

**Tentative Rulings for July 2, 2025**  
**Department 503**

**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.*

23CECG05134      *Dwight Nelson v. Denise Brehm* will be heard in Department 501.

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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 503**

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(03)

**Tentative Ruling**

Re: **Y.V. v. County of Fresno**  
Case No. 22CECG02413

Hearing Date: July 2, 2025 (Dept. 503)

Motion: Defendant County of Fresno's Motion for Judgment on the Pleadings

**If oral argument is timely requested, it will be entertained on Wednesday, July 30, 2025, at 3:30 p.m. in Department 503.**

**Tentative Ruling:**

To grant defendant County of Fresno's motion for judgment on the pleadings, without leave to amend.

**Explanation:**

The County has moved for judgment on the pleadings as to the entire complaint against it, contending that the complaint fails to state a cause of action because it does not allege any facts showing that the County had a mandatory duty to report the alleged sexual abuse of plaintiff while she was in foster care. The County points to the Fifth District Court of Appeal's recent decision in *K.C. v. County of Merced* (2025) 109 Cal.App.5th 606, which held under similar facts that the County was entitled to discretionary immunity under Government Code sections 815.2 and 820.2 for its social worker's failure to investigate the suspected abuse of the minor plaintiff or remove her from the home.

"We conclude that Government Code section 820.2 applies in the instant case. The social workers' decisions at issue relate to 'the investigation of child abuse' 'based upon suspicion of abuse'. They not only 'involve[ ] the exercise of analysis and judgment as to what is just and proper under the circumstances' but also constitute 'sensitive policy decision[s] that require[ ] judicial abstention to avoid affecting a coordinate governmental entity's decisionmaking or planning process.' These qualities hold true for, as here, 'preliminary determinations' that 'reports of possible abuse' 'did not warrant initiation' of further action." (*K.C. v. County of Merced, supra*, at pp. 617–618, citations omitted.)

"Here, under a 'fair reading' of the complaint, K.C. essentially alleged County's social workers were confronted with reports of sexual abuse that should have prompted investigative or corrective action, but they failed to properly exercise their discretion to do so. '[C]laims of improper evaluation cannot divest a discretionary policy decision of its immunity.'" (*Id.* at pp. 619–620, citations omitted.) "Because we conclude that Government Code section 820.2 applies in the instant case, County is immune by virtue of Government Code section 815.2, subdivision (b)." (*Id.* at p. 620, citations omitted.)



(03)

**Tentative Ruling**

Re: ***K.M. v. County of Fresno***  
Case No. 22CECG03893

Hearing Date: July 2, 2025 (Dept. 503)

Motion: Defendant County of Fresno's Motion for Judgment on the Pleadings

**If oral argument is timely requested, it will be entertained on  
Wednesday, July 30, 2025, at 3:30 p.m. in Department 503.**

**Tentative Ruling:**

To grant defendant County of Fresno's motion for judgment on the pleadings, without leave to amend.

**Explanation:**

The County has moved for judgment on the pleadings as to the entire complaint against it, contending that the complaint fails to state a cause of action because it does not allege any facts showing that the County had a mandatory duty to report the alleged sexual abuse of plaintiff while she was in foster care. The County points to the Fifth District Court of Appeal's recent decision in *K.C. v. County of Merced* (2025) 109 Cal.App.5th 606, which held under similar facts that the County was entitled to discretionary immunity under Government Code sections 815.2 and 820.2 for its social worker's failure to investigate the suspected abuse of the minor plaintiff or remove her from the home.

"We conclude that Government Code section 820.2 applies in the instant case. The social workers' decisions at issue relate to 'the investigation of child abuse' 'based upon suspicion of abuse'. They not only 'involve[ ] the exercise of analysis and judgment as to what is just and proper under the circumstances' but also constitute 'sensitive policy decision[s] that require[ ] judicial abstention to avoid affecting a coordinate governmental entity's decisionmaking or planning process.' These qualities hold true for, as here, 'preliminary determinations' that 'reports of possible abuse' 'did not warrant initiation' of further action." (*K.C. v. County of Merced, supra*, at pp. 617–618, citations omitted.)

"Here, under a 'fair reading' of the complaint, K.C. essentially alleged County's social workers were confronted with reports of sexual abuse that should have prompted investigative or corrective action, but they failed to properly exercise their discretion to do so. '[C]laims of improper evaluation cannot divest a discretionary policy decision of its immunity.'" (*Id.* at pp. 619–620, citations omitted.) "Because we conclude that Government Code section 820.2 applies in the instant case, County is immune by virtue of Government Code section 815.2, subdivision (b)." (*Id.* at p. 620, citations omitted.)



