

TENTATIVE RULINGS—MARCH 1, 2007

To request a hearing on any matter on this calendar, you must call the Court at (209) 223-6360 by 4:30 p.m. today. Notice of the intention to appear must also be given to all other parties. If the clerk is not notified of a party's intention to appear, there will be no hearing and the tentative ruling becomes the order of the court.

Amodo v. Kesler: 05CV4088

Motion for Summary Judgment

Summary judgment may be granted where there is no triable issue as to any material fact and the moving party is entitled to judgment as a matter of law. (C.C.P. §437c, subd. (a).) Summary adjudication is appropriate when one or more cause of action has no merit, even if there are some triable issues in the case. (C.C.P. §437c, subd. (f)(1).) A motion for summary adjudication shall be granted only when it completely disposes of a cause of action. (C.C.P. §437c, subd. (f)(1).)

The moving party must make a prima facie showing that there are no triable issues of material fact. (Aguilar v. Atlantic Richfield Co. (2001) 25 Cal.4th 826, 850.) Upon such a showing, the burden of proof shifts to the opposing party to demonstrate that there is a triable issue of material fact. (*ibid.*) A material fact is one that relates to some claim or defense at issue under the pleadings and it must be essential to the judgment, i.e. if proved it would change the outcome of the case. (Zavala v. Arce (1997) 58 Cal.App.4th 915, 926.)

A motion for summary judgment must be supported by evidence establishing the party's right to the relief sought. (Regents of Univ. of Calif. V. Superior Court (1996) 41 Cal.App.4th 1040, 1044.) Said evidence may consist of declarations, admissions by the opposing party, discovery, and matters subject to judicial notice. (C.C.P. §437c, subd. (b)(1).) A declaration in support of said motion must be based upon personal knowledge of the declarant, demonstrate that the declarant is competent to testify to the matters stated therein, and set forth admissible evidence. (C.C.P. §437c, subd. (d).) If a party is otherwise entitled to summary judgment, the motion may not be denied on the grounds of credibility or want of cross-examination of the witnesses furnishing declarations in support of the motion for summary judgment. (C.C.P. §437c, subd. (e).)

In ruling on a motion for summary judgment, the court must consider all of the evidence and all reasonable inferences drawn therefrom and must view such evidence in the light most favorable to the opposing party. (Aguilar, supra, at 843.)

Vehicle Code §5602 provides, in pertinent part:

An owner who has made a bona fide sale or transfer of a vehicle and has delivered possession of the vehicle to a purchaser is not, by reason of any of the provisions of this code, the owner of the vehicle so as to be subject to civil liability or criminal liability for parking, abandoning, or operation of the vehicle thereafter by another when the selling or transferring owner, in addition to that delivery and that bona fide sale or transfer, has fulfilled either of the following requirements: (a) He or she has made proper endorsement and delivery of the certificate of ownership as provided in this code.

The declarations submitted by the defendant aver full compliance with Vehicle Code §5602; thereby demonstrating that the defendant was no longer the owner of the vehicle in question for liability purposes. Thus, the burden of proof shifted to the plaintiffs to demonstrate that there is a triable issue of fact. Plaintiffs have failed to

submit any admissible evidence to demonstrate that there is a triable issue of fact. Plaintiffs failed to properly authenticate the documents submitted as exhibits in support of their opposition. Therefore, they are inadmissible.

Based upon the foregoing, the motion for summary judgment is granted.

Defendant is to prepare an order in compliance with Rule 3.1312.

Rich v. Ryder Truck Rental, et al.: 06CV4131

Motion for Summary Judgment

This matter is continued to March 23, 2007 at 10:00 a.m. in Department 2.

Defendant's Exhibit B, specifically, the copy of the contract containing the liability release, is illegible. Defendant is ordered to submit a legible copy of the contract no later than March 9, 2007.

Welch v. Welch: 05CV3825

Demurrer

There is no tentative ruling in this matter, pursuant to Local Rule 4.03 (F).