complaint. Plaintiff has not met her burden of showing that the agreement is unconscionable. (*Rosenthal v. Great Western Fin. Securities Corp.* (1996) 14 Cal.4th 394, 413.) The motion to compel plaintiff to arbitrate her claims 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: lmg on 1-13-26.
(Judge's initials) (Date)