Tentative Rulings for April 15, 2026
Department 502

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) ***The above rule also applies to cases listed in this "must appear" section.***

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

22JCCP05241 ***In Re: Imidacloprid Cases*** **is continued to Thursday, April 23, 2026, at 3:30 p.m. in Department 502.**

24CECG05035 ***Janell Moreno v. Volkswagen Group of America, Inc.*** **is continued to Wednesday, April 29, 2026, at 3:30 p.m. in Department 502.**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 502

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(35)

Tentative Ruling

Re: ***Britz-Hyland v. Click et al.***
Superior Court Case No. 23CECG04469

Hearing Date: April 15, 2026 (Dept. 502)

Motion: By Defendants Steve W. Click and Steve W. Click Consulting, Inc. for Admission Pro Hac Vice of Savannah Caroline Cole

Tentative Ruling:

To grant. (Cal. Rules of Court, Rule 9.40(a).) Order signed. No appearances necessary.

If oral argument is timely requested, it will be entertained on Thursday, April 16, 2026, at 3:00 p.m. in Department 502.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 04/14/26.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Alexander Jr. v. Bueno et al.***
Superior Court Case No. 24CECG03825

Hearing Date: April 15, 2026 (Dept. 503)

Motion: By Plaintiff to Compel Initial Responses x6 and Deemed Admissions

Tentative Ruling:

To continue to Thursday, May 28, 2026, 3:30 p.m. in Department 502. Plaintiff Lamar Henry Alexander, Jr. is directed to remit $360 in motion fees for consideration of the additional six motions on or before 5:00 p.m., May 14, 2026. (Gov. Code, § 70677, subd. (a).)

If oral argument is timely requested, it will be entertained on Thursday, April 16, 2026, at 3:00 p.m. in Department 502.

Explanation:

Plaintiff Lamar Henry Alexander, Jr. ("Plaintiff") filed an omnibus motion comprising seven individual motions: to compel initial responses to: Form Interrogatories, Set One as to each of defendants Roberto Bueno, and USA Waste of California, Inc. (together "Defendants"); Special Interrogatories, Set One as to each of Defendants; and Request for Production, Set One as to each of Defendants. Plaintiff further seeks an order deeming Request for Admissions, Set One as admitted by defendant Roberto Bueno. In filing the omnibus motion, Plaintiff remitted only one filing fee while seeking seven orders. The matter is continued, and Plaintiff is directed to submit filing fees for the motions reserved.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK (Judge's initials) on 04/14/26 (Date).

(47) **Tentative Ruling**

Re: ***Arlene Rodriguez v. Lydia Romero***
Superior Court Case No. 25CECG03115

Hearing Date: April 15, 2026 (Dept. 502)

Motion: Motion for Joinder of Necessary Parties of Nominal Defendants John Oritz Jr., Samantha Oritz and Nathan Oritz

Tentative Ruling:

To deny without prejudice.

If oral argument is timely requested, it will be entertained on Thursday, April 16, 2026, at 3:00 p.m. in Department 502.

Explanation:

Nominal defendants Samantha Ortiz, John Ortiz, Jr. and Nathan Ortiz (collectively referred to herein as "Nominal Defendants") move this Court for an Order joining them as plaintiffs in the matter brought by Plaintiff Arlene Rodriguez, individually and as successor-in-interest to decedent, John Ortiz ("Plaintiff") against Defendants General Motors, LLC., Lydia Marina Romero, Steves Chevrolet of Chowchilla, LL, H & J Chevrolet, Inc. and Gills Motors Kerman, Inc. (collectively "Defendants").

This motion is based on Code of Civil Procedure sections 377.60, 377 and 377.61 and is made on the grounds that Samantha Ortiz, John Ortiz, Jr. and Nathan Ortiz are heirs to this wrongful death action who have been named as nominal defendants and seek to be joined as plaintiffs.

This motion for joinder is denied. (Code Civ. Proc., § 389.) Nominal defendants failed to file a proof of service at least five court days before the hearing, showing that this motion was timely served on all parties to the action. (Cal. Rules of Court, rules 3.1300(c); Code Civ. Proc., § 1005, subd. (b).)

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 04/14/26 .
(Judge's initials) (Date)

(48)

Tentative Ruling

Re: ***In re: The Matter of Royalty Lopez***
Court Case No. 26CECG01365

Hearing Date: April 15, 2026 (Dept. 502)

Motion: Petition to Compromise Minor's Claim

If oral argument is timely requested, it will be entertained on Thursday, April 16, 2026, at 3:00 p.m. in Department 502.

