

Tentative Rulings for July 7, 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.

25CECG00799	<i>Benito Perez Mundo v. Lion Farms L.L.C.</i> is continued to Tuesday, August 11, 2026, at 3:30 p.m. in Department 502.
25CECG01871	<i>Perla Lopez v. Selma Auto Mall, Inc.</i> is continued to Tuesday, August 18, 2026, at 3:30 p.m. in Department 502.
25CECG04862	<i>Steven Quesada v. Bob Sayathy</i> is continued to Tuesday, August 11, 2026, at 3:30 p.m. in Department 502.

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(03)

Tentative Ruling

Re: ***Williams v. Afarian***
Case No. 24CECG04901

Hearing Date: July 7, 2026 (Dept. 502)

Motion: Defendants Dr. Afarian, et al.'s Motion for Terminating Sanctions

Defendant Hope Medical Transport's Motion for Summary Judgment, or in the Alternative, Summary Adjudication

Tentative Ruling:

To grant Dr. Afarian, Dr. Coelho, Dr. Fujimoto, Dr. Gargari, Dr. Hashemzadeh, and Dr. Heger's motion for terminating sanctions dismissing plaintiffs' complaint against them with prejudice. To deny the motion for additional money sanctions. (Code Civ. Proc. §§ 2030.010, subd. (g); 2030.290, subd. (c); 2031.300, subd. (c).)

To grant defendant Hope Medical Transport's motion for summary judgment as to the entire complaint. (Code Civ. Proc., § 437c.) Defendant shall submit a proposed judgment consistent with this order within ten days of the date of service of this order.

Explanation:

Motion for Terminating Sanctions: Code of Civil Procedure section 2023.010(g) makes "[d]isobeying a court order to provide discovery" a "misuse of the discovery process," but sanctions are only authorized to the extent permitted by each discovery procedure. Once a motion to compel answers is granted, continued failure to respond or inadequate answers may result in more severe sanctions, including evidence, issue or terminating sanctions, or further monetary sanctions. (Code Civ. Proc. §§ 2030.290, subd. (c); 2031.300, subd. (c).)

Appellate courts have generally held that, before imposing a terminating sanction, trial courts should usually grant lesser sanctions first. "The discovery statutes thus 'evinced an incremental approach to discovery sanctions, *starting* with monetary sanctions and *ending* with the ultimate sanction of termination.' Although in extreme cases a court has the authority to order a terminating sanction as a first measure, a terminating sanction should generally not be imposed until the court has attempted less severe alternatives and found them to be unsuccessful and/or the record clearly shows lesser sanctions would be ineffective." (*Lopez v. Watchtower Bible & Tract Society of New York, Inc.* (2016) 246 Cal.App.4th 566, 604–605, citations omitted, italics in original.)

However, "[t]he unsuccessful imposition of a lesser sanction is not an absolute prerequisite to the utilization of the ultimate sanction authorized by subdivision (d) of section 2034.' Indeed, there is no question of the power of the court to apply the ultimate sanction of default against a litigant who persists in an outright refusal to comply with his

discovery obligations. [¶] Before any sanctions may be imposed under section 2034, subdivision (d), there must be an express *finding* that there has been a willful failure of the party or the attorney to serve the required answers." (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 787, citations omitted, italics in original.)

In determining whether to impose a terminating sanction, the trial court should consider "the totality of the circumstances: conduct of the party to determine if the actions were willful; the detriment to the propounding party; and the number of formal and informal attempts to obtain the discovery." (*Lang v. Hochman* (2000) 77 Cal.App.4th 1225, 1246.)

Also, the fact that the parties are unrepresented does not mean that they are entitled to special treatment or that they are not required to follow the rules. "When a litigant is appearing in *propria persona*, he is entitled to the same, but no greater, consideration than other litigants and attorneys. Further, the in *propria persona* litigant is held to the same restrictive rules of procedure as an attorney." (*Nelson v. Gaunt* (1981) 125 Cal.App.3d 623, 638-639.)

Here, plaintiffs have failed to respond to the discovery requests served on them by defendants for over a year. They have obtained multiple extensions of time to respond, but still failed to serve responses. Even after the court ordered them to provide responses and imposed sanctions against them for their failure to answer, they still failed to serve any responses. They also failed to pay any of the monetary sanctions imposed on them.

Therefore, it appears that plaintiffs have abandoned their case and that they are willfully refusing to answer discovery. It also appears that money sanctions will not be effective to persuade plaintiffs to answer, nor will any other lesser sanctions be effective in obtaining their compliance. Defendants will be prejudiced if they are forced to defend themselves without being able to obtain any information from plaintiffs about their claims. As a result, the court intends to grant the doctor defendants' request for an order granting terminating sanctions dismissing plaintiffs' complaint against them with prejudice.

On the other hand, the court intends to deny the doctors' request for additional monetary sanctions, as imposing further money sanctions would be unduly punitive and would not be likely to persuade plaintiffs to answer the discovery requests. The notice of motion also fails to state that defendants are seeking further money sanctions, so it would be unfair to impose money sanctions without proper notice. Therefore, the court intends to deny the request for money sanctions.

