



Superior Court of California County of San Benito

Tentative Decisions for September 3, 2026

Courtroom #1: Judge Thomas P. Breen

CU-26-00155 Ingrid G. Sywak et al vs. City of Hollister et al

The court sustains the Defendant's objections to the specific language in the Opposition as providing material outside the four corners of the Petition, nor were these items raised as a request that the court take judicial notice of them, to the extent that such information is judicially noticeable. The Court sustains the demurrer without leave to amend as to the Petition for writ of administrative mandamus (CCP§1094.5). The court overrules the demurrer to the Petition for writ of ordinary mandamus (CCP§1085.) The court sustains the demurrer to the Petition for Declaratory Relief as uncertain, with leave to amend. The Petitioner shall file an amended Petition within twenty days of the date of this order.

CU-24-00230 Brianna Avina et al vs State of California Dept of Trans, et al

The court notes that these two motions are essentially interwoven. The motion for trial preference does not actually seek any affirmative relief from the court, it is raised by the Plaintiff by their own argument as a maneuver to block the Defendant's motion for bifurcation of damages from liability at trial. Plaintiff asserts that they do not seek to advance or alter the trial date, only to confirm it. They further argue that their section 36 right to preferential

setting of trial mandates that the court hear all the evidence in a single unbroken trial. The court notes that the Plaintiffs have also stated clearly that the current trial setting falls well within the statutory 120-day time limit pursuant to CCP§36 sub (f) which would be mandated were trial preference to be granted. Since the Plaintiff is not seeking any actual relief (i.e. preferential setting of the trial) pursuant to CCP§36, their own argument confirming that any relief that would be available pursuant to that section has already been granted, the motion for trial preference is moot.

To the extent that the motion serves as further opposition to the Defendant's motion for bifurcation, arguing that bifurcation cannot outweigh section 36 concerns for trial setting preference, the court will analyze it in this context. In reading the statute itself the court notes that the statute focuses on the setting of the trial date, and notes that upon such preference being granted "the trial court shall set the matter for trial not more than 120 days from that date, and there shall be no continuance beyond 120 days from the granting of the motion for preference except for physical disability of a party or a party's attorney, or upon a showing of good cause stated in the record." (CCP§36 sub (f).) Any such continuance shall not be for more than 15 days, and no more than one continuance for such reason may be granted to any party. (Ibid.) As defendants note that trial preference is about setting the timing of when a matter shall be brought to trial, by definition this is when the first witness is sworn or when opening statements begin (CCP§581 sub (a)(6).) A trial has only one starting point in a courtroom.

In bifurcated cases, that means commencement of the first phase of the trial is the day when the first phase of the trial commences- with the swearing of the first witness or the presenting of opening statements. (In re Marriage of Macfarlane & Lang (1992) 8 Cal. App. 4th 247.) Trial preference pursuant to section 36 is not disturbed by the court sequencing evidence or issues to be addressed so long as the commencement date of the trial itself is within the time limits provided by statute. Section 36 (f) regulates only the commencement of the trial on the master calendar. There is nothing in the statute which would create a 120-day expiration clock on the internal duration of the trial itself, whether phased or not. Koch-Ash, as relied upon by the Plaintiffs, does not serve to stand for any other position than a trial court loses discretion over when a preferential trial must line jump the master calendar queue. Koch-Ash

involved a trial court attempting to stay or postpone the actual commencement of the date of trial on their master calendar pending the outcome of separate non preferential actions or to clear administrative logjams.

Bifurcation pursuant to CCP§598 grants the court the broad discretion to order any issue to be tried before another issue if so doing promotes judicial economy and efficiency, the convenience, or the interests of justice. While the Plaintiff is correct that empathy is not prejudice, and admonishment to the jury may be a sufficient remedy, where, as here the accident in question was devastating with life altering and life ending effects, it does not alter the fact that liability comes before assessment of damages, logically. That determination does not require the same witnesses altogether, though some may overlap. That said, the statute provides the court with broad discretion to bifurcate issues at trial when doing so promotes judicial economy and the efficient administration of justice. (CCP§§598, 1048 sub (b).) Here, as the Defendants note the case involves highly contested issues of liability and damages. The liability portions of the case address whether there was a dangerous condition on public property, whether it was created by the Defendants, whether the defendants had actual or constructive notice, apportionment of fault, and whether the Defendant will be able to establish statutory immunities. The issues to be approached in the liability phase include reconstruction of the accident, hydrology, weather conditions, traffic engineering, arboriculture, and other human factors. Damages are equally complicated with multiple plaintiffs, additional lay and expert witnesses. Each of the varied witnesses have varied causes of action and varied injuries asserted, and asserting damages from wage loss, future and past medicals, or the loss of support, pain and suffering or loss of the love and affection of the decedents. This does not appear to be an attempt to delay the case, as Plaintiffs suggest, but rather an attempt to have a logical progression of evidence, avoid confusion of issues, and ensure that the trial moves forward in a manner that simplifies the jury's task and reduces the burdens on the witnesses.

The court therefore denies the motion for trial preference as moot. The court grants the motion for bifurcation, trial is set to commence October 26, 2026, as previously determined.

Motion for Judgment on the Pleadings

The court denies the motion for judgment on the pleadings as to the implied warranty of merchantability claims, as the alleged time bar does not appear on the face of the complaint. As to the remainder of the motion as to fraudulent concealment/inducement the court grants the motion with leave to amend. The Plaintiff must file their first amended complaint within thirty days of the date of this order.

Motion to Compel Initial Disclosures and Request for Monetary Sanctions

The motion is denied in part and granted in part. There is no statutory requirement for verification of the production for the reasons stated herein. That stated, it appears that the production of the relevant document was substantially delayed without cause and in violation of the statute. To the extent that the records for the specified items LOP-85-41-x-xx and LOP08-19-xx-40 relate to specific warranty claims for the Subject Vehicle's VIN number, it appears that these items are within the ambit of the documents to be produced. The Auto Pay and TNF visits are pursuant to Robertson v. Fleetwood Travel Trailers of CA (2006) 144 Cal. App. 4th 785, actions which constitute repair attempts under the Song Beverly Act. These too should be produced as reflecting the number of repair attempts. IT also appears that the request for specific DealerConnect information addresses specific subsections of CCP§871.26 (h) 's disclosure requirements.

The Defendant will be given thirty days to comply in full with the disclosure requirements as stated. The court imposes \$2500.00 as sanction on the Defendant.

END OF TENTATIVE DECISIONS