Tentative Rulings for November 18, 2025
Department 501

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.***

23CECG04957 ***Asher Gonzalez v. City of Fresno*** **(Dept. 501 at 2:30 p.m.)**

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

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

Begin at the next page

(46)

Tentative Ruling

Re: ***Vera Lovalvo v. Saint Agnes Medical Center***
Superior Court Case No. 24CECG04198

Hearing Date: November 18, 2025 (Dept. 501)

Motion: by Defendant Ashenafi A. Legesse, M.D. for Summary Judgment

Tentative Ruling:

To grant. (Code Civ. Proc., § 437c, subd. (c).) Moving party is directed to submit to this court, within 5 days of service of the minute order, a proposed judgment consistent with the court's summary judgment order.

If oral argument is timely requested, such argument will be entertained at 2:30 p.m., rather than 3:30 p.m.

Explanation:

Where the moving party produces competent expert opinion declarations showing that there is no triable issue of fact on an essential element of the opposing party's claim (e.g. that a medical defendant's treatment fell within the applicable standard of care), the opposing party's burden is to produce competent expert opinion declarations to the contrary. (*Ochoa v. Pacific Gas & Elec. Co.* (1998) 61 Cal.App.4th 1480, 1487.)

Defendant Ashenafi A. Legesse, M.D. ("defendant" or "Dr. Legesse") supports his Motion for Summary Judgment with a declaration by David Reitman, M.D. ("Dr. Reitman"), who has been a hospitalist for over 20 years and has extensive experience in the care of patients similar to plaintiff Vera Lovalvo. (Reitman Decl., ¶¶ 1-2, Exh. C.) Dr. Reitman is familiar with the degree of learning and skill ordinarily possessed by hospitalists who practice in the same or similar locale as Dr. Legesse under similar circumstances as those presented in this case. (*Id*., ¶ 2.) Dr. Reitman reviewed the pertinent medical records and the complaint filed in this action, and relied on his education, training, and experience in order to formulate his opinion. (*Id*., ¶ 3.) Copies of the medical records were provided with the Declaration of Dr. Reitman, certified by Kaelah Lee Moua, the ROI Specialist for St. Agnes Medical Center. (See Reitman Decl., ¶ 3(b), Exh. B.)

After review of the records, Dr. Reitman opined that Dr. Legesse complied with the standard of care at all times with respect to the care and treatment of plaintiff Vera Lovalvo. (Reitman Decl., ¶¶ 5, 7.) Dr. Reitman's expert opinion is sufficient to shift the burden to the plaintiffs to show the existence of a triable issue of fact. Plaintiffs have filed a non-opposition to this motion whereby they explicitly do not oppose defendant's Motion for Summary Judgment. Therefore, the court intends to grant the motion.

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: DTT on 11/13/2025.
(Judge's initials) (Date)

(20)

Tentative Ruling

Re:	***Wheeler v. Spane et al.*** Superior Court Case No. 25CECG02378
Hearing Date:	November 18, 2025 (Dept. 501)
Motion:	Defendants Mike MacNeill and Holly MacNeill's Demurrer and Motion to Strike re Amendment to First Amended Complaint Defendant Jeffrey Kertson's Demurrer and Anti-SLAPP Motion

Tentative Ruling:

To take the MacNeills' demurrer off calendar due to failure to file the demurrer. To take their motion to strike off calendar for failure to meet and confer as required by Code of Civil Procedure section 435.5.

To take Jeffrey Kertson's demurrer off calendar for failure to meet and confer as required by Code of Civil Procedure section 430.41. To deny Kertson's anti-SLAPP motion as untimely. (Code Civ. Proc., § 425.16, subd. (i).)

If oral argument is timely requested, such argument will be entertained at 2:30 p.m., rather than 3:30 p.m.

Explanation:

MacNeills' Motions

A party moving to strike a complaint is required to meet and confer, *in person, by telephone, or by video conference* prior to filing the motion, and file and serve with the motion a declaration detailing the meet and confer efforts. (Code Civ. Proc., § 435.5, subd. (a).) Counsel for the MacNeills' implies that he met and conferred telephonically regarding the motion to strike. But the email Mr. Cuttone sent to opposing counsel memorializing a telephone call only says they discussed the demurrer and motion to expunge. (See Cuttone Decl., Exh. 2.) Opposing counsel confirms that there was no telephonic meet and confer regarding the motion to strike. (See Christofferson Decl., ¶ 5.) In light of the misleading nature of Mr. Cuttone's declaration, and failure to confer in a required manner, the motion to strike is off calendar for failure to meet and confer as required by section 435.5.