Motion for Summary Judgment: Defendant Hope Medical Transport has met its burden of showing that plaintiffs cannot prevail on their claims for medical negligence, negligent hiring, training, and retention, and wrongful death. With regard to the first cause of action, "'The elements of a cause of action for medical malpractice are: (1) a duty to use such skill, prudence, and diligence as other members of the profession commonly possess and exercise; (2) a breach of the duty; (3) a proximate causal connection between the negligent conduct and the injury; and (4) resulting loss or damage.'" (*Lattimore v. Dickey* (2015) 239 Cal.App.4th 959, 968, citations and footnote omitted.)

Here, plaintiffs have alleged that Hope was negligent because its employee, Victor Rubio, drove plaintiffs' decedent home to his apartment but failed to provide him with medical care after he collapsed. (Defendant's UMF Nos. 1-5.) However, Hope has presented evidence showing that Mr. Rubio was not a licensed medical provider. (UMF No. 10, decl. of Victor Rubio, ¶ 4.) Mr. Rubio did not provide any medical care or services to decedent. (UMF No. 11, Rubio decl., ¶ 4.) When decedent collapsed, Rubio did not attempt to render care to decedent and instead called 911, at which time emergency responders came out to assist him. (Rubio decl., ¶ 4.)

Thus, defendant has shown that Rubio could not have committed medical negligence, as he was not a medical provider and he did not provide any medical care or treatment to decedent. Since Rubio was not a medical provider or emergency responder, he had no duty to provide medical care to the decedent and his failure to render medical care was not a breach of any duty. He did call 911 to obtain help for decedent, but he was not required to do anything more. In fact, it might arguably have been negligent for him to attempt to provide medical care because he was not trained to provide such care. By extension, Hope also is not vicariously liable for its employee's alleged failure to provide medical assistance to plaintiffs' decedent.

Also, even if plaintiffs had alleged a claim for ordinary negligence rather than medical negligence against Hope, the cause of action would still fail, as the undisputed facts show that Rubio did not do anything to breach the standard of care or cause decedent's injuries and eventual death. Again, Rubio was not a licensed or trained medical provider or first responder, so he had no duty to render care to decedent. To the extent that he had any duty of care, he met that duty by calling 911 so that trained first responders could provide care for decedent and transport him to the hospital. Thus, the undisputed facts show that Rubio did not breach any duty he owed to decedent, and he did not cause decedent's injuries or death. Since Rubio was not negligent, plaintiffs cannot prevail on their negligence claim against Rubio's employer, Hope Medical Transport, either. As a result, the court intends to grant Hope's motion for summary adjudication of the first cause of action.¹

The second cause of action for negligent hiring, supervision, and retention also fails as a matter of law. "If, as here, a plaintiff asserts both theories [for vicarious employer liability and negligent entrustment, supervision, and retention], and the employer admits vicarious liability for any negligent driving by its employee, can the plaintiff still pursue the negligent entrustment claim? The answer is 'no'." (*Diaz v. Carcamo* (2011) 51 Cal.4th 1148, 1152.) "If, as here, an employer offers to admit vicarious liability for its employee's negligent driving, then claims against the employer based on theories of negligent entrustment, hiring, or retention become superfluous. To allow such claims in that situation would subject the employer to a share of fault *in addition to* the share of fault assigned to the employee, for which the employer has already accepted liability. To assign to the employer a share of fault greater than that assigned to the employee whose negligent driving was a cause of the accident would be an inequitable apportionment of loss." (*Id.* at p. 1160.)

¹ Defendant has also argued that the first cause of action is barred by the statute of limitations. The court does not have to reach this argument, as the evidence shows that Hope did not breach any duty owed to plaintiffs' decedent or cause his injuries and death.

Finally, defendant has met its burden of showing that plaintiffs cannot prevail on their third cause of action for wrongful death as to Hope because they cannot show that Hope's employee did anything to breach the standard of care or cause decedent's injuries and death. "The elements of the cause of action for wrongful death are the tort (negligence or other wrongful act), the resulting death, and the damages, consisting of the pecuniary loss suffered by the heirs." (*Lattimore v. Dickey*, *supra*, at p. 968, citation, quotes, and italics omitted.)

Plaintiffs have not filed opposition or presented any evidence that would raise a triable issue of material fact with regard to any of their claims against Hope. Consequently, the court intends to grant summary judgment in favor of Hope as to the entire complaint.

Tentative Ruling

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Tentative Ruling

Re: **Gamez v. Ibarra**
Superior Court Case No. 26CU00495

Hearing Date: July 7, 2026 (Dept. 502)

Motion: Expedited Petition to Approve Compromise of Minor's Claim

Tentative Ruling:

To grant the amended petition. The court intends to sign the proposed amended orders. No appearances are necessary.

The court sets a status conference for Wednesday, October 21, 2026 at 3:30 p.m., in Department 503, for confirmation of deposit of the minor's funds into a blocked account. If Petitioner files the Acknowledgment of Receipt of Order and Funds for Deposit in Blocked Account (MC-356) 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: Img on 7-6-26.
(Judge's initials) (Date)