Tentative Rulings for April 22, 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.

24CECG03545 ***Luis Zuniga v. Community Medical Centers*** **is continued to Wednesday, May 13, 2026, at 3:30 p.m. in Department 502.**

25CECG02575 ***Lendonate CA LLC v. Parents and Addicts in Need*** **is continued to Wednesday, May 13, 2026, at 3:30 p.m. in Department 502.**

25CECG05115 ***Blanca Cerrato v. Cardiovascular Associates / The Heart Group Medical Clinic, Inc.*** **is continued to Tuesday, April 28, 2026, at 3:30 p.m. in Department 502.**

25CECG01586 ***Marin v. Estate of Vera Lee Dyes*** **is continued to Thursday, May 21, 2026, at 3:30 p.m., in Department 502.**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 502

Begin at the next page

(03)

Tentative Ruling

Re: ***Panzak v. City of Fowler***
Case No. 22CECG01769

Hearing Date: April 22, 2026 (Dept. 502)

Motion: Defendant City of Fowler, et al.'s Motion for Attorney's Fees and Costs Pursuant to Code of Civil Procedure section 425.16

Defendant Gregory Myers' Motion for Attorney's Fees

Tentative Ruling:

To grant defendants City of Fowler, et al.'s motion for attorney's fees, in the amount of $3,300, and costs in the amount of $89. To grant defendant Myers' motion for attorney's fees, in the amount of $9,200, and costs in the amount of $550.70.

Explanation:

Defendants are the Prevailing Parties, and Thus They Are Entitled to Their Fees and Costs on Appeal: "Except as provided in paragraph (2), in any action subject to subdivision (b), a prevailing defendant on a special motion to strike shall be entitled to recover that defendant's attorney's fees and costs." (Code Civ. Proc., § 425.16, subd. (c).)

"Thus, under Code of Civil Procedure section 425.16, subdivision (c), any SLAPP defendant who brings a successful motion to strike is entitled to mandatory attorney fees." (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1131, citation omitted.) However, "[t]he defendant may recover fees and costs only for the motion to strike, not the entire litigation. Appellate challenges concerning the motion to strike are also subject to an award of fees and costs, which are determined by the trial court after the appeal is resolved. The defendant may claim fees and costs either as part of the anti-SLAPP motion itself or more commonly, as here, through the filing of a subsequent motion or cost memorandum." (*Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1320, citations omitted.)

Here, both the City defendants and Myers prevailed on their motions to strike plaintiff's complaint under section 425.16. The court granted their motions to strike the entire complaint on August 29, 2024 and entered judgment in favor of defendants on September 6, 2024. Plaintiff filed an appeal of the court's decision, and the Court of Appeal affirmed the judgment on September 8, 2025. The remittitur issued on November 10, 2025. The Court of Appeal's opinion specifically found that "All defendants are awarded their costs on appeal. The matter is remanded to the trial court to determine the amount of attorney's fees, if any, defendants may be awarded as the prevailing parties in this appeal." Therefore, defendants are the prevailing parties on the appeal from the judgment, and they are entitled to an award of fees and costs related to the appeal.

Timeliness of the Motions: Plaintiff has objected to the defendants' request for fees and costs on multiple grounds. Plaintiff's primary objection is that the defendants failed to file their memoranda of costs and motions for attorney's fees in a timely manner, so their requests for fees and costs should be denied.

"[I]f the claimant fails to present a cost bill, a waiver of the right to costs results. The time provisions relating to the filing of a memorandum of costs, while not jurisdictional, are mandatory." (*Hydratec, Inc. v. Sun Valley 260 Orchard & Vineyard Co*. (1990) 223 Cal.App.3d 924, 929, citation omitted.) Thus, where a party files a memo of costs past the deadline under the Rules of Court, the memo is untimely. (*Sanabria v. Embrey* (2001) 92 Cal.App.4th 422, 426.) Furthermore, if a party fails to file their motion for attorney's fees within the timeframe under the Rules of Court, the fees motion is untimely as well. (*Id*. at pp. 426-429.)

Where a party seeks fees and costs associated with an appeal, the time limit to file a memo of costs and motion for attorney's fees begins to run from the date that the remittitur issues. "A notice of motion to claim attorney's fees on appeal--other than the attorney's fees on appeal claimed under (b)--under a statute or contract requiring the court to determine entitlement to the fees, the amount of the fees, or both, must be served and filed within the time for serving and filing the memorandum of costs under rule 8.278(c)(1) in an unlimited civil case ..." (Cal. Rules of Court, rule 3.1702(c)(1).) "Within 40 days after issuance of the remittitur, a party claiming costs awarded by a reviewing court must serve and file in the superior court a verified memorandum of costs under rule 3.1700." (Cal. Rules of Court, rule 8.278(c)(1).)

Thus, the memo of costs and motion for fees on appeal must be filed within 40 days of the date when the remittitur issues. Furthermore, the 40-day period to file a memo of costs and motion for attorney's fees begins to run from the date of issuance of the remittitur, and it is not extended by additional time based on the date of service of the remittitur. (*Wash v. Banda-Wash* (2025) 108 Cal.App.5th 561, 573.) Thus, if the memo of costs and motion for fees are filed more than 40 days after the remittitur issued, then the memo and motion are untimely, unless another exception or extension applies. (*Ibid*.)

