

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

Department 10

Honorable Frederick S. Chung

Rachel Tien, Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: 408-882-2210

DATE: May 29, 2025 TIME: 9:00 A.M.

To contest the ruling, call (408) 808-6856 before 4:00 P.M.

Make sure to let the other side know before 4:00 P.M. that you plan to contest the ruling,
in accordance with California Rule of Court 3.1308(a)(1) and Local Rule 8.E.

The courthouse is open: Department 10 is now fully open for in-person hearings, as of April 18, 2023. The court strongly prefers **in-person** appearances for all contested law-and-motion matters. For all other hearings (e.g., case management conferences), the court strongly prefers either in-person or video appearances. Please note that as of January 1, 2025, telephone-only appearances are no longer permitted for any civil hearings, under Civil Local Rule 5.A, unless the court grants an exception. As a general matter, telephone-only appearances cause significant disruptions and delays to the proceedings. Please avoid appearing solely by audio unless absolutely necessary.

Scheduling motion hearings: Please go to <https://reservations.scscourt.org> or call 408-882-2430 between 8:30 a.m. and 12:30 p.m. (Mon.-Fri.) to reserve a hearing date for your motion *before* you file and serve it. You must then file your motion papers no more than five court days after reserving the hearing date, or else the date will be released to other cases.

CourtCall is no longer available: Department 10 uses Microsoft Teams for remote hearings. Please click on this link if you need to appear remotely, and then scroll down to click the link for Department 10: <https://santaclara.courts.ca.gov/online-services/remote-hearings>. Again, the court strongly prefers in-person or video appearances. Telephonic appearances are a sub-optimal relic of a bygone era.

Recording is prohibited: As a reminder, most hearings are open to the public, but state and local court rules prohibit recording of court proceedings without a court order. This prohibition applies to both in-person and remote appearances.

Court reporters: Unfortunately, the court is no longer able to provide official court reporters for civil proceedings (as of July 24, 2017). If any party wishes to have a court reporter, the appropriate form must be submitted. See <https://santaclara.courts.ca.gov/general-information/court-reporter-information>.

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LINE #	CASE #	CASE TITLE	RULING
LINE 1	19CV348607	Viet Hoai Le v. Kevin Vuong et al.	Order of examination: <u>parties to appear</u> .
LINE 2	19CV348607	Viet Hoai Le v. Kevin Vuong et al.	Order of examination: <u>parties to appear</u> .
LINE 3	19CV348607	Viet Hoai Le v. Kevin Vuong et al.	Order of examination: <u>parties to appear</u> .
LINE 4	19CV348607	Viet Hoai Le v. Kevin Vuong et al.	Order of examination: <u>parties to appear</u> .
LINE 5	19CV348607	Viet Hoai Le v. Kevin Vuong et al.	Order of examination: <u>parties to appear</u> .
LINE 6	24CV431689	Jane B.M. Roe v. The Estate of Roland Alexander Wrigley et al.	Click on LINE 6 or scroll down for ruling in lines 6-7.
LINE 7	24CV431689	Jane B.M. Roe v. The Estate of Roland Alexander Wrigley et al.	Click on LINE 6 or scroll down for ruling in lines 6-7.
LINE 8	24CV428479	Cesar Romero v. FCA US LLC	Click on LINE 8 or scroll down for ruling in lines 8-11.
LINE 9	24CV428479	Cesar Romero v. FCA US LLC	Click on LINE 8 or scroll down for ruling in lines 8-11.
LINE 10	24CV428479	Cesar Romero v. FCA US LLC	Click on LINE 8 or scroll down for ruling in lines 8-11.
LINE 11	24CV428479	Cesar Romero v. FCA US LLC	Click on LINE 8 or scroll down for ruling in lines 8-11.
LINE 12	24CV438831	Coppers Dream Rescue v. Alyce Yetso	Click on LINE 12 or scroll down for ruling.
LINE 13	24CV432638	Anita Krishnakumar et al. v. Eichler Swim and Tennis Club	Click on LINE 13 or scroll down for ruling.

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LINE #	CASE #	CASE TITLE	RULING
LINE 14	21CV390349	Debt Management Partners, LLC v. Sabrina B. Bocanegra	Claim of exemption: the claim is DENIED, as judgment debtor has not shown the application of any statutory exemption. Given the amount of Bocanegra's income, expenses, and debts, her proposed amount to be withheld from earnings of \$50/month is unreasonably low. As judgment creditor points out, the present judgment takes priority over Bocanegra's other credit card debts. The sheriff's office is directed to release any funds currently being held to Debt Management Partners, LLC.