(34)

**Tentative Ruling**

Re: ***Breazeale v. Miller-Phelen, Inc., et al.***  
Superior Court Case No. 24CECG01093

Hearing Date: July 2, 2025 (Dept. 403)

Motion: by Plaintiffs to Compel Defendant Harley-Davidson Motor Company, Inc.'s Further Responses to Requests for Production of Documents, Set One and Set Two

**If oral argument is timely requested, it will be entertained on  
Wednesday, July 30, 2025, at 3:30 p.m. in Department 503.**

**Tentative Ruling:**

To grant plaintiffs' motion to compel further responses to Request for Production of Documents, Set One, numbers 1-17, 19, and 21-22. (Code Civ. Proc. § 2031.310.) To deny the motion as to request Nos. 18 and 20. Defendant shall serve verified supplemental responses without objections within 30 days of the date of service of this order.

To deny plaintiff's motion to compel further responses to Request for Production of Documents, Set Two, as no verified responses have yet to be served. (Code Civ. Proc. § 2031.310, subd. (a).) Defendant is ordered to serve verified, code-compliant responses to Request for Production of Documents, Set Two, within 30 days of service of this order.

To impose monetary sanctions in favor of Plaintiffs Mary Breazeale and Joseph Breazeale, and against Defendant Harley-Davidson Motor Company, Inc. (Code Civ. Proc. §§ 2023.010, subd. (e), (h); 2031.310, subd. (h).) Defendant is ordered to pay \$2,860.00 in sanctions to the Panish Shea Ravipudi LLP within 30 days of the clerk's service of the minute order.

**Explanation:**

A motion to compel must "set forth specific facts showing good cause justifying the discovery sought by the inspection demand." (Code Civ. Proc., § 2031.310 (b)(1).) Absent a privilege issue or claim of attorney work product, that burden is met simply by a fact-specific showing of relevance. (*Glenfed Dev. Corp. v. Superior Court* (1997) 53 Cal.App.4th 1113, 1117.) If "good cause" is shown by the moving party, the burden is then on the responding party to justify any objections made to document disclosure. (*Kirkland v. Superior Court* (2002) 95 Cal.App.4th 92, 98.)

Declarations are generally used to show the requisite "good cause" for an order to compel inspection. The declarations must contain "specific facts" rather than mere conclusions. (*Fireman's Fund Ins. Co. v. Superior Court* (1991) 233 Cal.App.3d 1138, 1141.)

Plaintiffs Mary Breazeale and Joseph Breazeale seek to compel further responses from defendant Harley-Davidson Motor Company, Inc. ("Harley-Davidson") to Requests for Production, sets one and two. Defendant served responses to set one but has not served verified responses to set two. The disputed requests seek documents relating to defendant's motorcycles containing certain component parts that were also present in the motorcycle driven by decedent, a 2022 Harley Davidson FLTRXSE CVO Road Glide. Plaintiffs' expert, Peter Sullivan's declaration demonstrates there is good cause for the proposed scope of the requests being limited to those specified models with the same specified component parts as the motorcycle at issue.

Harley-Davidson argues the scope of the requests should be narrowed to the models including only the same 117 cubic inch motor in the decedent's motorcycle and narrowed to three specific component parts. Defendant presents a competing expert declaration from Scott Craig identifying the specific parts he identifies as relevant to plaintiff's claim and stating that the engine size differences in the several models within the scope of the requests may not be substantially similar to the 2022 CVO Road Glide. Mr. Craig additionally attests to the motorcycle at issue having been modified with non-Harley-Davidson components which also potentially make the motorcycle not substantially similar to its original configuration. The court is not persuaded that these arguments as to the merits of plaintiff's expert's assessment make the documents sought in discovery irrelevant.

Plaintiffs do not have to show that the information they seek is directly relevant to their claims. They are entitled to discover the information as long as it is reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc. § 2017.010.)

"For discovery purposes, information is relevant if it 'might reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement.' Admissibility is not the test and information, unless privileged, is discoverable if it might reasonably lead to admissible evidence. The phrase 'reasonably calculated to lead to the discovery of admissible evidence' makes it clear that the scope of discovery extends to any information that reasonably might lead to other evidence that would be admissible at trial. 'Thus, the scope of permissible discovery is one of reason, logic and common sense.' These rules are applied liberally in favor of discovery." (*Lipton v. Superior Court* (1996) 48 Cal.App.4th 1599, 1611–1612, internal citations and italics omitted.)