Tentative Ruling:

To grant. Order signed. No appearances necessary.

Pursuant to California Rules of Court, Rule 3.1312 and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK **on** 04/14/26 .
(Judge's initials) (Date)

(48)

Tentative Ruling

Re: ***In Re: The Matter of Sebastian Avila***
Court Case No. 26CECG01369

Hearing Date: April 15, 2026 (Dept. 502)

Motion: Petition to Compromise Minor's Claim

If oral argument is timely requested, it will be entertained on Thursday, April 16, 2026, at 3:00 p.m. in Department 502.

Tentative Ruling:

To grant. Orders signed. No appearances necessary.

Pursuant to California Rules of Court, Rule 3.1312 and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK **on** 04/14/26 .
(Judge's initials) (Date)

(41)

Tentative Ruling

Re: ***Marivic Edralin-Justo v. City of Fresno***
Superior Court Case No. 25CECG02338

Hearing Date: April 15, 2026 (Dept. 502)

Motion: Demurrer by Defendant City of Fresno

Tentative Ruling:

To sustain the demurrer by the City of Fresno to the third cause of action of the first amended complaint without leave to amend.

If oral argument is timely requested, it will be entertained on Thursday, April 16, 2026, at 3:00 p.m. in Department 502.

Explanation:

Plaintiff, Marivic Edralin-Justo (Plaintiff), initiated this action by filing a complaint against codefendants City of Fresno (City) and Pacific Bell Telephone Company. Plaintiff alleges she tripped and fell while walking on a public sidewalk due to a raised and uneven concrete slab. Plaintiff sues the City for premises liability under Government Code section 835 and originally alleged her third cause of action for negligence against all defendants. After the court sustained the City's demurrer to the third cause of action, Plaintiff filed her first amended complaint (FAC),[1] which includes a third cause of action for "negligence-nuisance." The City demurs to this third cause of action against it.

Meet and Confer

The parties have complied with the obligation to meet and confer.

Demurrer

In testing a pleading against a demurrer, the alleged facts are deemed true, "however improbable they may be." (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604.) A demurrer tests only the legal sufficiency of the pleading—not the truth of the plaintiff's allegations or the accuracy of the plaintiff's description of the defendant's conduct. (*Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 47.)

The City demurs to the third cause of action for negligence-nuisance against it on the ground that "it is legally deficient and is not recognized under California law." (Ntc., p. 2:2.) The City contends "[u]nder Government Code section 815, a public entity may only be held liable as provided by statute. Plaintiff has not identified an allowable

[1] Plaintiff failed to include new allegations in **boldface** type, as the court had *directed*.

statutory basis that permits her to bring a negligence claim against the City." (Ntc., p. 2:2-4.) Plaintiff's hybrid claim for negligence-nuisance improperly conflates distinct legal theories and duplicates Plaintiff's first cause of action seeking redress for a dangerous condition of public property under Government Code section 835. The City contends if the court were to allow Plaintiff to maintain her negligence-nuisance claim, it "would undermine the Legislature's intent to confine public entity liability to specific statutory grounds." (Ntc., p. 2:6-7.)

The City cites *County of San Bernardino v. Superior Court* (2022) 77 Cal.App.5th 1100 (*San Bernardino*), where the appellate court explained the requirements to impose liability on a public entity as follows:

> Under the Government Claims Act, all government tort liability must be based on statute. (Gov. Code, § 810 et seq.) "Government Code section 815, enacted in 1963, abolished all common law or judicially declared forms of liability for public entities, except for such liability as may be required by the federal or state Constitution. Thus, in the absence of some constitutional requirement, public entities may be liable *only* if a statute declares them to be liable. Moreover, under subdivision (b) of section 815, the immunity provisions of the California Tort Claims Act will generally prevail over any liabilities established by statute. [Citations.] In short, sovereign immunity is the rule in California; governmental liability is limited to exceptions specifically set forth by statute." (*Cochran v. Herzog Engraving Co.* (1984) 155 Cal.App.3d 405, 409, fn. omitted.) [¶] Government Code section 815.6 of the Government Claims Act adds that a public entity may be liable for an injury if there is an enactment that imposes upon the public entity a mandatory duty designed to protect against the risk of such an injury, and the injury is proximately caused by the public entity's failure to discharge the duty with reasonable diligence.