On the other hand, the trial court has discretion to grant an extension of time to file a memo of costs or motion for fees, either at the request of a party on its own motion. (Rule of Court 3.1702(d); Rule of Court 3.1700(b)(3) [allowing extensions of time to file a memo of costs when either the parties agree to extend the time, or when the trial court grants more time, for a period not to exceed 30 days].) Furthermore, "[u]nder this rule [3.1700(b)(3)], a trial court may grant the extension on its own motion. The rule does not require that the party expressly request the extension, or that the court specifically state that it granted the extension." (*Cardinal Health 301, Inc. v. Tyco Electronics Corp.* (2008) 169 Cal.App.4th 116, 155, citations omitted.)

Here, the Court of Appeal issued the remittitur on November 10, 2025. Thus, the defendants were required to file their memos of costs 40 days later. However, the fortieth day was December 20, 2025, which was a Saturday. Therefore, the deadline to file a memo of costs was actually on the next business day, which was December 22, 2025, the following Monday. Myers filed his memo of costs on December 22, 2025. Therefore, Myers' memo of costs was timely, and the court will not deny his request for costs based on untimeliness.

On the other hand, Myers did not file his motion for attorney's fees until January 7, 2026, which was 15 days past the 40-day deadline. Therefore, the motion is technically untimely. On the other hand, the court has discretion to grant an extension of time to allow the motion to be heard despite its untimeliness, even if the party has not expressly requested an extension. (*Cardinal Health 301, Inc. v. Tyco Electronics Corp.*, *supra*, 169 Cal.App.4th at p. 155.) Here, the court intends to exercise its discretion to grant an extension of time to allow the motion to be heard, since the delay in filing the motion was minimal and there is no evidence that plaintiff was prejudiced by the delay. As a result, the court will not deny Myers' motion for fees despite the fact that it was brought after the 40-day deadline expired.

With regard to the City of Fowler's motion for fees and costs, the City filed its memo of costs on January 5, 2026. The City filed its motion for fees on December 29, 2025. Thus, both the memo of costs and motion for fees were filed past the 40-day deadline for seeking fees and costs on appeal. Again, however, the court intends to exercise its discretion to allow the motion for fees and costs to be heard despite its untimeliness, as the delay in bringing the motion was minimal and plaintiff has not shown that he was prejudiced by the delay. Therefore, the court will not deny the City's motion for appellate fees and costs despite the fact that it was brought after the deadline expired.

On the other hand, the City's motion is extremely untimely to the extent that it seeks its fees and costs associated with bringing the original motion to strike, as opposed to the fees and costs associated with the appeal. The City seeks pre-appeal attorney's fees of $3,960 for bringing the motion to strike. (Walls decl., ¶ 5 a-f.)

"A notice of motion to claim attorney's fees for services up to and including the rendition of judgment in the trial court--including attorney's fees on an appeal before the rendition of judgment in the trial court--must be served and filed within the time for filing a notice of appeal under rules 8.104 and 8.108 in an unlimited civil case…" (Cal. Rules of Court, rule 3.1702(b)(1).)

"[A] notice of appeal must be filed on or before the earliest of: (A) 60 days after the superior court clerk serves on the party filing the notice of appeal a document entitled 'Notice of Entry' of judgment or a filed-endorsed copy of the judgment, showing the date either was served; (B) 60 days after the party filing the notice of appeal serves or is served by a party with a document entitled 'Notice of Entry' of judgment or a filed-endorsed copy of the judgment, accompanied by proof of service; or (C) 180 days after entry of judgment." (Cal. Rules of Court, rule 8.104(a)(1)(A)-(C), para. breaks omitted.)

Also, "[a] prevailing party who claims costs must serve and file a memorandum of costs within 15 days after the date of service of the notice of entry of judgment or dismissal by the clerk under Code of Civil Procedure section 664.5 or the date of service of written notice of entry of judgment or dismissal, or within 180 days after entry of judgment, whichever is first." (Cal. Rules of Court, rule 3.1700(a)(1).)

Here, the City was served with the notice of entry of judgment on September 16, 2024. Therefore, the City had 60 days from September 16, 2024 to file its motion for attorney's fees incurred up to the rendition of the judgment. In other words, the City needed to file its motion for fees by January 15, 2025. Since the City did not file its motion for pre-appeal fees until December 29, 2025, more than eleven months after the deadline expired, the court intends to find that the motion for pre-appeal fees is untimely. The

request for pre-appeal costs is also untimely, as the City did not file its memo of costs until January 5, 2026, more than a year after the notice of entry of judgment was served.

Furthermore, since the motion for fees was filed almost a year after the deadline expired, the court will not grant an extension of time to allow the motion to be brought. Even assuming the court has discretion to grant an extension, the City has not shown good cause for its excessive delay in bringing the motion. The City's attorney claims that he never received the judgment in the case when it was entered in September of 2024, and thus he did not realize that he needed to file his motion for fees. However, the notice of entry of judgment filed with the court shows that Myers served the notice of entry on September 16, 2024 to both plaintiff and the City's attorney at their addresses of record. Thus, the City is presumed to have received notice of entry. Nor has the City's attorney shown that his failure to file the motion within the statutory time period was reasonable, especially since plaintiff appealed from the judgment on October 28, 2024 and thus placed the parties on notice that a judgment had been entered.