The demurrer is also taken off calendar due to procedural mishaps by both sides. First, the demurrer (and motion to strike) attack the "Amended First Amended Complaint" ("AFAC"). This document, however, has never been filed with the court. The operative pleading on file is the First Amended Complaint ("FAC").

If the AFAC had been filed, the court would strike it because no leave of court was granted. A complaint can only be amended once without leave of court. (Code Civ.

Proc., § 472; see *Woo v. Superior Court* (1999) 75 Cal.App.4th 169, 175.) To the extent plaintiffs intended to follow the Code of Civil Procedure section 471.5 procedure, they were required to follow California Rules of Court, rule 3.1324. Leave of court is still required. (See Weil & Brown, *Cal. Practice Guide: Civ. Proc. Before Trial* (TRG 2025) ¶ 6:622.)

Most importantly, the demurrer is also taken off calendar because the MacNeills never filed the demurrer. The only document filed in connection with the demurrer is a request for judicial notice.

Kertson's Motions

As with a motion to strike, a demurring defendant must meet and confer in person, by telephone, or by video conference prior to filing the demurrer. (Code Civ. Proc., § 430.41, subd. (a).) Sending a letter or email does not suffice. There apparently was no effort to discuss the demurrer in person, by telephone, or by video conference. (See Wilkinson Decl.)

Kertson also moves to strike the FAC or AFAC pursuant to Code of Civil Procedure section 425.16. An Anti-SLAPP motion "may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper." (Code Civ. Proc., § 425.16, subd. (f).) The initial Complaint was served on Kertson by personal service on 5/30/2025. Plaintiffs then filed and mail served the FAC on 7/11/2025. The anti-SLAPP motion was filed on 9/23/2025. Adding 5 days for mail service of the FAC, the deadline (if based on service of the FAC) would have been 9/14/2025. Though this is past the deadline, the deadline should run from service of the original Complaint, as the FAC made no changes to the allegations or claims against Kertson. The filing deadline was therefore 7/29/2025. The motion was filed almost two months late. The motion is denied as untimely, as Kertson never sought extension of the deadline from the court.

All sides to these motions have been extremely sloppy with their filings and compliance with the Code of Civil Procedure, and need to pay better attention to their activities in this litigation.

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: DTT on 11/14/2026 .
(Judge's initials) (Date)

(36)

Tentative Ruling

Re:	***Davis, et al. v. Hyundai Motor America, et al.*** Superior Court Case No. 23CECG04428
Hearing Date:	November 18, 2025 (Dept. 501)
Motion:	to Quash Service of Doe Amendment or, in the Alternative, to Dismiss

Tentative Ruling:

To deny the motion to quash and alternative motion to dismiss. (Code Civ. Proc., § 474.)

If oral argument is timely requested, such argument will be entertained at 2:30 p.m., rather than 3:30 p.m.

Explanation:

On August 1, 2025, plaintiffs filed a Notice of Identification substituting defendant Hyundai Motor Manufacturing Alabama, LLC ("HMMA") as Doe Defendant 1. HMMA moves to quash the service of summons on it, arguing that the Doe amendment under Code of Civil Procedure section 474 was improper because plaintiffs were not ignorant to HMMA's identity at the time they filed the Complaint, plaintiffs have unreasonably delayed in filing the amendment, and HMMA is prejudiced by the amendment due to unreasonable delay. Alternatively, HMMA moves to dismiss the operative Complaint as to it.

Motion to Quash

Legal Standard to Invoke Code of Civil Procedure section 474

Code of Civil Procedure section 474 provides, in pertinent part, as follows: "When the plaintiff is ignorant of the name of a defendant, he must state that fact in the complaint ... and such defendant may be designated in any pleading or proceeding by any name, and when his true name is discovered, the pleading or proceeding must be amended accordingly. . . ."

