

Tentative Rulings for May 10, 2022
Department 502

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.

21CECG000873 *Cameron Arballo v. Karen Aminian / Lead Case* is continued to
Thursday, May 17, 2022 at 3:30 in Department 502

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Tentative Rulings for Department 502

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Tentative Ruling

Re: **Gonzalez v. General Motors, LLC**
Superior Court Case No. 21CECG02540

Hearing Date: May 10, 2022 (Dept. 502)

Motion: Defendant's Demurrer and Motion to Strike the Complaint

Tentative Ruling:

To take off calendar as moot, due to plaintiff's filing of a First Amended Complaint on April 27, 2022. (*Sylmar Air Conditioning v. Pueblo Contracting Services, Inc.* (2004) 122 Cal.App.4th 1049, 1054; *People ex rel. Strathmann v. Acacia Research Corp.* (2012) 210 Cal.App.4th 487, 506.) Any challenges to the amended pleading must be raised by new motion(s).

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: RTM on 4/29/2022.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Avila v. Ygrene Energy Fund, Inc.***
Superior Court Case No. 19CECG02943

Hearing Date: May 10, 2022 (Dept. 502)

Motion: Defendant Ygrene Energy Fund, Inc.'s Motion for Summary Judgment

Tentative Ruling:

To grant. (Code Civ. Proc. § 437c(c).) Defendant is directed to submit a proposed judgment consistent with the court's ruling within 10 days of the date of service of this order.

Explanation:

The plaintiffs' solar power system installation was funded through a Property Assessed Clean Energy ("PACE") program that allows financing for home improvement projects to be repaid by a special property tax assessment. Plaintiffs filed this action against The Solar Group, Inc. and Ygrene Energy Fund, Inc. seeking declaratory relief regarding the parties' rights and duties for repayment of the solar installation. The complaint also seeks injunctive relief from the demanded excessive assessments against the plaintiffs' property. Defendant Ygrene Energy Fund, Inc. brings this motion seeking summary judgment in its favor.

Summary judgment may be appropriate in a declaratory relief action. (*Gafcon, Inc. v. Ponsor & Associates* (2002) 98 Cal.App.4th 1388, 1401–1402.) "The propriety of the application of summary judgment to declaratory relief lies in the trial court's function to render such a judgment when only legal issues are presented for its determination. When summary judgment is appropriate, the court should decree only that plaintiffs are not entitled to the declarations in their favor. Thus, in a declaratory relief action, the defendant's burden is to establish the plaintiff is not entitled to a declaration in its favor. It may do this by establishing (1) the sought-after declaration is legally incorrect; (2) undisputed facts do not support the premise for the sought-after declaration; or (3) the issue is otherwise not one that is appropriate for declaratory relief. (*Id.* at p. 1402, internal citations, quotation marks, and brackets omitted.) The moving party's affidavits are strictly construed, the opponent's affidavits liberally construed, and any doubts as to the propriety of granting the motion are resolved in favor of the opposing party. (*Gafcon, supra*, 98 Cal.App.4th at p. 1402.)

Defendant contends it is entitled to judgment in its favor because the undisputed facts so not support the premise for the declaration sought by plaintiffs. Defendant asserts there is no contractual relationship between it and the plaintiffs, which is the basis alleged for its involvement in this action. (Complaint ¶ 12.)

Defendant's subsidiary, Ygrene Energy Fund California LLC administers PACE programs in California on behalf of the Golden State Finance Authority (GSFA). GSFA is the lienholder being repaid through the assessment on plaintiffs' property. There is no contractual relationship between plaintiffs and either Ygrene entity. (Strothmann Decl. ¶¶ 9, 10, 12, 13.) Neither Ygrene Energy Fund, Inc. nor Ygrene Energy Fund California LLC enter into financing contracts with property owners. (Strothmann Decl. ¶ 11, 14.)

The evidence presented supports the assertion that defendant did not enter into a contractual relationship with plaintiffs and does not enter into contractual relationships with property owners to finance home improvements through the PACE program. The premise that defendant Ygrene Energy Fund, Inc. claims that a contract for repayment of the solar system exists between it and the plaintiffs is not supported by the evidence and the request for judgment in defendant's favor is granted as to the first cause of action.

The complaint also seeks injunctive relieve against defendant. Injunctive relief is a remedy and not a cause of action. Where, as here, the underlying cause of action cannot be established, there is no remedy to be issued. (*Venice Coalition to Preserve Unique Community Character v. City of Los Angeles* (2019) 31 Cal.App.5th 42, 54.) Further, there does not appear to be an action by defendant for the court to enjoin or restrain. Defendant is not a government entity with the ability to assess the tax being assessed on plaintiff's property pursuant to the PACE program. Defendant is not the lienholder being repaid through the tax assessment on plaintiffs' property. (Strothmann Decl. ¶ 6, Exh. A.) As such, summary judgment in defendant's favor is granted as to the second cause of action.

Plaintiffs have not filed an opposition or an opposing statement of material fact, thus tacitly affirming the merits of defendant's motion. (*Cravens v. State Bd. of Education* (1997) 52 Cal.App.4th 253, 257.)

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: RTM **on** 5/5/2022.
(Judge's initials) (Date)