It is also likely that plaintiff has been prejudiced by the delay, as he was entitled to rely on defendants' failure to seek fees promptly after their motion to strike was granted and the judgment was entered. Therefore, the court intends to deny the City's request for an extension of time to file its motion for attorney's fees. Since the City did not timely file its motion for its pre-appeal fees and costs, the court will not permit it to recover the pre-appeal fees and costs.

Myers' Lodestar Fees: Next, the court must determine the amount of fees to award to the prevailing defendants.

"Under *Serrano III*, a court assessing attorney fees begins with a touchstone or lodestar figure, based on the 'careful compilation of the time spent and reasonable hourly compensation of each attorney ... involved in the presentation of the case.' We expressly approved the use of prevailing hourly rates as a basis for the lodestar, noting that anchoring the calculation of attorney fees to the lodestar adjustment method '"is the only way of approaching the problem that can claim objectivity, a claim which is obviously vital to the prestige of the bar and the courts."' In referring to 'reasonable' compensation, we indicated that trial courts must carefully review attorney documentation of hours expended; 'padding' in the form of inefficient or duplicative efforts is not subject to compensation." (*Ketchum v. Moses*, *supra*, 24 Cal.4th at pp.1131–1132, citations omitted.)

" '[A]s the parties seeking fees and costs, defendants "bear[ ] the burden of establishing entitlement to an award and documenting the appropriate hours expended and hourly rates." To that end, the court may require defendants to produce records sufficient to provide "'a proper basis for determining how much time was spent on particular claims.'"' Importantly, when considering a fee award, the trial court is not required to award the amount sought by the successful moving parties, but instead 'is obligated to award "reasonable attorney fees under section 425.16 [that] adequately compensate[ ] them for the expense of responding to a baseless lawsuit."'" (*569 East County Boulevard LLC v. Backcountry Against the Dump, Inc*. (2016) 6 Cal.App.5th 426, 432, citations omitted.) "The law is clear, however, that an award of attorney fees may be based on counsel's declarations, without production of detailed time records." (*Raining Data Corp. v. Barrenechea* (2009) 175 Cal.App.4th 1363, 1375.)

Here, Myers seeks fees of $11,200 related to the appeal, plus costs of $550.70. The requested fees include $7,380 in fees to defend the appeal, plus $1,820 incurred to prepare the present fees motion, and another $2,000 in anticipated fees to review plaintiff's opposition, prepare the reply, and appear at the hearing. (Buchanan decl., ¶¶ 6-9.)

Ms. Buchanan, a shareholder with Hoge Fenton with 25 years of experience, bills at $700 per hour, but she used a discounted rate of $400 per hour for this case. (*Id*. at ¶ 7a.) She incurred 6.6 hours in connection with the appeal, plus another 0.8 hours on preparing the present fee motion. (*Ibid*.) Thus, her total fees were $2,960. (*Ibid*.)

Ms. Riparbelli billed at a discounted rate of $300 per hour compared to her standard rate of $500 per hour. (*Id*. at 7b.) She has almost ten years of experience. (*Ibid*.) She expended 15.80 hours in connection with the appeal, for a total of $4,740 in fees. (*Ibid*.)

Ms. Nystrom is an associate with about six and a half years of experience. (*Id*. at ¶ 7c.) She billed at a discounted rate of $300, which is reduced from her usual rate of $475. (*Ibid*.) She billed 5 hours on preparing the fees motion, for a total of $1,500 in fees. (*Ibid*.)

Counsel also expects to incur another $2,000 in fees to review the opposition, prepare a reply, and appear at the hearing. (*Id*. at ¶ 9.) These anticipated fees are based on another 5 hours of time. (*Ibid*.)

In his opposition, plaintiff argues that the defendants' requests for fees is excessive and unreasonable. Plaintiff contends that the fees claimed by Ms. Buchanan are based on Bay Area rates, which are excessively high. He notes that the court has already determined that lower rates should apply to Myers' attorneys, and that the court has previously taxed Myers' costs in its prior order. He contends that local rates should apply to the case, as the court previously decided. He also complains that defense counsel has billed too many hours, although he does not point to any specific instances of excessive hours.

To the extent that plaintiff objects to the hourly rates sought by Buchanan and the other attorneys at her firm, the court intends to find that the requested hourly rates are reasonable and it will use them to calculate fees. Normally, the court should apply local Fresno rates rather than higher Bay Area rates when calculating fees unless the moving party shows that they could not find a qualified local attorney to represent them. (*Horsford v. Board of Trustees of California State University* (2005) 132 Cal.App.4th 359, 399.)

Here, however, Myers' attorneys are not seeking Bay Area rates. Instead, each of the three attorneys who worked on the appeal and fees motion have billed at substantially reduced rates. For example, Ms. Buchanan billed at $400 per hour rather than her usual rate of $700 per hour, despite being a partner with about 25 years of experience. Ms. Riparbelli billed at $300 per hour rather than $500 per hour. Ms. Nystrom billed at $300 per hour rather than $475 per hour. The requested rates are thus substantially lower than Bay Area rates, and are consistent with Fresno rates. As a result, the court intends to find that the requested rates are fair and reasonable, and it will use them to calculate fees.

