<u>Tentative Rulings for September 27, 2022</u> Department 403

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

20CECG01369 Irene Rey v. Target Corporation is continued to Tuesday, November

8, 2022 at 3:30 p.m. in Department 403

15CECG03165 Solorio v. Fresno Community Hospital is continued to Thursday,

October 27, 2022 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

(38)

<u>Tentative Ruling</u>

Re: Joyce Reinero v. Courtney Linder

Superior Court Case No. 21CECG02159

Hearing Date: September 27, 2022 (Dept. 403)

Motion: by Plaintiffs for Trial Preference

Tentative Ruling:

To grant the motion for preferential trial date. (Code Civ. Proc. § 36.) To vacate the current trial, trial readiness, and mandatory settlement conference dates and to set the matter for trial within 120 days of the date of this order. (*Ibid.*) All trial counsel, or representatives of all trial counsel familiar with trial counsel's calendar, shall appear at the hearing in order to set the new trial date (telephonic appearances is acceptable).

Explanation:

The motion is made pursuant to Code of Civil Procedure section 36, subdivision (a), which mandates trial setting preference if a party is over the age of 70 and the court finds that 1) the party has a substantial interest in the action as a whole, and 2) the health of the party is such that a preference is necessary to prevent prejudicing the party's interest in the litigation. A declaration supporting the motion can be signed by the attorney for the party seeking the preference, and can be based on information and belief as to the medical diagnosis and prognosis of any party. (Code Civ. Proc., § 36.5.)

Plaintiff Joyce Reinero has shown that she is over the age of 70, that she suffers from conditions which endanger her health, and that she has a substantial interest in the action as a whole. Thus, she is entitled to preference.

If the court finds that preference should be given, it must set the case for trial within 120 days after the motion is granted. (Code Civ. Proc., § 36, subd. (f); see Sprowl v. Superior Court (1990) 219 Cal.App.3d 777, 780 [failure to set not excused by court congestion]; Miller v. Superior Court (1990) 221 Cal.App.3d 1200, 1202-1203 [case entitled to priority over "fast track" cases].) The court has no discretion here. (Vinokur v. Superior Court (1968) 198 Cal.App.3d 500, 502-503.) There is no balancing of conflicting interests, and the trial must be set even if opposing parties have not completed discovery or pretrial preparations. [Swaithes v. Superior Court (1989) 212 Cal.App.3d 1082, 1086.)

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	09/26/22	
	(Judge's initials)		(Date)	