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Calendar Line 13

Case Name: *Anita Krishnakumar et al. v. Eichler Swim and Tennis Club*

Case No.: 24CV432638

This is a wrongful death case by plaintiffs Anita Krishnakumar, Neil Sumanth, Gia Sumanth, Ari Sumanth, and Kian Sumanth (collectively, “Plaintiffs”) against the Eichler Swim and Tennis Club (“Defendant”). On August 4, 2023, Sumanth Kolar—the husband of Krishnakumar and the father of Neil, Gia, Ari, and Kian Sumanth—drowned in Defendant’s swimming pool. Although a January 12, 2026 trial date has already been set, Plaintiffs now move for a preferential trial setting under Code of Civil Procedure section 36, subdivision (b), based on the fact that Neil, Gia, Ari, and Kian are all under 14 years of age.

The court finds that Plaintiffs have shown that section 36, subdivision (b) applies, and so the motion must be granted. Four of the five plaintiffs are “under 14 years of age,” and each has a “substantial interest in the case.” (Code Civ. Proc., § 36, subd. (b).)

Defendant argues that the children do not have a “substantial interest” because Krishnakumar is “[t]he primary Plaintiff” and the children’s claims are “derivative,” but it offers no evidence or legal support for this notion. (Opposition, p. 5:4-10.) The court is not aware of any authority for the proposition that in a wrongful death action, the spouse of the decedent is necessarily the “primary” plaintiff and a child is a “secondary” or “derivative” plaintiff, and Defendant has not cited any. The argument could just as easily be made that the children are the “primary” plaintiffs, and the spouse’s interest is “derivative.” Indeed, the priority of under-14-year-old plaintiffs’ interests in wrongful death cases appears to have been one of the main motivating purposes underlying the Legislature’s enactment of section 36, subdivision (b), as “wrongful death” cases are specifically called out by the statute.

Defendant also argues that “Plaintiffs have not shown that the minors intend to appear at or meaningfully participate in trial,” but the court is not aware of any requirement that a party actually testify at trial in order to have a “substantial interest” in the case under section 36. Again, Defendant cites no applicable legal authority. (Opposition, p. 5:14-18.) Moreover, it appears that at least two of the children here—Gia (age 11) and Ari (age 8)—were witnesses to their father’s drowning and were questioned about it in depositions. (Declaration of Shamika K. Bains, Exhibits C & D.) As such, they have already “meaningfully” participated in this case and may well be called to give eyewitness testimony at trial.

None of the cases cited by Defendant support its claim that the minor plaintiffs lack a substantial interest in the case. In fact, Defendant’s principal citation—which it cites twice and quotes once—appears to be completely made up: “*Ortiz v. Ford Motor Co.* (2020) 50 Cal.App.5th 665.” (See Opposition, pp. 4:19 & 5:10-13.) The court has spent an inordinate amount of time searching for this case, as well as the passage that Defendant purportedly quotes from it (“*Although a minor child is a statutory beneficiary under section 377.60, not all such beneficiaries will necessarily have an equal or substantial interest in a wrongful death recovery*”), and it is nowhere to be found. The citation (“50 Cal.App.5th 665”) falls on the seventh page of a completely unrelated case discussing recoverable costs under Code of Civil Procedure section 1033.5. In fact, when the court types the supposedly quoted language into Lexis, the only result that comes back is the opposition brief filed by Defendant in this very case. This is highly problematic. Although Plaintiffs may well be correct that Defendant’s citation and quotation were likely “generated by an AI tool” (Reply, p. 6:21), that is the most

benign explanation. If this is an intentional deception, then it would be a violation of Rule 3.3 of the California Rules of Professional Conduct. (See Rules Prof. Conduct, rule 3.3 [“Candor Toward the Tribunal”].) It is particularly troubling that this phony *Ortiz* case is the key legal citation that Defendant relies on in opposing the motion, making it hard to argue that its inclusion was merely accidental.

Finally, the court rejects Defendant’s argument that more time for discovery is needed, and that granting the motion would infringe on its “due process” rights. Consideration of the logistical problems caused by a preferential trial setting is expressly prohibited: the convenience of the parties (and the court) is completely “irrelevant” in the eyes of the Legislature that enacted the law. (*Swaithes v. Superior Court* (1989) 212 Cal.App.3d 1082, 1085.) “The trial court has no power to balance the differing interests of opposing litigants in applying the provision. The express legislative mandate for trial preference is a substantive public policy concern which supersedes such considerations.” (*Id.* at pp. 1085-1086.)

Under the present circumstances, the application of section 36, subdivision (b) is mandatory, not discretionary.

The motion is GRANTED. The court sets the trial for **September 22, 2025**. The court reschedules the mandatory settlement conference for **September 17, 2025** (9:00 a.m.) and the trial assignment conference for **September 18, 2025 at 1:30 p.m. in Department 14** of the court.

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