(*San Bernardino, supra,* 77 Cal.App.5th at pp. 1107–1108 [granting writ directing trial court to vacate order overruling demurrer and enter order sustaining demurrer to common law negligence claim without leave to amend].)

The provisions of Government Code sections 830 to 835.4 govern a public entity's liability for injuries cause by a dangerous condition of public property. Government Code section 835 sets forth the statutory elements of a public entity's liability for a dangerous condition of its property, with certain inapplicable exceptions, as follows:

> [A] public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either: [¶] (a) A negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or [¶] (b) The public entity had actual or constructive notice of the dangerous condition under Government Code section 835.2

a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.

The City acknowledges Plaintiff's first cause of action contains the necessary elements to plead her cause of action for the alleged dangerous condition of public property under Government Code section 835.

The City demurs to Plaintiff's third cause of action for negligence-nuisance, for several reasons, including that Plaintiff still asserts a claim for common law negligence through "creative pleading." (Memo., p. 5:12.) Plaintiff's negligence-nuisance claim begins by incorporating by reference all previous paragraphs (1 through 44). (FAC, ¶ 45.) After alleging the City's ownership and duty of care to maintain the subject sidewalk (FAC, ¶¶ 46, 47), Plaintiff alleges the City breached this duty (¶ 48).

Plaintiff then makes a conclusory allegation that "[t]his same negligent conduct also constituted a public nuisance under Civil Code §§ 3479 and 3480." (FAC, ¶ 49.) Plaintiff makes a legal argument in paragraphs 50 and 51 of the FAC, citing *Lussier v. San Lorenzo Valley Water Dist.* (1988) 206 Cal.App.3d 92 for the rule that "[a] nuisance may be predicated on negligent conduct," and *Pfleger v. Superior Court* (1985) 172 Cal.App.3d 421 for the rule that "[p]ublic entities are not immune from nuisance liability, and nuisance claims may be made in tandem with a dangerous-condition claim under Government Code § 835." (FAC, ¶ 51.)

Negligence and nuisance are separate causes of action, although they may overlap in certain circumstances. "Where negligence and nuisance causes of action rely on the same facts about lack of due care, the nuisance claim is a negligence claim." (*El Escorial Owners' Assn. v. DLC Plastering, Inc.* (2007) 154 Cal.App.4th 1337, 1349 (*El Escorial*).) When the plaintiff relies on the same facts for negligence and nuisance, "[t]he nuisance claim 'stands or falls with the determination of the negligence cause of action' in such cases. [Citation.]" (*Melton v. Boustred* (2010) 183 Cal.App.4th 521, 542 (*Melton*).)

The City acknowledges that a plaintiff may allege a nuisance claim against a public entity based on facts to support an independently-viable claim apart from a claim under Government Code section 835 for premises liability based on a dangerous condition of public property. But Plaintiff fails to make such claim. (See, e.g., *Lussier v. San Lorenzo Valley Water Dist., supra,* 206 Cal.App.3d 92 at pp. 105-106 [nuisance claim does not require proof of negligence; nonnegligent acts may create a nuisance].) Plaintiff alleges no facts to suggest her nuisance claim is different from her statutory claim for a dangerous condition of public property. In fact, she expressly bases her nuisance claim on the "same negligent conduct" previously alleged. (FAC, ¶ 49.)

Conclusion

The City correctly contends Plaintiff's cause of action for "negligence-nuisance" is not a recognized cause of action. Furthermore, the negligence-nuisance claim "has no independent vitality, because it merely restates [Plaintiff's] negligence claims 'using a different label.'" (*Melton, supra,* 183 Cal.App.4th at p. 543, citing *El Escorial, supra,* 154 Cal.App.4th at p. 1349 [affirming trial court's order sustaining demurrer to plaintiffs'

nuisance cause of action, finding it was a "clone" of first cause of action for negligence and premises liability].)

Leave to Amend

It is the opposing party's responsibility to request leave to amend, and to show how the pleading can be amended to cure its defects. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) Ordinarily, given the court's liberal policy of amendment, the court will grant leave to amend an original complaint. (See *McDonald v. Superior Court* (1986) 180 Cal.App.3d 297, 303-304 ["Liberality in permitting amendment is the rule" unless complaint "shows on its face that it is incapable of amendment"].) Plaintiff filed no opposition and did not request leave to amend the FAC. Therefore, the court sustains the City's demurrer to the third cause of action of the FAC without leave to amend.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: KCK on 04/14/26.
(Judge's initials) (Date)