Next, while plaintiff complains that the attorneys have billed excessive time on the appeal and fees motion, he has not pointed to any specific examples of excessive billing. As noted above, defense counsel billed 22.4 hours on the appeal, 5 hours to prepare the fees motion, and another anticipated 5 hours of time to review the opposition, prepare a reply, and appear at the hearing. The time spent on the appeal is reasonable and the court intends to approve it. Thus, the court will approve total fees for the appeal in the amount of $7,700.

However, given the relatively simple nature of the fees motion, the court will not award ten hours of time to prepare the fees motion, respond to plaintiff's opposition, and appear at the hearing. Instead, the court intends to award fees based on 5 hours of attorney time billed at $300 per hour for the fees motion, for total fees of $1,500 in connection with the fees motion. As a result, the court intends to award total fees to Myers of $9,200.

Myers' Costs: Myers seeks total costs of $550.70, which includes filing fees of $422.70 and court-ordered transcripts of $128.00. Plaintiff objects to the request for $128.00 in transcript fees, contending that there was no need for transcripts, as the court handled the matter without any appearances or argument. However, Myers' memo of costs indicates that the transcripts were for a clerk's transcript for the appeal. (Memo of Costs, p. 3, ¶ 9.) As a clerk's transcript is required by the Court of Appeal for an appeal to be heard, the court intends to allow the requested $128.00 cost for transcripts. Therefore, the court will grant Myers' request for $550.70 in costs.

The City of Fowler's Lodestar Fees: The City of Fowler and the other individual defendants seek $8,360 in fees. As noted above, however, the City has waived its right to seek pre-appeal attorney's fees by failing to file a motion for its fees in a timely manner. Therefore, the court should will not allow the pre-appeal fees, and it intends to deduct $3,960 in fees from the total amount of fees.

With regard to the appeal and post-appeal fees, the court intends to grant the City's request for fees, but it will reduce the requested amount to a more reasonable number. The City seeks fees of $4,400 for the appeal and fees motion, including 10 hours to work on the appeal and 10 hours to work on the fees motion. (Walls decl., ¶ 5a-n.) The City's attorney, Chester Walls, bills at an hourly rate of $220. (*Ibid*.)

The court finds that Mr. Walls' requested hourly rate is fair and reasonable in light of his background, skill, and experience. Therefore, it will calculate fees based on a rate of $220 per hour.

In addition, the requested time to work on the appeal is reasonable, and the court intends to grant fees of $2,200 based on ten hours of time for the appeal. However, the City's request for 10 hours of attorney time to prepare the present fees motion is excessive and the court intends to reduce it. The court will calculate fees based on 5 hours of attorney time billed at $220 per hour, or $1,100. Thus, the court intends to award the City total fees of $3,300.

The City's Costs: The City's motion requests $889 in costs. However, the City's memo of costs indicates that it is seeking $5,359 in costs. Thus, there is a large discrepancy between the amount sought in the memo of costs and the amount of costs in the motion. It appears that the discrepancy stems from the fact that the City's memo of costs seeks $4,470 in filing fees, including first appearance fees for ten defendants, plus $120 for

bringing the special motion to strike and motion to strike punitive damages. However, the court will not allow the pre-appeal filing fees or first appearance fees, as the City did not file its memo of costs within 15 days of the date the notice of entry of judgment was served. (Cal. Rules of Court, rule 3.1700(a)(1).) Thus, the City waived its right to seek pre-appeal costs by failing to file a timely memo of costs. The court cannot grant an extension of time to allow filing of the memo of costs, as it has been more than 30 days since the deadline to file the memo expired. (Cal. Rules of Court, rule 3.1700(b)(3).) Therefore, the court will not allow any of the pre-appeal costs.

Plaintiff also objects to item 11, court reporter fees, in the amount of $800. Plaintiff contends that no depositions were taken in the case, and thus the $800 cost is not reasonably necessary to the litigation. The City has not provided any additional information about the court reporter costs in its memo of costs or its reply. The City also does not deny that no depositions or hearings were conducted in the appeal that would have required it to incur court reporter fees. Therefore, it appears that the cost was not reasonably necessary to the litigation, and the court will tax item 11 in the amount of $800. As a result, the court will allow the City to recover only $89 in costs.

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 04/20/26.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Mann v. Jaguar Land Rover North America, LLC et al.***
Superior Court Case No. 25CECG05145

Hearing Date: April 22, 2026 (Dept. 502)

Motion: Petition to Compel Arbitration

Tentative Ruling:

To continue to Wednesday, May 27, 2026, 3:30 p.m. in Department 502. Defendant Jaguar Land Rover North America, LLC is directed to file its original moving papers on or before 5:00 p.m., May 15, 2026.

Explanation:

The docket reflects that opposition and reply papers were filed in regards to the above motion. However, no moving papers were filed. The matter is continued.

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 04/20/26.
(Judge's initials) (Date)

(47)

Tentative Ruling

Re: ***Carin Hodge v. Dept. of Fish & Wildlife, State of CA***
Superior Court Case No. 25CECG02805

Hearing Date: April 22, 2026 (Dept. 502)

Motion: Defendant's Demurrer to Plaintiff's First Amended Complaint

Tentative Ruling:

To overrule the demurrer with Defendant to file their answer 10 days after the clerk's service of the minute order. The time to answer shall run from the date of service by the clerk of the minute order.

