Tentative Rulings for November 19, 2025
Department 503

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.***

25CECG02230 ***Vasquez v. Branco Cattle LLC et al.*** **(will be heard in Dept. 403)**

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

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(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

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(34)

Tentative Ruling

Re: ***Sun v. Bezwada, M.D., et al.***
Superior Court Case No. 24CECG00363

Hearing Date: November 19, 2025 (Dept. 503)

Motion: by Defendant Derek Taggard, M.D. for Summary Judgment

If oral argument is timely requested, it will be entertained on Wednesday, December 3, 2025, at 3:30 p.m. in Department 503.

Tentative Ruling:

To deny.

Explanation:

Defendant Derek Taggard, M.D. moves for summary judgment of the complaint filed by plaintiffs Lihua Chu Sun and Olivia Sun alleging causes of action for Medical Malpractice (Wrongful Death), Medical Malpractice as a Survival Action, Lack of Informed Consent and Loss of Consortium related to the medical care provided to decedent Guoyu Sun between October 30, 2022 and November 1, 2022.

As the moving party, defendant bears the initial burden of proof to show that plaintiffs cannot establish one or more elements of their cause of action or to show that there is a complete defense. (Code Civ. Proc., § 437c, subd. (p)(2).) Only after the moving party has carried this burden of proof does the burden of proof shift to the other party to show that a triable issue of one or more material facts exists – and this must be shown via specific facts and not mere allegations. (*Id.*)

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. (Edmon & Karnow, *Cal. Practice Guide: Civil Procedure Before Trial* (The Rutter Group 2025) ¶ 10:205.5, citing *Ochoa v. Pacific Gas & Elec. Co.* (1998) 61 Cal.App.4th 1480, 1487.)

Considering the liberal construction allowed to the party opposing a summary judgment motion, "a reasoned explanation required in an expert declaration filed in opposition to a summary judgment motion need not be as detailed or extensive as that required in expert testimony presented in support of a summary judgment motion or at trial." (*Garrett v. Howmedica Osteonics Corporation* (2013) 214 Cal.App.4th 173, 189.) Ultimately, where the party moving for summary judgment rests on expert opinion, the opposing party can only defeat the motion by presenting "conflicting expert evidence." (*Hanson v. Goode* (1999) 76 Cal.App.4th 601, 606-607.)

Additionally, the court does not weigh competing expert testimony. (*Mann v. Cracchiolo* (1985) 38 Cal.3d 18, 39, overruled on other grounds by *Perry v. Bakewell Hawthorne, LLC* (2017) 2 Cal.5th 536, 543.) Essentially, "the court cannot disregard [an expert] opinion solely because other, more qualified experts opine to the contrary." (Edmon & Karnow, *Civil Procedure Before Trial*, *supra*, 10:272, citing *Mann*, *supra*, 38 Cal.3d at 39.) However, the qualification of an expert to provide their opinion is a matter addressed to the sound discretion of the court. (Mann, supra, 38 Cal.3d at 39.)

Medical Malpractice

> 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.

(*Johnson v. Superior Court* (2006) 143 Cal.App.4th 297, 305 citing *Hanson v. Grode* (1999) 76 Cal.App.4th 601, 606.)

In the case at bench, plaintiffs' Second Amended Complaint alleges four causes of action against all defendants, (1) medical malpractice as a wrongful death action, (2) medical malpractice as a survival action, (3) lack of informed consent, and (4) loss of consortium. With respect to the separate cause of action alleging "lack of informed consent," such claims are based on allegations that defendant's negligently failed to have a professional medical interpreter for decedent which therefore failed to meet the standard of care. (SAC, ¶ 59.) Defendant Taggard argues the cause of action is duplicative of the medical malpractice causes of action as all are forms of professional negligence. (*Cobbs v. Grant* (1972) 8. Cal.3d 229, 240-241; *Arato v. Avedon* (1993) 5 Cal.4th 1172, 1186; *Borman v. Brown* (2021) 49 Cal.App.5th 1048, 1050, fn. 3.)

