

Tentative Rulings for October 19, 2021
Department 501

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).)

20CECG03567 *Hernandez v. Ruelas, et al.* (Dept. 501)

21CECG00178 *Connolly v. Patel, et al.* (Dept. 501)

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

21CECG00371 *City of Fresno v. The Estate and Intestate Successors of Joyce A. Kornoff, Deceased*, is continued to Thursday, December 16, 2021, at 3:30 p.m. in Department 501.

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Tentative Rulings for Department 501

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Tentative Ruling

Re: ***Aguirre et al. v. Arcadis U.S., Inc. et al.***
Superior Court Case No. 21CECG00668

Hearing Date: October 19, 2021 (Dept. 501)

Motion: by California High-Speed Rail Authority for Transfer of Venue

Tentative Ruling:

To grant. The case is ordered transferred to Sacramento County Superior Court. Plaintiff shall pay transfer fees in accordance with Code of Civil Procedure section 399.

Explanation:

A plaintiff's choice of venue is presumptively valid, and a party moving to transfer venue bears the burden of demonstrating that the plaintiff's chosen venue is improper. (*Battaglia Enterprises, Inc. v. Sup. Ct.* (2013) 215 Cal.App.4th 309, 313-314.)

Defendant California High-Speed Rail Authority moves to transfer venue under Code of Civil Procedure sections 396b and 397 based on the present venue being improper. (E.g. Code Civ. Proc. § 396b, subd. (a) [stating that "[u]pon the hearing of the motion the court shall, if it appears that the action or proceeding was not commenced in the proper court, order the action or proceeding transferred to the proper court."]) Defendant cites to Public Utilities Code section 185038, which states that actions against the High Speed Rail Authority, "shall be brought in a court of competent jurisdiction in the County of Sacramento." (Pub. Util. Code § 185038.) Therefore, defendant meets its burden to demonstrate improper venue.

No opposition was filed challenging the express provision of Public Utilities Code section 185038. As such, the motion is granted. The case is ordered transferred to Sacramento County Superior Court. Plaintiff shall pay transfer fees in accordance with Code of Civil Procedure section 399.

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: DTT on 10/13/2021.
(Judge's initials) (Date)

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Tentative Ruling

Re: ***Tami Martin v. State Center Community College District***
Superior Court Case No. 18CECG04089

Hearing Date: October 19, 2021 (Dept. 501)

Motion: by Defendant to Quash Deposition Subpoena

Tentative Ruling:

To deny. (Code Civ. Proc. § 1987.1.)

Explanation:

Defendant's motion is brought pursuant to Code of Civil Procedure section 1987.1, which authorizes a party to make a motion to quash a subpoena requiring production of documents.

If a subpoena requires ... the production of books, documents, or other things ... at the taking of a deposition, the court, upon motion ... may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon those terms or conditions as the court shall declare, including protective orders. In addition, the court may make any other order as may be appropriate to protect the person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person.

(Code Civ. Proc., § 1987.1, subd. (a).)

Defendant asserts Mr. Fief's privacy interest is violated by seeking records from his employment with an outside organization and in no way affiliated with his work done for SCCCD. Mr. Fief did not object to the production of the records sought after being served the Notice to Consumer as required by Code of Civil Procedure section 1985.6, subdivision (b).

The burden is on "the party asserting a privacy interest to establish its extent and the seriousness of the prospective invasion," and then the court must "weigh the countervailing interests the opposing party identifies." (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 557.) A party seeking discovery of private information need not always establish a compelling interest or compelling need without regard to other considerations as stated in *Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, 35, including the strength of the privacy interest itself, the seriousness of the invasion, and the availability of alternatives and protective measures. (*Williams v. Superior Court, supra*, 3 Cal.5th at 557-558.)

Beyond a statement that the records sought are protected by the right to privacy, defendant does not discuss the extent of the invasion or the seriousness of the prospective invasion. There is a stipulated protective order already in place, pursuant to

which defendant can designate records as confidential. Defendant does not argue how this protective order does not adequately protect Mr. Fief's privacy interests. This weighs against quashing the subpoena.

Defendant asserts that the records sought are not relevant to plaintiff's employment.

Code of Civil Procedure section 2017.010 provides that "any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence."

"In accordance with the liberal policies underlying the discovery procedures, doubts as to relevance should generally be resolved in favor of permitting discovery." (*Pacific Tel. & Tel. Co. v. Superior Court* (1970) 2 Cal.3d 161, 173.) However, "if the information sought to be elicited relates to matters of little or no practical benefit to the party seeking disclosure, a timely objection on the grounds that the question asked is not relevant to the subject matter in the pending action and not reasonably calculated to lead to admissible evidence should be sustained by a trial judge." (*Covell v. Superior Court* (1984) 159 Cal.App.3d 39, 42-43.)

Plaintiff explains that the records are relevant to the credibility of Mr. Fief and such evidence is admissible. (Evid. Code §§ 785 and 786.) Although not directly bearing on plaintiff's claims, plaintiff has demonstrated that the records sought may corroborate Mr. Fief's deposition testimony regarding his employment with South Bay Regional Training Center, and lead to the discovery of admissible evidence regarding Mr. Fief's credibility and/or veracity. Taken into consideration with the stipulated protective order, the balance of interests weigh in favor of allowing the subject discovery and denying the motion.

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: DTT on 10/14/2021.
(Judge's initials) (Date)