Explanation:

On June 13, 2025, plaintiff Carin Hodge ("Hodge" or "plaintiff") filed suit against the Department of Fish and Wildlife and the State of California ("the Department" or "defendant") alleging dangerous condition of public property in a form complaint. On November 19, 2025, following this Court's ruling on the Department's demurrer to the Complaint, Hodge filed her First Amended Complaint ("FAC"). The FAC alleges dangerous conditions of public property and general negligence or premises liability.

The Department now demurs to the FAC on the following three grounds: Hodge failed to plead specific facts of what the Department allegedly did with respect to the first cause of action; the Department is immune under "design immunity" pursuant to Government Code section 831.6, with respect to the entire complaint; and the Department is immune under "trail immunity" pursuant to Government Code section 831.4, with respect to the entire complaint.

The function of a demurrer is to test the sufficiency of a pleading by raising questions of law. (*Plumlee v. Poag* (1984) 150 Cal.App.3d 541, 545.) As relates to a complaint, the test is whether plaintiff has succeeded in stating a cause of action; the court does not concern itself with the issue of plaintiff's possible difficulty or inability in proving the allegations of the complaint. (*Highlanders, Inc. v. Olsan* (1978) 77 Cal.App.3d 690, 697.) In assessing the sufficiency of the complaint against demurrer, we treat the demurrer as admitting all material facts properly pleaded, bearing in mind the appellate courts' well established policy of liberality in reviewing a demurrer sustained without leave to amend, liberally construing the allegations with a view to attaining substantial justice among the parties. (*Glaire v. LaLanne-Paris Health Spa, Inc.* (1974) 12 Cal.3d 915, 918.)

Where a demurrer is based upon an affirmative defense, such as statutory immunity, the demurrer "will be sustained only where the face of the complaint discloses that the action is necessarily barred by the defense. [Citation.]" (*Casterson v. Superior Court* (2002) 101 Cal.App.4th 177, 183.)

The FAC Satisfies Pleading Requirements of the Causes of Action

The Department demurs on the first Cause of Action in Hodge's FAC, which alleges dangerous condition of public property. (Department's Moving Papers, pg. 3, lns. 10-15.) Hodge alleges in her FAC that on June 19, 2023, Hodge was injured opening the gate at the San Joaquin Fish Hatchery. (FAC, ¶29.)

Government Code section 835 provides the statutory basis for a claim of a dangerous condition on public property:

> Except as provided by statute, 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 Section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition."

Government Code section 835.2 further defines actual and constructive notice of dangerous conditions on public property, establishing when a public entity may be liable for injuries.

The Department's demurrer does not point to any elements which are missing in plaintiffs' complaint, but rather argues that Hodge's allegations "consist[] of conclusory statements which do not support a valid cause of action" (Department's Moving Papers, pg. 3, ln. 11), and that "Plaintiff fails to plead any specific facts of what Defendant allegedly did to contribute to the Subject Incident." (Department's Moving Papers, pg. 4, lns. 3-4.)

The Court disagrees. Hodge's FAC demonstrates numerous instances of factual allegations that the Department did not act when it should have, by alleging that the gate may have posed a hazard, the Department's control of the premises, the discoverability of the gate's alleged defects, the passage of time, etc. Hodge adequately demonstrates the factual allegations establishing her first cause of action. (Hodge's Opposition, pgs. 6-8.)

Therefore, the court overrules the demurrer based on the Department's argument failed to satisfy the pleading requirements.

Design Immunity

Government Code section 830.6 provides that a public entity is not liable for injury caused by the plan or design of a construction or improvement to public property where the plan or design was approved in advance of the construction or improvement by the legislative body or employee exercising discretionary authority to give such approval. (Gov. Code, § 830.6.) To establish the affirmative defense of design immunity, a public entity must establish three elements: "(1) a causal relationship between the plan or design and the accident; (2) discretionary approval of the plan or design prior to construction; and (3) substantial evidence supporting the reasonableness of the plan or design." (*Cornette v. Department of Transp.* (2001) 26 Cal.4th 63, 69.)

The California Supreme Court has held that, even if the public entity establishes all of the elements of the design immunity defense, immunity can be lost if a plaintiff establishes (1) the plan or design has become dangerous because of a change in physical conditions; (2) the public entity had actual or constructive notice of the dangerous condition created; and (3) the public entity has a reasonable time to obtain the funds and carry out the necessary remedial work to bring the property back into conformity with a reasonable design or plan. (*Cornette, supra*, 26 Cal.4th at 72.)

Defendant's moving papers focus on whether Hodge can rebut the affirmative defense of design immunity. (Pgs. 4-5; lns. 9-27, 1-15.) Unfortunately, defendant has not directed the court to any facts establishing the elements of design immunity in the FAC or in judicially noticeable sources. As the basic elements of the defense are not yet established, it is premature to theorize plaintiff cannot rebut them.

Therefore, the court overrules the demurrer based on design immunity.

