Tentative Rulings for October 23, 2025
Department 502

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.

23CECG05055 ***Vincent Andrade v. County of Fresno*** **is continued to Wednesday, November 19, 2025, at 3:30 p.m. in Department 502.**

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<u>Tentative Ruling</u>

Re:	***Marizella Guillen v. General Motors LLC*** Superior Court Case No. 24CECG01606
Hearing Date:	October 23, 2025 (Dept. 502)
Motion:	By Defendant for Summary Judgment or Summary Adjudication

Tentative Ruling:

To grant summary judgment in favor of defendant, General Motors LLC (GM). The court directs GM to submit to this court, within 10 days of service of the minute order, a proposed judgment consistent with the court's summary judgment order.

Explanation:

The court must determine whether a buyer who purchases a vehicle with an unexpired manufacturer's new car warranty is entitled to the specific remedies provided by the Song-Beverly Consumer Warranty Act (the Act or Song-Beverly) for buyers of "new motor vehicles" as defined by the Act. On July 20, 2021, the plaintiff, Marizella Guillen (Plaintiff), purchased a pre-owned 2019 GMC Sierra (Sierra). On April 12, 2024, Plaintiff sued GM seeking remedies under the Act. Plaintiff alleges three causes of action under the Act: (a) the first and third for breaches of express warranties, and (2) the second for breach of implied warranty. GM now moves for summary judgment, or in the alternative, summary adjudication of Plaintiff's three causes of action.

Code of Civil Procedure section 437c, subdivision (c) provides that summary judgment "shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." A defendant moving for summary judgment has the initial burden of presenting evidence that a cause of action lacks merit because the plaintiff cannot establish an element of the cause of action or there is a complete defense. (Code Civ. Proc., § 437c, subd. (p)(2); *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 853.) If the defendant satisfies this initial burden, the burden shifts to the plaintiff to present evidence demonstrating there is a triable issue of material fact. (Code Civ. Proc., § 437c, subd. (p)(2); *Aguilar*, at p. 850.)

<u>GM Satisfies Its Initial Burden</u>

The Act gives buyers of "new" vehicles specific remedies, such as a refund-or-replace remedy. (*Rodriguez v. FCA US, LLC* (2024) 17 Cal.5th 189, 195 (*Rodriguez*).) The California Supreme Court explained this remedy as follows:

> It requires manufacturers to "promptly replace" a defective new motor vehicle or "promptly make restitution" to the buyer when the manufacturer is "unable to service or repair a new motor vehicle, as that term is defined in paragraph (2) of subdivision (e) of [Civil Code] Section 1793.22, to conform to the applicable express warranties after a reasonable number of attempts." These enhanced remedies under the Act for breach of express warranty are "distinct from" and "in addition to" remedies otherwise available in contract under the California Uniform Commercial Code. [Citation.]

(*Rodriguez, supra,* 17 Cal.5th at p. 195].)

The Supreme Court considered the wording of the statutory definition of a "new" vehicle and concluded a pre-owned (used) vehicle purchased with an unexpired manufacturer's new car warranty is not "new" unless a new car warranty is also issued with the sale:

> We conclude that a motor vehicle purchased with an unexpired manufacturer's new car warranty does not qualify as a "motor vehicle sold with a manufacturer's new car warranty" under [Civil Code] section 1793.22, subdivision (e)(2)'s definition of "new motor vehicle" unless the new car warranty was issued with the sale.

(*Rodriguez, supra,* 17 Cal.5th at p. 196.)

GM establishes the following undisputed facts. "Plaintiff bought the used Sierra on July 20, 2021, from Fresno Buick GMC, with [20,511] miles." (Fact No. 2 [mileage mistakenly stated as "30,511" on separate statement, instead of "20,511" as shown by supporting evidence (copy of contract)].) "GM was not a party to the transaction between Plaintiff and Fresno Buick GMC." (Fact No. 3.) Fresno Buick GMC delivered the Sierra to its original owner(s) on February 15, 2019, with 8 miles on the odometer. (Fact No. 4.) In connection with the delivery to the Sierra's original owner(s), GM issued a New Vehicle Limited Warranty (Warranty) with bumper-to-bumper coverage for the earlier of 36 months or 36,000 miles and powertrain coverage for the earlier of 60 months or 60,000 miles. (Fact No. 5.) When Plaintiff purchased the used Sierra, GM issue no new or additional warranty coverage. "Plaintiff received only the balance of coverage remaining under the Warranty that GM had issued when the Sierra was originally delivered." (Fact No. 6.)

