

Judge Benson – Law & Motion – Wednesday, July 2, 2025 @ 9:00 AM
TENTATIVE RULINGS

1. 23CV01873 Valcarenghi, Gerard v. Leyes, Katja et al.

EVENT: Motion to Be Relieved as Counsel (Plaintiff's Counsel)

Motion to Be Relieved as Counsel is GRANTED. The Court will sign the proposed order. The order will become effective upon the filing of the proof of service demonstrating the client was served with the order.

2. 22CV01513 Owens, Don v. Sanderson, Stuart et al.

EVENT: Defendants' Motion to Compel Discovery Responses

Defendants' Motion to Compel Discovery Responses is GRANTED. The admissions are deemed admitted. Plaintiff is ordered to provide code complaint responses without objection to Form Interrogatories Set Two and Production of Documents Set Two within 10 days' notice of this order. Plaintiff is sanctioned in the amount of \$1,500.00. Defendants shall prepare the order.

3-4. 24CV00836 Ganss, Thomas v. Camara, Matthew Vaughn

EVENT: (1) Defendant's Motion for Terminating Sanctions for Plaintiff's Continued Failure to Respond to Written Discovery

(2) Case Management Conference

Defendant's Motion for Terminating Sanctions for Plaintiff's Continued Failure to Respond to Written Discovery is GRANTED. The Court will sign the proposed order.

5. **24CV04217 Schmidt, Aaron et al v. Ford Motor Company et al.**

EVENT: Demurrer to Plaintiffs' First Amended Complaint

The demurrer is OVERRULED in its entirety.

Statute of Limitations

Ford argues that because the FAC alleges the contract was entered into on March 30, 2018, and this action was filed in 2024, a defect has been revealed on the face of the pleading because more than 4 years have passed between those dates. As Plaintiff noted, a mere possibility that the claim is time barred is not enough. (*E-Fab, Inc. v. Accountants, Inc. Services* (2007) 153 Cal.App.4th 1308, 1315-16) However, Plaintiff does not dispute that the 2018 and 2024 dates do not reveal a defect on the face of the pleading. Rather, Plaintiff appears to argue later accrual based on the delayed discovery rule.

A plaintiff whose complaint shows on its face that his claim would be barred without the benefit of the discovery rule must specifically plead facts to show (1) the time and manner of discovery and (2) the inability to have made earlier discovery despite reasonable diligence. (*E-Fab, supra*, at p. 1319) The burden is on the plaintiff to show diligence, and conclusory allegations will not withstand demurrer." (*Id*)

Here, Plaintiff alleges in paragraph 46 that the wrongful conduct was not discovered until "shortly before filing the complaint." We read the complaint as a whole and its parts in context to give the complaint a reasonable interpretation. (*Ring v. Harmon* (2021) 72 Cal.App.5th 844, 850) The Court finds paragraph 46 sufficiently alleges a time period for when the alleged delayed discovery occurred. For purposes of demurrer this allegation is sufficient. Thus, for purposes of demurrer, the FAC has adequately alleged delayed discovery with respect to the statute of limitations issues.

On the question of whether a delayed discovery rule exists concerning latent defects in the context of an implied warranty claim, the Court finds in the affirmative pursuant to *Mexia v. Rinker Boat Co., Inc.*, (2009) 171 Cal.App.4th 1297. The Court acknowledges this area of the law appears to be unsettled, and *Mexia* has been subjected to plenty of negative commentary. However, at the end of the day, *Mexia* still appears to be binding on this Court, and, because it was a lemon law case, it supersedes *Cardinal Health 301, Inc. v. Tyco Elecs. Corp.* (2008) 169 Cal.App.4th 116 (a non lemon law case) to the extent there are conflicts.