Normally, the question of whether a medical professional's care and treatment of a patient fell within the standard of care or caused the plaintiff's injuries is a matter that can only be established through expert testimony. (*Landeros v. Flood* (1976) 17 Cal.3d 399, 410.) "California courts have incorporated the expert evidence requirement into their standard for summary judgment in medical malpractice cases. When a defendant moves for summary judgment and supports his motion with expert declarations that his conduct fell within the community standard of care, he is entitled to summary judgment unless the plaintiff comes forward with conflicting expert evidence." (*Hutchinson v. United States* (9th Cir. 1988) 838 F.2d 390, 392.)

Similarly, expert testimony is necessary to establish the essential element of causation in medical malpractice cases. "As discussed above, one of the essential elements of a cause of action for medical malpractice is 'a proximate causal connection between the negligent conduct and the injury.' 'The law is well settled that in a personal injury action causation must be proven within a reasonable medical probability based upon competent expert testimony. Mere possibility alone is insufficient to establish a prima facie case.'" (*Lattimore v. Dickey* (2015) 239 Cal.App.4th 959, 970, internal citations omitted.)

Defendant Derek Taggard, M.D. relies on the declaration of Lawrence M. Schuer, M.D., a board certified neurosurgeon with extensive experience. Dr. Schuer relied upon the decedent's medical records to opine that Dr. Taggard met the standard of care in the treatment of Mr. Sun and that nothing Dr. Taggard did or did not do caused Mr. Sun's death. (Schuer Decl., ¶¶ 52-57.) Dr. Schuer specified that whether Mr. Sun's Glasgow Coma Scale score was 3 or 4, Dr. Taggard appropriately determined surgical intervention was not indicated because it was extremely unlikely to result in a favorable outcome. (Schuer Decl., ¶ 56.) Dr. Schuer's declaration is sufficient to shift the burden as to the existence of a triable issue fact regarding standard of care and causation to the plaintiff.

Plaintiff's opposition relies upon the declaration of board certified neurologist, Raja Boutros, M.D. to dispute that Dr. Taggard met the standard of care and assert that Dr. Taggard's actions or failure to act were a substantial factor in causing Mr. Sun's death. Dr. Boutros opines that because Dr. Taggard did not implement an intracranial pressure management (ICP) protocol, failed to perform surgical intervention to remove the subdural hematoma, and failed to present surgery as an option to the family to obtain their consent to not intervene, his care of decedent did not meet the standard of care. (Boutros Decl., ¶¶ 4-4.4.) Dr. Boutros opines to a reasonably degree of medical certainty, Dr. Taggard's failure to implement aggressive measures, including surgical evacuation of the hematoma, he could have survived the acute phase with uncertain neurological outcome and likely would not have died on November 1, 2022. (Id. at ¶¶ 5-6.)

Plaintiff's opposition additionally argues the cause of action alleging lack of informed consent is not duplicative of the medical malpractice claims because it is premised on Dr. Taggard's decision to not operate without obtaining the family's informed consent. However, this description of the claim merely reframes the medical malpractice allegations based on Dr. Taggard's decision not to perform surgery as one for lack of informed consent based on not having been presented the option to pursue surgical intervention. Plaintiff's opposition failed to cite any authority for the position that the lack of informed consent is a separate negligence claim apart from the medical negligence claims, rather than one aspect of such a claim.

Defendant objects to the declaration of Dr. Boutros in its entirety arguing Dr. Boutros lacks qualification to render expert opinions regarding the standard of care applicable to neurosurgery. (Obj. No. 1.) Dr. Boutros's experience and training describe his qualifications a neurologist and experience treating patients with severe traumatic brain injuries such as the acute subdural hematoma experienced by decedent. (Boutros Decl., ¶ 1.) Although there is no curriculum vitae included in evidence, the declarant describes past experience treating similar injuries. (*Id*., ¶¶ 1, 4.2., 6.) Given the liberalization of the rules regarding testimonial qualifications of medical experts, the objection to Dr. Boutros' qualifications to render an expert opinion are overruled. (*Brown v. Colm* (1974) 11 Cal.3d 639, 647.)