GM's undisputed facts show Plaintiff purchased a used vehicle with 20,511 miles from a dealer. Plaintiff received no new or additional warranty coverage from the manufacturer. Under these circumstances, the manufacturer has no liability to the purchaser of a used vehicle for breach of an express or implied warranty under the Act. Therefore, Plaintiff's Song-Beverly causes of action fail. (*Rodriguez, supra,* 17 Cal.5th at pp. 201-206]; *Nunez v. FAC US LLC* (2021) 61 Cal.App.5th 385, 399 [only distributors or sellers of used goods-- not manufacturer of new goods--have implied warranty obligations].) The court finds GM meets its initial burden to show Plaintiff cannot establish one or more element of each cause of action as a matter of law. The burden than shifts to Plaintiff to raise a triable issue of material fact.

Plaintiff Fails to Raise a Triable Issue of Material Fact

A party opposing summary judgment must present admissible evidence, including "declarations, admissions, answers to interrogatories, deposition, and matters of which judicial notice" must or may "be taken." (*Aguilar v. Atlantic Richfield Co., supra,* 25 Cal.4th at p. 843, quoting Code Civ. Proc., § 437c, subd. (b).) By filing no opposition, Plaintiff fails to do so.

Conclusion

The court finds GM meets its burden to show Plaintiff cannot prove at least one essential element of Plaintiff's causes of action. The burden then shifts to Plaintiff to raise a triable issue of material fact, which Plaintiff fails to do. Therefore, the court grants GM's motion for summary judgment.

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 10/21/25.
(Judge's initials) (Date)

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Tentative Ruling

Re: ***Contreras v. Bessette***
Superior Court Case No. 24CECG03266

Hearing Date: October 23, 2025 (Dept. 502)

Motion: by Defendant for Judgment on the Pleadings to the First Amended Complaint

Tentative Ruling:

To deny. (Code Civ. Proc., § 438, subd. (c)(1)(A).)

Defendant is granted 20 days' leave to file his responsive pleadings to the First Amended Complaint. The time in which the responsive pleadings can be filed will run from service by the clerk of the minute order.

Explanation:

In the First Amended Complaint ("FAC") plaintiff seeks to quiet title and obtain declaratory relief regarding real property located at 1435 W. Flint Way, Fresno California. Plaintiff contends it is the rightful owner of the property as a bona fide purchaser for value, free and clear of any leasehold interests, and that the lease that defendant entered into with the prior owner is ineffective and unenforceable against plaintiff. Defendant, on the other hand, contends that the lease is valid and enforceable, giving defendant the right to occupy the property through December 31, 2029.

In moving for judgment on the pleadings, defendant contends that the FAC is barred by res judicata because a determination was made in a prior unlawful detainer ("UD") proceeding that the lease is valid. The issue is the whether this UD action bars the claims asserted in the FAC.

The grounds for a motion for judgment on the pleadings must appear on the face of the challenged pleading or be based on facts the court may judicially notice. (Code Civ. Proc., § 438, subd. (d); *Tung v. Chicago Title Co.* (2021) 63 Cal.App.5th 734, 758-759.) It does appear from the face of the operative complaint and the judgment from the UD action that the complaint is barred by the doctrine of res judicata, as the court held, "The court rules in favor of Defendant George Bessette. The court makes a factual finding that the residential lease agreement is valid. Defendant can remain on property until the termination of the fixed term which Is 12/31/2029." This was in reference to the "Signed Agreement between Defendant and previous owner who was defendants sister regarding Home and payment which also indicates defendant can remain on premises until 12/31/2029". (Request for Judicial Notice ("RJN"), Exh. B.) This does seem to meet the requirements of res judicata. The parties are the same and the ruling explicitly addressed the validity of the lease, which is what plaintiff seeks to relitigate here.

However, plaintiff alleges that a full and fair opportunity to address the validity of defendant's lease was not afforded in the UD trial.

"A judgment in unlawful detainer usually has very limited res judicata effect and will not prevent one who is dispossessed from bringing a subsequent action to resolve questions of title or to adjudicate other legal and equitable claims between the parties." (*Vella v. Hudgins* (1977) 20 Cal.3d 251, 255, internal citations omitted.)