Plaintiffs have met their burden to demonstrate the relevance of the documents sought in sets one and two. In reviewing the requests and responses it does not appear further responses are required to all requests. Request nos. 18 and 20 are limited to the "subject motorcycle" and defendant's responses specific to the subject motorcycle do not require a further response. With respect to Request for Production, Set Two, the court will not order a *further* response where no verified responses have yet been served. Defendant's arguments in the separate statement with respect to why it cannot provide responsive documents can be raised in verified, code-compliant responses. The court anticipates defendant's responses to set two will reflect the plaintiffs' proposed limitations in scope addressed in the motion at bench.

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





(34)

**Tentative Ruling**

Re: ***Alcantar v. Nissan North America, Inc.***  
Superior Court Case No. 23CECG03873

Hearing Date: July 2, 2025 (Dept. 503)

Motion: by Plaintiffs for an Award of Attorney Fees and Expenses

**If oral argument is timely requested, it will be entertained on  
Wednesday, July 30, 2025, at 3:30 p.m. in Department 503.**

**Tentative Ruling:**

To grant the motion for attorney fees in the amount of \$25,190.00; to also award plaintiffs' costs and expenses of \$1,622.13. Payment of both sums shall be made by defendant Nissan North America, Inc. to the Lemon Law Pros, LLP law firm within 30 days of the clerk's service of this minute order.

**Explanation:**

*Fees*

Plaintiffs Martha Alcantar and Noel Alba ("plaintiffs") seek an award of attorney fees under Civil Code section 1794, subdivision (d). Plaintiffs assert that are the prevailing parties pursuant to a settlement agreement whereby the parties agreed to pay plaintiffs' reasonably incurred attorney fees and costs by notice motion. Plaintiffs do not include the executed settlement agreement in support of their motion. In opposition, defendant Nissan North America contests the basis of the plaintiffs' seeking fees. Counsel for defendant attests to plaintiffs not having executed the settlement agreement and release that is the basis of the motion at bench. (Doft Decl., ¶ 10.) In reply, plaintiffs include the settlement agreement executed as of June 20, 2025. (Urner Decl., ¶ 2, Exh. A.) The court is satisfied that the evidence supports finding plaintiffs are the prevailing party by way of a settlement agreement authorizing an award of attorney fees. Although the agreement was executed after the motion was filed, the court will proceed.

A prevailing buyer in an action under the Song-Beverly Act "shall be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney's fees based on actual time expended, determined by the court to have been reasonably incurred by the buyer in connection with the commencement and prosecution of such action." (Civ. Code, § 1794, subd. (d).) The statute "requires the trial court to make an initial determination of the actual time expended; and then to ascertain whether under all the circumstances of the case the amount of actual time expended and the monetary charge being made for the time expended are reasonable. These circumstances may include, but are not limited to, factors such as the complexity of the case and procedural demands, the skill exhibited and the results achieved. If the time expended or the monetary charge being made for the time expended are not reasonable under all the circumstances, then the court must

take this into account and award attorney fees in a lesser amount. A prevailing buyer has the burden of 'showing that the fees incurred were "allowable," were "reasonably necessary to the conduct of the litigation," and were "reasonable in amount." ' " (*Nightingale v. Hyundai Motor America* (1994) 31 Cal.App.4th 99, 104.)

### Calculating the Fees

A court assessing attorney's fees begins with a touchstone or lodestar figure, based on the 'careful compilation of the time spent and reasonable hourly compensation of each attorney . . . involved in the presentation of the case." (*Serrano v. Priest* (*Serrano III*) (1977) 20 Cal.3d 25, 48; *Robertson v. Fleetwood Travel Trailers of California, Inc.* (2006) 144 Cal.App.4th 785, 817 [lodestar applies to Song-Beverly litigation].) The California Supreme Court has noted that anchoring the calculation of attorney fees to the lodestar adjustment method "'is the only way of approaching the problem that can claim objectivity, a claim which is obviously vital to the prestige of the bar and the courts.'" (*Serrano III, supra*, 20 Cal.3d at p. 48, fn. 23.)

Here, plaintiffs' attorneys, The Lemon Law Pros, LLP, recorded 60.9 hours of attorney time, and requested an additional anticipated 5.5 hours to be spent reviewing defendant's opposition, preparing a reply, a hearing and post hearing activities. (Saeedian Decl., Exh. A at p. 10.) Defendant made no objection to specific billing entries but argues the hourly rates of the attorneys are excessive. Defendant's objections to the Declaration of Michael Saeedian are overruled.