Defendant also objects to facts stated in plaintiff's response to Undisputed Material Fact No. 18 regarding Dr. Boutros being described as a neurosurgeon. (Obj. No. 2.) The objection is overruled as it is not an objection to the evidence supporting the fact. (Cal. Rules of Court, rule 3.1354(b).) The fact stated on the separate statement is never evidence in and of itself. Even a fact that is not disputed is not evidence, and is not considered a judicial admission. (*Wright v. Stang Manufacturing Co.* (1997) 54

Cal.App.4th 1218, 1224; *Myers v. Trendwest Resorts, Inc.* (2009) 178 Cal.App.4th 735, 747 [holding that an agreement that a fact on separate statement is "undisputed" is a concession only for purposes of the summary judgment motion].)

Plaintiffs have met their burden to raise triable issues of fact with respect to both elements challenged in defendant's motion for summary judgment. Accordingly, the motion 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: JS on 11/18/2025 .
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: ***Nannette Regua v. Sandy Romero Crane***
Superior Court Case No. 24CECG01430

Hearing Date: November 19, 2025 (Dept. 503)

Motion: (1) by Plaintiff for Default Judgment
(2) by Plaintiff for Summary Adjudication

If oral argument is timely requested, it will be entertained on Wednesday, December 3, 2025, at 3:30 p.m. in Department 503.

Tentative Ruling:

To deny the application for default judgment against Anthony Romero (aka Tony Romero) and the testate and intestate successors of both Manuel Romero and Victoria Romero (aka Vicki Romero).

To grant summary adjudication against Sandy Romero Crane as to the first cause of action for Quiet Title and the third cause of action for Declaratory Relief set forth in the Complaint, and all of the affirmative defenses set forth in the Answer. To deny summary adjudication as to the second cause of action for Reformation of Deed.

Explanation:

Application for Default Judgment by Plaintiff

Plaintiff Nannette Regua ("plaintiff") seeks default judgment against defendants Anthony Romero (aka Tony Romero) and the testate and intestate successors of both Manuel Romero and Victoria Romero (aka Vicki Romero) (collectively "defaulted defendants").

Default was entered as to the above-named defendants on June 9, 2025. Plaintiff did not file the mandatory judicial council form CIV-100 when requesting entry of judgment against the defaulted defendants. Also, plaintiff continuously refers to her own (Nannette Regua's) declaration, but no declaration in support of default judgment was filed. The present application for default judgment is denied. Any subsequent application must include all mandatory forms and supporting papers in the filing.

Motion for Summary Judgment by Plaintiff

"A plaintiff moving for summary judgment meets its burden of showing that there is no defense to a cause of action if that party has proved each element of the cause of action entitling that party to judgment on that cause of action." (*Pasadena Metro Blue Line Const. Authority v. Pacific Bell Telephone Co.* (2006) 140 Cal.App.4th 658, 663; See also *Paramount Petroleum Corp. v. Superior Court* (2014) 227 Cal.App.4th 226, 241 [finding the same burden requirements on a plaintiff's motion for summary adjudication].)

"Once the plaintiff … has met that burden, the burden shifts to the defendant … to show that a triable issue of one or more material facts exists as to that cause of action or a defense thereto." (Code Civ. Proc., § 437c, subd. (p)(1).)

Likewise, the court may summarily adjudicate that an affirmative defense to any cause of action is without merit. (Code Civ. Proc., § 437c, subd. (f)(1); *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 900.) To meet its initial burden, "plaintiff must negate an essential element of the defense, or establish the defendant does not possess and cannot reasonably obtain evidence needed to support the defense." (*See's Candy Shops, Inc., supra,* at p. 900.)

A motion for summary judgment, or for summary adjudication, must be supported by evidence establishing the moving party's right to the relief sought. (*Regents of University of California v. Superior Court* (1996) 41 Cal.App.4th 1040, 1044.) Such evidence may consist of declarations, admissions by the opposing party, evidence obtained through discovery, and matters judicially noticed. (Code Civ. Proc., § 437c subd. (b)(1).)