Trail Immunity

Government Code section 831.4 provides immunity to public entities for injuries caused by the condition of walkways if they constitute a "trail" within the meaning of the statute. Government Code section 831.4 provides, in relevant part, as follows:

> "A public entity . . . is not liable for an injury caused by a condition of:
>
> (a) Any unpaved road which provides access to fishing, hunting, camping, hiking, riding, including animal and all types of vehicular riding, water sports, recreational or scenic areas and which is not a (1) city street or highway or (2) county, state or federal highway or (3) public street or highway of a joint highway district, boulevard district, bridge and highway district or similar district formed for the improvement or building of public streets or highways.
>
> (b) Any trail used for the above purposes.

> (c) Any paved trail, walkway, path, or sidewalk on an easement of way which has been granted to a public entity, which easement provides access to any unimproved property, so long as such public entity shall reasonably attempt to provide adequate warnings of the existence of any condition of the paved trail, walkway, path, or sidewalk which constitutes a hazard to health or safety. . . ."

Without citation to specific allegations of the complaint, defendant asks the court to rule on demurrer that where the incident took place is a trail within the meaning of Section 831.4 based on the following argument:

> Plaintiff asserts that the Subject Incident took place at San Joaquin Fish Hatchery. The San Joaquin Fish Hatchery is a public space intended for and open to recreational use. California Government Code section 831.4 grants governmental entities absolute immunity for injuries caused by a physical defect or condition of any trail described in the section. (*Nealy v. County of Orange, supra*., 54 Cal.App.5th at pg. 603). The undisputed facts of the case demonstrate the gate and trail Plaintiff was using when she suffered the accident falls within California Government Code section 831.4 and Defendant is immune.

(Moving Papers, pg. 5, lns. 17-23.)

"'Whether a property is considered a "trail" under section 831.4 turns on "a number of considerations," including (1) the accepted definitions of the property, (2) the purpose for which the property is designed and used, and (3) the purpose of the immunity statute.' [Citations.]…Although this ' "is ordinarily viewed as an issue of fact [citation], it becomes one of law if only one conclusion is possible." ' " [Citation.] (*Helm v. City of Los Angeles* (2024) 101 Cal.App.5th 1219, 1226.).

Under these circumstances, the Court agrees with Hodge that the Court has no information from which to determine whether trail immunity applies as the "court does not have before it accepted definitions of the property. Nor does the court have before it information about the purpose for which the property was designed and used. If [SIC] fact the words "trail" or "path" do not appear anywhere in plaintiff's complaint." (Hodges Opposition papers, pg. 9, lns. 18-21.)

The Department further asks the Court to infer intent and purpose of why Hodges was at the Fishery where defendant posits that "[a]t no point does Plaintiff claim that she was not there for recreational purposes nor does Plaintiff claim that the Fishery does not offer recreational activities. Defendant mentions this because it is a key consideration in determining trail immunity applies." (Defendant's Reply papers, pg. 4, lns. 7-9.)

However, the Court cannot infer intent as the purpose of a general demurrer is to determine the sufficiency of the complaint and the court should only rule on matters

disclosed in that pleading." (*Ion Equipment Corp. v. Nelson* (1980) 110 Cal.App.3d 868, 881.)

Therefore, the Court overrules the demurrer based on trail immunity. Accordingly, the Court overrules the Department's demurrer in its entirety.

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 04/20/26.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Gunland v. Four Bar C Farms, Inc., et al.***
Superior Court Case No. 25CECG03555

Hearing Date: April 22, 2026 (Dept. 502)

Motion: Demurrer to First Amended Complaint by Four Bar C Farms, Inc., 5JG Farms, Inc., and Big Red Farms; Joinder by Luci Gunland, Dana Gunland, and Jared Gunland

Demurrer to First Amended Complaint by J. Cecil Gunland, Lynette Gunland, Justin Gunland, and Ashley Ricchiuti

Tentative Ruling:

To overrule the demurrer of Four Bar C Farms, Inc., 5JG Farms, Inc., and Big Red Farms to the first, second, and sixth causes of action. (Code Civ. Proc., § 430.10, subd. (e).) To overrule the demurrer of Four Bar C Farms, Inc. to the seventh and eighth causes of action. (Code Civ. Proc., § 430.10, subd. (e).) To sustain the demurrer of Four Bar C Farms, Inc., 5JG Farms, Inc., and Big Red Farms to the third, fourth, and fifth causes of action. (Code Civ. Proc., §430.10, subd. (e).) To sustain the demurrer of 5JG Farms, Inc. and Big Red Farms to the seventh and eighth causes of action. (Code Civ. Proc., §430.10, subd. (e).) Leave to amend is granted.

To overrule the demurrer of Luci Gunland, Dana Gunland, and Jared Gunland to the first, second, sixth, and eighth causes of action. (Code Civ. Proc., § 430.10, subd. (e).) To sustain the demurrer of Luci Gunland, Dana Gunland, and Jared Gunland to the third, fourth, fifth, and seventh causes of action. (Code Civ. Proc., § 430.10, subd. (e).) Leave to amend is granted.

To overrule the demurrer of J. Cecil Gunland, Lynette Gunland, Justin Gunland, and Ashley Ricchiuti to the first, second, sixth, and eighth causes of action. (Code Civ. Proc., § 430.10, subd. (e).) To sustain the demurrer of J. Cecil Gunland, Lynette Gunland, Justin Gunland, and Ashley Ricchiuti to the third, fourth, fifth, and seventh causes of action. (Code Civ. Proc., § 430.10, subd. (e).) Leave to amend is granted.