In *Wood v. Herson* (1974) 39 Cal.App.3d 737, the court stated that there was a "full and fair" opportunity to litigate these issues in the underlying unlawful detainer action because the trial itself lasted several days, there was "extensive" and "complete" discovery, the evidence was "detailed", and the proceeding was "clearly" "not the customary unlawful detainer proceeding." (*Id.* at pp. 742, 745.)

Here, in contrast to *Wood*, plaintiff alleges that trial in the UD action took place on March 5, 2024. The UD calendar began at 9:30 a.m. and concluded at 6:30 p.m., with plaintiff's action being the last case of the day. Plaintiff alleges that it appeared that the judge was frustrated due to the number of cases on calendar that day. It is alleged that plaintiff's case was not called until around 6:00 p.m., the trial lasted only about 20-30 minutes, and the judge did not consider the testimony of the administrator of the preceding owner's estate. (FAC, ¶ 12.)

Defendant seeks judicial notice of the reporter's transcript of the UD hearing in Superior Court Case No. 24CECL00786 to contend that a full and fair opportunity was afforded to plaintiff in that action on the issue of the validity of the lease. Defendant argues that the contents of the reporter's transcript contradicts plaintiff's allegations. Each of defendant's requests for judicial notice are granted only to the extent that such records exists and not for the truth of their factual findings. (Evid. Code, § 452, subd. (d); *O'Neill v. Novartis Consumer Health, Inc.* (2007) 147 Cal.App.4th 1388, 1405 ["[a] court may take judicial notice of a court's action, but may not use it to prove the truth of the facts found and recited"].)

Accordingly, the motion for judgment on the pleadings is 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: KCK on 10/21/25 .
(Judge's initials) (Date)

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Tentative Ruling

Re: ***J&D Meat Company, Inc. vs Vanderbilt Homes***
Superior Court Case No. 24CECG00886

Hearing Date: October 23, 2025 (Dept. 502)

Motion: By Cross-Defendant Food Tech, Inc. to approve Good Faith Settlement with Plaintiff J&D Meat Company, Inc.

Tentative Ruling:

To grant.

Explanation:

Approval of a motion for good faith settlement requires "that a number of factors be taken into account *including a rough approximation* of plaintiffs' total recovery and the settlor's proportionate liability …." (*Tech-Bilt, Inc. v. Woodward-Clyde & Associates* (1985) 38 Cal.3d 488, 499-500, emphasis added; Code Civ. Proc., § 877.6.) In essence. "a defendant's settlement figure must not be grossly disproportionate to what a reasonable person, at the time of the settlement, would estimate the settling defendant's liability to be." (*Torres v. Union Pacific R.R. Co*. (1984) 157 Cal.App.3d 499, 509; see also § 877.6, subd (d) ["The party asserting the lack of good faith, who has the burden of proof on that issue."].)

According to the moving papers cross-defendant Food Tech, Inc. ("Food Tech") and plaintiff reached a settlement for $10,000. As evidence of the reasonableness of this settlement, Food Tech asserts a declaration from its president, Robert W. Ross, who claims Food Tech's involvement in the subject construction was limited to conceptual design drawings only (Ross Decl. at 2:7-11) and had little to no involvement with the construction of the freezer floor at the center of plaintiff's claim. (*Id.* At 2:12-18.)

The two parties who dispute good faith contend Food Tech maintained a greater role in the project because its personnel answered questions pertaining to the drawings they provided, gave advice on floor spacing as the project progressed and eventual repairs. Nevertheless, the opposition papers plainly admit that "[t]he Food Tech drawings specified no design parameters for the concrete whatsoever" (see Opp. at p. 6:10-7:2), which tends to support Food Tech's characterization of its limited participation. Consequently, defendants have not met their burden in demonstrating that the settlement, based on information available at the time of settlement, is "so far 'out of the ballpark' in relation to [the *Tech-Bilt*] factors as to be inconsistent with the equitable objectives of [Code of Civil Procedure section 877.6]." (*Tech-Bilt, Inc. v. Woodward-Clyde & Associates* (1985) 38 Cal.3d 488, 499-500.)

Therefore, the Court finds that the settlement between cross-defendant and plaintiff is in good faith.

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 10/22/25 .
(Judge's initials) (Date)