"The general rule is that an amended complaint that adds a new defendant does not relate back to the date of filing the original complaint and the statute of limitations is applied as of the date the amended complaint is filed, not the date the original complaint is filed. [Citations.] A recognized exception to the general rule is the substitution under [Code of Civil Procedure,] section 474 of a new defendant for a fictitious Doe defendant named in the original complaint as to whom a cause of action was stated in the original complaint. [Citations.] If the requirements of section 474 are satisfied, the amended complaint substituting a new defendant for a fictitious Doe

defendant filed after the statute of limitations has expired is deemed filed as of the date the original complaint was filed. [Citation.]" (*Woo v. Superior Court* (1999) 75 Cal.App.4th 169, 176 ("*Woo*"), citations omitted.) "Among the requirements for application of the section 474 relation-back doctrine is that the new defendant in an amended complaint be substituted for an existing fictitious Doe defendant named in the original complaint." (*Ibid*.)

"A further and non-procedural requirement for application of the section 474 relation-back doctrine is that [the plaintiff] must have been genuinely ignorant of [the defendant's] identity at the time she filed her original complaint." (*Woo, supra,* 75 Cal.App.4th at p. 177.) " '[T]he relevant inquiry when the plaintiff seeks to substitute a real defendant for one sued fictitiously is what facts the plaintiff actually knew at the time the original complaint was filed.' " [Citation.] 'It is when [plaintiff] is actually ignorant of a certain fact, not when [plaintiff] might by the use of reasonable diligence have discovered it. Whether [plaintiff's] ignorance is from misfortune or negligence, [plaintiff] is alike ignorant, and this is all the statute requires.' [Citation.]" (*Fuller v. Tucker* (2000) 84 Cal.App.4th 1163, 1170 ("*Fuller*"), citations omitted.) " 'The fact that the plaintiff had the means to obtain knowledge is irrelevant. [Citation.]' [Citation.] " (*Ibid*., citations omitted.)

"The phrase 'ignorant of the name of a defendant' is broadly interpreted to mean not only ignorant of the defendant's identity, but also ignorant of the facts giving rise to a cause of action against that defendant." (*Fuller, supra,* 84 Cal.App.4th at p. 1170.) However, the statute applies when the plaintiff is genuinely ignorant of either the defendant's identity or the facts implicating that defendant. (*Ibid*.)[1]

Here, plaintiffs assert that they were genuinely ignorant of HMMA's identity at the time they filed the original Complaint in this case. Plaintiffs indicate that they did not become aware that HMMA was the manufacturer of the subject vehicle until they receiving discovery responses from other parties on April 3, 2025. (King Decl., ¶¶ 6, 15-18.)

On the other hand, HMMA argues that plaintiffs had knowledge of HMMA's identity as early as November 26, 2021, when plaintiffs took possession of the subject vehicle. HMMA explains that all motor vehicles include a label that specifically identifies the manufacturer. HMMA proposes that plaintiffs' experts should have seen such a label on the subject vehicle and learned that HMMA manufactured the subject vehicle sometime between 2021 and 2023, but no later than May 2024, when their counsel and experts inspected the subject vehicle.

HMMA urges the court to conclude that plaintiffs knew of its identity simply because plaintiffs had possession of the subject vehicle. HMMA's assertions boil down to nothing more than mere speculations that the subject vehicle contained a label specifying the manufacturer, and that plaintiffs' experts and counsel saw that label and concluded that HMMA was the manufacturer. There is no *evidence* to establish that these events did in fact occur. And even if this were the case, HMMA fails to show that

[1] Although HMMA argues that the facts in *Woo* and *Fuller* are distinguishable from those in the instant case, these cases are cited herein to illustrate the legal standard in determining whether a plaintiff properly invoked Code of Civil Procedure section 474. Moreover, even HMMA relies on *Woo* in both its moving papers and reply.

plaintiffs were not genuinely ignorant of its *identity at the time the Complaint in this case was filed*, as HMMA cannot ascertain when exactly plaintiffs purportedly would have learned of this information.

Next, HMMA relies upon *Woo v. Superior Court*, *supra,* 75 Cal.App.4th 169 and *Schroeter v. Lowers* (1968) 260 Cal.App.2d 695 ("*Schroeter*"), to argue that genuine ignorance under Code of Civil Procedure section 474 does not extend to circumstances where the plaintiff has immediate access to key facts identifying the defendant to the claim.