Factual Allegations Concerning Fraudulent Concealment

Rattagan v. Uber Technologies, Inc. (2024) 17 Cal.5th 1 clarifies that the specificity requirement is not lessened with respect to fraudulent concealment. The specificity requirement remains, the only difference is the analysis as concealment has different elements from misrepresentation. *Rattagan* also sets forth the level of specificity in the context of concealment stemming from a duty allegedly arising by virtue of the parties' relationship and the defendant's exclusive knowledge or access to certain facts:

The complaint must also include specific allegations establishing all the required elements, including (1) the content of the omitted facts, (2) the defendant's awareness of the materiality of those facts, (3) the inaccessibility of the facts to the plaintiff, (4) the general point at which the omitted facts should or could have been revealed, and (5) justifiable and actual reliance, either through action or forbearance, based on the defendant's omission.

(*Rattagan, supra*, at p. 43)

Content of Omitted Facts

The FAC sufficiently alleges content of omitted facts consistent with *Dhital v. Nissan N. Am., Inc.* (2022) 84 Cal.App.5th 828, 844.

The FAC Sufficiently Alleges a Transactional Relationship

Ford's contention that a warranty alone does not satisfy the "direct dealings" requirement set forth in *Rattagan* is not persuasive. Ford premises its' argument noting there is no evidence of a contract between it and Plaintiff. It is significant that *Rattagan* uses the words "direct dealings" and not "contractual relationship" in describing the necessary transactional relationship. The latter requires consideration or obligations on both sides, while the former does not necessarily so require.

Ford's arguments that the warranty does not constitute direct dealings is really a disguised argument that Ford and Plaintiff are not in a contractual relationship. If *Rattagan* intended to require the higher standard of a contractual relationship, the Court would have used words to that effect instead of using the more generalized language of "direct dealings."

Further, *Dhital, supra*, which was decided prior to *Rattagan* is still good law. *Dhital* stands for the proposition that, at least at the pleading stage, the issuance of a warranty is a sufficient allegation concerning the requirement of a transactional relationship between the parties.

The FAC has Sufficiently Plead Exclusive Knowledge

Paragraph 32 alleges Ford obtained exclusive knowledge through customer complaints, pre-production testing, etc. The allegations in Paragraph 32 are similar to the allegations in *Dhital, supra*, in which the Court found the allegations sufficiently alleged Nissan's knowledge of alleged defects. (*Id* at p. 844)

Active Concealment

Active concealment is one of several scenarios in which a duty to disclose may be triggered. Another is exclusive knowledge, discussed *supra*. Because the FAC adequately alleges exclusive knowledge, the Court declines addressing the active concealment issue.

Economic Loss Rule

Concealment-based claims for fraudulent inducement are not barred by the economic loss rule. (*Dhital, supra*, at p. 840) The opinion in *Dhital* makes clear that pre-transaction fraudulent conduct is exempt from the economic loss rule. Here, the allegations in the FAC (see ¶¶92 and 93 for example) are similar to those in *Dhital* in that they both allege pre-transaction fraudulent conduct.

The *Rattagan* Court was not presented with the issue of pre-transaction conduct, rather it was only presented with the issue of post-transaction conduct:

A plaintiff may assert a fraudulent concealment cause of action based on conduct occurring in the course of a contractual relationship if the elements of the claim can be established independently of the parties' contractual rights and obligations, and the tortious conduct exposes the plaintiff to a risk of harm beyond the reasonable contemplation of the parties when they entered into the contract.

(*Rattagan, supra*, at p. 13) [Emphasis Added]

It is axiomatic that language in a judicial opinion is to be understood in accordance with the facts and issues before the court. (*Kinsman v. Unocal Corp.* (2005) 37 Cal.4th 659, 680). Because the FAC sufficiently alleges pre-sale fraudulent conduct, we need not address the standards set forth in *Rattagan* at this stage.

Defendant shall file an answer within 10 days.

Plaintiffs shall prepare and submit a form of order within 2 weeks.

6. 25CV01538 In re: Hooker, Bonnie Faye

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

7. 25CV01675 In re: Gregg, Verna Rae

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

8. 25CV01707 In re: Smith, Kathleen Gay

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

9. 25CV01743 In re: Rodriguez, Noreli Guitierrez

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

10. **25CV01106 In re: Saetern, Flores, Syllas Alden**

EVENT: Change of name (adult) (Continued from 6/25/25)

The Court will hear from Petitioner.