Plaintiffs are granted 15 days' leave to file the Second Amended Complaint, which will run from service by the clerk of the minute order. New allegations must be set in **boldface** type.

Explanation:

The only issue involved in ruling on a demurrer is "whether the complaint, as it stands, unconnected with extraneous matters, states a cause of action. [Citation.]" (*Favalora v. County of Humboldt* (1976) 55 Cal.App.3d 969, 974.) In assessing the sufficiency of a demurrer, all facts pleaded in the complaint are considered true. (*Astenius v. State* (2005) 126 Cal.App.4th 472, 475.) As long as the pleading contains

particularity and precision sufficient to acquaint defendant with the nature, source and extent of the cause of action, a general demurrer will be overruled. (*County of Santa Clara v. Superior Court* (2009) 171 Cal.App.4th 119, 126.)

All defendants generally demur to each cause of action of the First Amended Complaint filed October 17, 2025 by plaintiffs Janice Gunland, as trustee of the Gunland Family Trust dated April 24, 2018, Melissa Curiel, and Denise Ruiz raising substantially similar arguments as to why no cause of action is stated. As such, the court will address the two demurrers together.

Standing to Bring the First and Second Causes of Action for Involuntary Dissolution and Appointment of a Receiver pursuant to the Corporations Code

Defendants assert the plaintiffs ownership percentage in Four Bar C Farms, Inc. ("FBCF") falls below the threshold amount of not less than 33 1/3 percent of the total outstanding shares of the corporation. (Corp. Code, §1800, subd. (a)(2).) Plaintiff's cause of action for appointment of a receiver is premised upon the plaintiffs' having filed a complaint for involuntary dissolution of FBCF. (Corp. Code, §1803.)

The FAC alleges plaintiffs cumulatively own 425.333 shares of the total 1276 outstanding shares of FBCF. (FAC, ¶¶ 5, 38.) The FAC additionally alleges that following the deaths of Carl and Elaine Gunland, each of their three children's families own one-third of the stock in FBCF and plaintiffs are one of the three families. (*Id*., ¶¶ 12-14.) The FAC acknowledges there is a disputes as to whether the plaintiffs' ownership of 425.333 shares is the equivalent of the 33 1/3 percent required to seek involuntary dissolution of the corporation and seeks declaratory relief that their shares equate to one-third ownership. (*Id*., ¶¶ 99-106.) Defendants assert that because *more than* two-thirds of the shares, or 850.667 shares, belong to all defendants cumulatively, it is not mathematically possible that plaintiffs' 425.333 shares can meet the threshold one-third ownership percentage.

The allegations that plaintiffs as the family of Carl C. Gunland, Jr., or Chris Gunland, own one-third of the stock in FBCF are taken as true on demurrer and support finding plaintiffs have standing to proceed on their cause of action for involuntary dissolution pursuant to Corporations Code section 1800 and the related cause of action for appointment of a receiver. That there may be a fractional, 0.001 share belonging to a different family that would increase plaintiffs shares to 425.334, as opposed to a division of shares where each family received 425 1/3 shares is better characterized as a factual dispute at this stage. The demurrers to the first and second causes of action are overruled.

Standing to Bring the Third, Fourth, and Fifth Causes of Action as Direct Claims

An individual stockholder may bring a direct action where the stockholder is directly and individually injured; this is so even where the corporation may also have a cause of action for the same wrong (*Sutter v. General Petroleum Corp*. (1946) 28 Cal.2d 525, 530), or where other stockholders suffered the same damage from the same wrongdoing (*Jones v. H.F. Ahmanson & Co*. (1969) 1 Cal.3d 93, 107). "Whether a cause of action is derivative or can be asserted by an individual shareholder is determined by

considering the wrong alleged." (*Sole Energy Co. v. Petrominerals Corp*. (2005) 128 Cal.App.4th 212, 228.)

A minority shareholder may bring a direct action alleging a majority stockholder's "breach of a fiduciary duty to minority stockholders…resulted in the majority stockholders retaining a disproportionate share of the corporation's ongoing value." (*Jara v. Suprema Meats, Inc*. (2004) 121 Cal.App.4th 1238, 1257-1258, internal citation and quotation marks omitted; see *Nelson v. Anderson* (1999) 72 Cal.App.4th 111, 124 [where individual stockholder's damages not incidental to injury to corporation, direct action is appropriate].) In other words, where a minority stockholder brings suit against the majority stockholders for breach of fiduciary duty affecting plaintiff specifically, rather than the corporation in general, an individual cause of action exists because the injury is not incidental to an injury to the corporation. (*Jones*, supra, 1 Cal.3d at p.107.)

In the context of a closely held corporation, courts are generally more willing to allow a direct action, as with only a small number of shareholders, harmful acts by an officer may directly impact other shareholders. (*Jara*, supra, 121 Cal.App.4th at p. 1259.) Moreover, in the context of a closely held corporation, the rationale for requiring a derivative action is absent. (*Ibid*.)