Reasonable hourly compensation is the "hourly prevailing rate for private attorneys in the community conducting noncontingent litigation of the same type" (*Ketchum v. Moses, supra*, 24 Cal.4th at p. 1133.) Ordinarily, "'the value of an attorney's time . . . is reflected in his normal billing rate.'" (*Mandel v. Lackner* (1979) 92 Cal.App.3d 747, 761.) The rate is measured in the market place, and reflects several factors: the level of skill necessary, time limitations, the amount to be obtained in the litigation, the attorney's reputation, and the undesirability of the case. (*Shaffer v. Superior Court* (1995) 33 Cal.App.4th 993, 1002.)

Counsel submits hourly rates of \$695 for Michael Saeedian, Adina Ostoia and Courtney Perdue; \$525 for Christopher Urner; \$350 for Jorge Acosta; and \$250 for law clerks. The proposed rates, based in part on the Laffey Matrix which has no calibration to Fresno County, are significantly higher than local community rates. The court sets Saeedian, Perdue and Ostoia at \$450 per hour, Urner at \$400 per hour, Acosta at \$300 per hour, and law clerks at \$150 per hour.

Using the rates set above, the lodestar is set at \$25,190.00

Plaintiff does not seek an imposition of a multiplier. Accordingly, the motion is granted for an award of attorney fees in the amount of \$25,190.00.

### Costs

Costs are sought via memorandum of costs.



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**Tentative Ruling**

Re: **Ochoa v. General Motors LLC**  
Superior Court Case No. 23CECG04839

Hearing Date: July 2, 2025 (Dept. 503)

Motion: by Plaintiff Compelling Deposition of Defendant's Person Most Knowledgeable and Production of Documents

**If oral argument is timely requested, it will be entertained on Wednesday, July 30, 2025, at 3:30 p.m. in Department 503.**

**Tentative Ruling:**

To grant plaintiff's motion compelling defendant's person most knowledgeable ("PMK") attendance at the next scheduled deposition, with production of document request numbers 1-9. (Code Civ. Proc., § 2025.450.) Defendant is ordered to produce its PMK at deposition on a date, within two weeks from the service of the order by the clerk, to be agreed upon by the parties. At the deposition, defendant may raise objections for grounds other than those for defects in the deposition notice, since errors and irregularities in the deposition notice are waived by defendant's failure to serve a valid objection pursuant to Code of Civil Procedure section 2025.410.

**Explanation:**

*Objection Pursuant to Code of Civil Procedure Section 2025.410:*

Code of Civil Procedure section 2025.280 provides, in relevant part: "The service of a deposition notice under Section 2025.240 is effective to require any deponent who is a party to the action ... or employee of a party to attend and to testify ... as well as to produce any document ... for inspection and copying" (Code Civ. Proc., § 2025.280, subd. (a).) Code of Civil Procedure section 2025.450 provides, in relevant part: "If, after service of a deposition notice, a party to the action or employee of a party, or a person designated by an organization that is a party under Section 2025.230 ... **without having served a valid objection under Section 2025.410**, fails to appear for examination ... or to produce for inspection any document ... the party giving the notice may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document ..." (Code Civ. Proc., § 2025.450, subd. (a), emphasis added.)

Here, defendant General Motors, LLC ("GM") served its written objections by electronic mail on May 13, 2025, just one day before the deposition. (*Id.*, at ¶ 17, Ex. 4.) Section 2025.410 provides that written objections to errors or irregularities in the deposition notice must be served "promptly" and in no event less than three calendar days before the deposition date. "If an objection is made three calendar days before the deposition date, the objecting party shall make personal service of that objection pursuant to section 1011 on the party who gave notice of the deposition." (Code Civ. Proc., §

2025.410, subd. (b).) Accordingly, GM's objections were untimely and invalid pursuant to Code of Civil Procedure section 2025.410.

*Meet and Confer:*

Defendant has also argued that plaintiff did not adequately meet and confer before bringing the motion to compel, so the court should deny the motion without hearing its merits. However, under section 2025.450, subdivision (b), a party moving to compel the deposition of a witness who fails to appear for their deposition is not required to engage in a good faith effort to meet and confer before filing its motion to compel. Instead, the moving party only has to contact the deponent to ask about the nonappearance. "The motion shall be accompanied by a meet and confer declaration under Section 2016.040, **or, when the deponent fails to attend the deposition and produce the documents, electronically stored information, or things described in the deposition notice, by a declaration stating that the petitioner has contacted the deponent to inquire about the nonappearance.**" (Code Civ. Proc., § 2025.450, subd. (b), emphasis added.)