First, *Woo* does not stand for this proposition. The court in *Woo* held that "an obligation to refresh their memory with readily available information" applies to plaintiffs who, at one point prior to the filing of the complaint, knew of the defendant's identity. (*Id*., at p. 180.) "[W]hen the plaintiff had actual knowledge of the defendant's identity prior to filing a complaint, but has forgotten the defendant's identity at the time of filing the complaint, the plaintiff must review readily available information that discloses the defendant's identity to invoke the [Code of Civil Procedure,] section 474 relation-back doctrine. . ." (*Ibid*.) It is further noted that *Woo* reaffirms that plaintiffs are under no duty of inquiry when adding a defendant under Code of Civil Procedure section 474 due to genuine ignorance as follows: "A requirement of reviewing readily available information is not a significant burden, is not inconsistent with the cases that impose no duty of inquiry on plaintiffs who never knew the defendant's identity, and assures the good faith of plaintiffs who seek to use the section 474 relation-back doctrine." (*Ibid*.)

Since there is no assertion that plaintiffs were aware of HMMA's identity and then forgot it, the obligation to refresh their memory with readily available information is inapplicable to plaintiffs.

Second, the pertinent language that HMMA relies upon in *Schroeter* is as follows: "[the] lack of knowledge of the true name of a defendant must be real and not feigned, and must not be wilful ignorance, or such as might be removed by some inquiry or resort to information easily accessible." (*Id.,* at p. 700.) However, "[t]his is not only dicta, since the plaintiff in *Schroeter* was not ignorant of a defendant's name, but it incorrectly states the law. In fact, our Supreme Court has expressly concluded that [Code of Civil Procedure,] section 474 imposes no duty of inquiry. In *Irving v. Carpentier* [(1886) 70 Cal. 23], the court explained, "whether [the plaintiff's] ignorance is from misfortune or negligence, he is alike ignorant, and this is all the statute requires. [Citations.] "In light of this controlling Supreme Court authority we decline to follow *Schroeter*." (*Balon v. Drost* (1993) 20 Cal.App.4th 483, 488 ("*Balon*") citing *Irving v. Carpentier, supra,* 70 Cal. 23.) Just like the court in *Balon*, this court also declines to follow *Schroeter*.

Unreasonable Delay and Prejudice

Since there is no evidence that plaintiffs did not become aware of HMMA's identity until April 2025, and the Doe amendment was filed and served in August 2025, the court does not find three months to constitute unreasonable delay and there is no need to address the parties' arguments on prejudice.

Accordingly, the motion to quash the doe amendment is denied.

Motion to Dismiss

Alternatively, HMMA moves to dismiss the action against it on the ground that the claims are barred by the applicable statute of limitations.

HMMA indicates that the applicable limitations here is two years. (Code Civ. Proc., § 335.1.) "Under [Code of Civil Procedure,] section 474, '[a] plaintiff ignorant of the identity of a party responsible for damages may name that person in a fictitious capacity, a Doe defendant, and that time limit prescribed by the applicable statute of limitations is extended as to the unknown defendant. A plaintiff has three years . . . after the commencement of the action to discover the identity of the unknown defendant and effect service of the complaint. [Citation.] When the complaint is amended to substitute the true name of the defendant for the fictional name, the defendant is regarded as a party from the commencement of the suit." (*Balon v. Drost* (1993) 20 Cal.App.4th 483, 487.)

Here, the incident in this matter occurred on October 25, 2021. HMMA concedes that plaintiffs timely filed their initial Complaint on October 19, 2023. Since plaintiffs amended the operative Complaint to substitute HMMA as a Doe defendant on August 1, 2025, within three years of the commencement of the action, HMMA is regarded as a party from the commencement of the action. Accordingly, the motion to dismiss is denied.

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: DTT (Judge's initials) on 11/14/2025 (Date).

(29)

Tentative Ruling

Re: ***Amador v Velasco***
Superior Court Case No. 24CECG1270

Hearing Date: November 18, 2025 (Dept. 501)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To deny without prejudice. Petitioner must file an amended petition, with appropriate supporting papers and proposed orders.

If oral argument is timely requested, such argument will be entertained at 2:30 p.m., rather than 3:30 p.m.

Explanation:

Petitioner does not provide adequate information for the court to make a determination. First, an application for a guardian ad litem was submitted and granted, establishing Juan Bautista De Jesus Serrano as claimant's guardian ad litem. The Petition, however, is submitted by plaintiff Amador. Also, no explanation is provided for the very low settlement amount, nor on what basis it is awarded. Though there are multiple plaintiffs, the Petition represents that only claimant's claim is being settled. Last, items 6, 7 and 8 have been left blank.

Due to the issues set forth above, the Petition is denied without prejudice.

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: DTT on 11/14/2025.
(Judge's initials) (Date)