In the end, a plaintiff may bring an individual action, so long as he or she shows an individual right, i.e., that the damages alleged are not incidental to an injury to the corporation (*Bader v. Anderson* (2009) 179 Cal.App.4th 775, 793; *Schuster v. Gardner* (2005) 127 Cal.App.4th 305, 313; *PacLink* Communications Intern., Inc. v. Superior Court (2001) 90 Cal.App.4th 958, 964-965.)

The gravamen of the injuries alleged in the third cause of action for breach of fiduciary duties, fourth cause of action for intentional interference with prospective economic relations, and fifth cause of action for aiding and abetting are injuries to FBCF and will not support a direct claim by plaintiff shareholders. Plaintiffs allege defendants' have mismanaged corporate assets, misappropriated corporate funds, diverted FBCF assets to other corporate entities, and encumbered corporate assets to the detriment of FBCF stock value. This devaluation of FBCF stock is not unique to plaintiffs' stock. The conclusory allegations that plaintiffs were denied distributions may give rise to a direct cause of action. However, as pled, there are no claims stated that are not properly brought as derivative claims by plaintiff shareholders on behalf of the corporation.

Corporations Code section 800 sets out two prerequisites for a shareholder to bring an action on behalf of the corporation: (1) The plaintiff must allege he or she is a shareholder and (2) that plaintiff alleged with sufficient particularity his or her efforts to secure action from the board or reasons for not making that effort and that he or she has informed the board in writing of the ultimate facts of each cause of action or delivered a copy of the complaint. A shareholder's demand on the corporation's board for action, as required for standing for a shareholder derivative action, will be excused only when the plaintiff sufficiently alleges the demand would have been futile. (*Patrick v. Alacer Corp.* (2008) 167 Cal.App.4th 995, modified on denial of rehearing, review denied, on subsequent appeal 201 Cal.App.4th 1326.) To evaluate demand futility claim in shareholder derivative action, court must be apprised of facts specific to each director

from which it can conclude that that particular director could or could not be expected to fairly evaluate claims of shareholder. (*Shields v. Singleton* (1993) 15 Cal.App.4th 1611.)

In the case at bench, plaintiff allege they are shareholders but there are no allegations of a demand for corporate action on their causes of action or allegations that such a demand would have been futile. As a result, there are also no derivative causes of action properly alleged by plaintiffs.

The demurrers to the third, fourth and fifth causes of action are sustained with leave to amend.

Sixth Cause of Action for Inspection of Records Pursuant to Corporations Code §§1600-1602

Plaintiffs allege entitlement to inspect FBCF corporate records pursuant to Corporations Code sections 1600 through 1602. The cause of action is alleged against FBCF alone. Although all defendants include this cause of action within the demurrer no argument or authority is offered to explain why no cause of action is stated. The FAC sufficiently alleges plaintiffs' standing as shareholders to demand to inspect the corporation's books and records and defendant's refusal. The demurrer is overruled.

Seventh and Eighth Causes of Action

Plaintiffs bring their seventh cause of action for accounting against all defendants, corporate and individual, without alleging standing so make such a demand. The demurrer is sustained as to all defendants with the exception of FBCF against which plaintiffs as shareholders have standing to seek equitable accounting.

Defendants similarly demur to the eighth cause of action for declaratory relief as to plaintiffs' shareholder percentage on the basis that no controversy is stated against 5JG, Inc. and Big Red Farm. The court agrees that there is no factual basis alleged to find that the alleged controversy is between plaintiffs and these corporate defendants. The demurrer of 5JG Farms, Inc. and Big Red Farms is sustained with 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 04/21/26.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Swan v. Stoll***
Superior Court Case No. 23CECG00336

Hearing Date: April 22, 2026 (Dept. 502)

Motion: By Defendant Fredy Tshibanda to Quash Deposition Subpoena

Tentative Ruling:

To deny.

Explanation:

Defendant seeks to quash a subpoena for personal banking information and business records under Code of Civil Procedure sections 1985.3, 1987.1, 1987.2, and 2025.410. Defendant's motion fails to identify which subpoena is at issue or to submit any declarations or evidence regarding the subpoena. Therefore, the motion lacks evidentiary support and is vague with regard to which subpoena defendant seeks to quash. As a result, the motion does not comply with California Rules of Court, rule 8.54(a)(2), which states that "[a] motion must be accompanied by a memorandum and, if it is based on matters outside the record, by declarations or other supporting evidence."

Plaintiff seeks monetary sanctions for having to respond to a frivolous motion pursuant to Code of Civil Procedure sections 128.5 and 2023.010. Here, plaintiff is unrepresented and thus did not incur attorney's fees in opposing this motion. Additionally, it is unclear how plaintiff would have incurred expenses in relation to this opposition. The court denies the request for monetary sanctions.

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 04/21/26 (Date).

(49)

Tentative Ruling

Re: ***Rodriguez v. Sanchez***
Superior Court Case No. 23CECG02669

Hearing Date: April 22, 2026 (Dept. 502)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To grant. Orders signed. No appearances are necessary.

To set a status conference for Wednesday, July 22, 2026, at 3:30 p.m., in Department 502, for confirmation of deposit of the minor's funds into a blocked account. If an Acknowledgment of Receipt of Order and Funds for Deposit in Blocked Account (MC-356) is filed at least five court days before the hearing, the status conference will come off calendar.

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 04/21/26.
(Judge's initials) (Date)