

**DEPARTMENT EIGHT
JUDGE WENDY GETTY
707-207-7308
TENTATIVE RULINGS SCHEDULED FOR
THURSDAY, JULY 17, 2025**

The parties may appear via Zoom with the exception of trials, trial management conferences, order for examinations and mandatory settlement conferences. The information for the Zoom meeting is set forth below.

The tentative ruling shall become the ruling of the court unless a party desiring to be heard contacts the judicial assistant of the department hearing the matter by 4:30 p.m. on the court day preceding the hearing, and further advises that such party has notified the other side of its intention to request a hearing. A party requesting a hearing must notify all parties of the request to be heard by 4:30.

**ZARO v. GEN. MOTORS, LLC, ET AL.
Case No. CU24-09762**

Demurrer; Motion to Strike

TENTATIVE RULING
Demurrer

Defendant General Motors, LLC's unopposed demurrer to the fifth cause of action for fraudulent inducement is sustained without leave to amend.

The cause of action appears barred by the applicable three-year limitations period for fraud and Plaintiff has failed to allege facts supporting some exception to the running of the statute of limitations. "[I]f an action is brought more than three years after commission of the fraud, plaintiff has the burden of pleading and proving that he did not make the discovery until within three years prior to the filing of his complaint." (*Cansino v. Bank of Am.* (2014) 224 Cal.App.4th 1462, 1472, quoting *Hobart v. Hobart Estate Co.* (1945) 26 Cal.2d 412, 437.) A plaintiff whose complaint shows, on its face, that a cause of action would have been barred without the benefit of the delayed discovery rule must specifically plead facts showing the time and manner of discovery and the inability to make earlier discovery despite reasonable diligence. (*McKelvey v. Boeing North American, Inc.* (1999) 74 Cal.App.4th 151, 160.) Likewise, any claim of equitable estoppel must plead the elements supporting the estoppel with specificity (*Sofranek v. County of Merced* (2007) 146 Cal.App.4th 1238, 1250) and any facts supporting a claim of tolling must be specifically pleaded (*Mills*, 108 Cal.App.4th at 641).

Plaintiff alleges that Defendant committed fraud by failing to disclose that the vehicle was equipped with a defective transmission at the time Plaintiff purchased the vehicle. (Complaint, ¶ 46.) It can be reasonably inferred from Plaintiff's allegations that the vehicle was purchased in May of 2017. (*Id.* at ¶ 6.) The complaint was filed over seven years after the vehicle was purchased on December 11, 2024. Consequently, Plaintiff had to plead, with specificity, a factual basis for delayed discovery, equitable estoppel, any tolling, or some other exception to the running of the statute of limitations. Instead, Plaintiff merely asserted in conclusory fashion that a list of "doctrines or rules" applied to toll the limitation period and that Defendant's wrongful conduct was discovered "shortly before the filing of the complaint". (*Id.* at ¶¶ 23-24.)

By failing to oppose the demurrer, Plaintiff has not met his burden of showing "in what manner he can amend his complaint and how that amendment will change the legal effect of his pleading." (*Goodman v. Kennedy* (1976) 18 Cal.3d 335, 349; *Cooper v. Equity Gen. Ins.* (1990) 219 Cal.App.3d 1252, 1263-1264; *McMartin v. Childrens' Inst. Int'l* (1989) 212 Cal.App.3d 1393, 1408.)

Motion to Strike

In light of the ruling on the demurrer, Defendant's motion to strike Plaintiff's prayer for punitive damages is granted. Plaintiff's remaining causes of action fail to establish a basis for punitive damages as Plaintiff does not otherwise allege facts establishing oppressive, fraudulent or malicious conduct. (Civil Code, § 3294.)

Department 8 is inviting you to a scheduled ZoomGov meeting.

Join ZoomGov Meeting

<https://solano-courts-ca-gov.zoomgov.com/j/1619704645?pwd=aUwyYUFUcU5Eazl6SEkrcmcrRnRLUT09>

Meeting ID: 161 970 4645

Passcode: 675002

One tap mobile

+16692545252,,1619704645#,,,*675002# US (San Jose)

+16692161590,,1619704645#,,,*675002# US (San Jose)