In the present case, defendant's PMK entirely failed to appear for the deposition and produce the documents requested in the notice, so plaintiff's counsel was not required to make an effort to meet and confer. Nevertheless, plaintiff's counsel did in fact send a meet and confer letter to defense counsel after defendant's PMK failed to appear at the deposition. Even if plaintiff's meet and confer efforts were not sufficient, plaintiff's letter sent on May 14, 2025 suffices to meet the requirement that plaintiff has at least contacted defense counsel to inquire about the nonappearance.

Therefore, plaintiff is entitled to an order requiring defendant's PMK to appear for deposition. However, the court will not at this time rule on the objections to the matters for examination. At the deposition, defendant may raise objections for grounds other than those for defects in the deposition notice, since errors and irregularities in the deposition notice are waived by defendant's failure to serve a valid objection pursuant to Code of Civil Procedure section 2025.410.

*Document Production Requests:*

Plaintiff also seeks to compel the production of nine category of documents pursuant to the document demand served with the deposition notice.

A motion to compel production of documents at deposition must "set forth specific facts showing good cause justifying the production for inspection of any document, electronically stored information, or tangible thing described in the deposition notice." (Code Civ. Proc., § 2025.450, subd. (b)(1).) A party who seeks to compel production has met his burden of showing good cause by demonstrating a fact-specific showing of relevance. (*Kirkland v. Superior Court* (2002) 95 Cal.App.4th 92, 98.) Also, California Rule of Court, Rule 3.1345, subpart a(5) provides that a separate statement of discovery in dispute is required for a motion "[t]o compel ... the production of documents or tangible things at a deposition."

Request Nos. 1-9 all concern technical service bulletins (TSBs), recalls, safety investigation listings, field product reports, work orders and other bulletins application to

plaintiff's vehicle and in vehicles of the same year, make, and model. Defendant has objected to these categories, primarily on the grounds of relevance, vagueness, overbreadth, burden, attorney client privilege/work product, and trade secret.

However, defendant has failed to show that the majority of the categories seek information that is beyond the scope of allowable discovery. Plaintiff is entitled to seek discovery of all information that is relevant to the subject matter of his claims, or reasonably likely to lead to the discovery of admissible evidence. (Code Civ. Proc. § 2017.010.) Here, the requests all seek information that is reasonably likely to lead to the discovery of admissible evidence or that is relevant to plaintiff's claims, as plaintiff is seeking information about the TSBs that were issued that relate to his vehicle and other similar vehicles, as well as the reasons why the TSBs were issued. He also seeks defendant's file on plaintiff's subject vehicle, which could inform him of the reasons why defendant did not repurchase his vehicle as it was required to do under the Song-Beverly Act after a reasonable number of attempts to repair it. Such information is relevant to plaintiff's Song-Beverly Act breach of warranty claims, as it would tend to show whether defendant knew about the defects of which plaintiff complains, and whether it refused to repair or repurchase his vehicle in bad faith. The defendant manufacturer's knowledge of existing defects and good faith in attempting to repair or replace the vehicle is relevant to determining whether to impose damages and civil penalties under the Song-Beverly Act. (*Santana v. FCA, USA, LLC* (2020) 56 Cal.App.5th 334, 345-347.) Also, testimony about defects in other similar vehicles from the same manufacturer is probative and not prejudicial. (*Donlen v. GM Motor Co.* (2013) 217 Cal.App.4th 138, 154.) Therefore, defendant's relevance and overbreadth objections are without merit. Lastly, most of the objections as to vagueness are to requests that appear to be straightforward.

Nor has defendant made any attempt to support its objection based on attorney-client privilege. As a result, the court intends to overrule the privilege objection. Furthermore, while defendant claims that the plaintiff is seeking information that constitutes protected trade secrets, it has not presented any testimony from a witness with personal knowledge of defendant's business and trade secrets, and its efforts to keep its secrets confidential. Therefore, the court will overrule the trade secret objection. In any event, if defendant is concerned about releasing its confidential trade secrets, the court can issue a protective order to prevent release or use of any secrets outside the confines of the litigation. Therefore, the court intends to order defendant to produce the requested documents.<sup>1</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.

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<sup>1</sup> Plaintiff's motion only seeks to compel production to Request Nos. 1-9. The separate statement accompanying the moving papers is also limited to just these nine requests. Accordingly, only the objections to these nine requests have been ruled on. The remainder of defendant's objections which do not appear to be the subject of the motion, despite them being referenced in defendant's opposing separate statement and plaintiff's reply separate statement are not addressed.

## Tentative Ruling

Issued By: JS on 7/1/2025.  
(Judge's initials) (Date)