Here, plaintiff moves for summary adjudication of each cause of action in the Complaint, consisting of Quiet Title, Reformation, and Declaratory Relief. Plaintiff also moves for summary adjudication of each of defendant's affirmative defenses, consisting of Statute of Limitations, Laches, Waiver, Estoppel, and Unclean Hands.

First Cause of Action: Quiet Title

Plaintiff and her parents held title to the property commonly referred to as 1526 N. Poplar Avenue, Fresno, California, as tenants in common. (Undisputed Material Fact [UMF] No. 22, RJN,[1] Exh. F.) Plaintiff's parents have since passed. (UMF Nos. 24, 25; RJN, Exhs. G, H.) Plaintiff asserts that taking title as tenants in common was not the intent of her parents and herself at the time the property was acquired. (UMF No. 23; Nannette Regua Decl., ¶ 14.) In the Complaint, it is alleged that the vesting in this manner was a result of a "mistake or scrivener's error." (Compl., ¶ 11.) It is unknown how the deed came to convey the property in this manner. (Bender Decl., ¶ 8.) Plaintiff provides evidence in the form of a signed letter that the grantees intended for the title to the property to be taken by the three of them in a manner providing a right of survivorship. (UMF Nos. 20, 21; Nannette Regua Decl., ¶ 14, Exh. I; Bender Decl., ¶ 7, Exh. F.)

Further, this court deemed the matters in plaintiff's propounded Requests for Admissions, Set One as admitted on February 25, 2025. (Johnson Decl., ¶ 2, Exh. B.) By these admissions, defendant admitted the genuineness of the letter evidencing the grantees intent, that Manuel Romero intended the property to pass to Victoria Romero and/or Nannette Regua upon his death, and that Manuel Romero did not intend for defendant Sandy Romero Crane to inherit any portion of the property upon his death. (UMF Nos. 27-29; Johnson Decl., ¶ 2, Exh. A.)

Plaintiff has sufficiently evidenced her cause of action for quiet title. Defendant has failed to file an opposition or opposing separate statement of undisputed material facts to show that a triable issue of material fact on this issue.

[1] Plaintiff's request for judicial notice is granted.

Second Cause of Action: Reformation of Instrument

A party suffering from a mutual mistake, or mistake by one party that was known or should have been suspected, that occurred during contract formation is able to reform the contract, to conform to the intention of the parties. (Civ. Code, § 3399.) A deed is subject to reformation. (*Western Title Guaranty Co. v. Sacramento and San Joaquin Drainage Dist.* (1965) 235 Cal.App.2d 815, 823.) Plaintiff seeks to reform the deed recorded on August 17, 2016 as document number 2016-0107935-00 from grantees as "tenants in common" to "joint tenants." Plaintiff's evidence demonstrates that plaintiff and her parents intended for the title to vest with a right of survivorship. (UMF Nos. 20, 21; Nannette Regua Decl., ¶¶ 8, 14, Exh. I; Bender Decl., ¶¶ 4, 7, Exhs. B, F.) However, throughout the evidence, it is clear that plaintiff and her parents contemplated taking title "as community property with the right of survivorship" and they at no time suggest taking title as "joint tenants." Plaintiff provides no reason for why she now seeks reformation to "joint tenants." The court is not convinced that this cause of action has been sufficiently evidenced to support the relief requested.

Third Cause of Action: Declaratory Relief

Plaintiff seeks declaratory relief establishing her rights to the property at issue. As discussed above in regard to the quiet title cause of action, plaintiff has sufficiently demonstrated her valid claim to the property and Defendant has failed to file an opposition or opposing separate statement of undisputed material facts to show that a triable issue of material fact on this issue.

Affirmative Defenses

Any issue on which defendant bears the burden of proof at trial is "new matter" and must be specially pleaded in the answer. (*Harris v. City of Santa Monica* (2013) 56 Cal.4th 203, 239.) An affirmative defense must be pleaded in the same manner as if the facts were set forth in a complaint. (*Mountain Air Enterprises, LLC v. Sundowner Towers, LLC* (2017) 3 Cal.5th 744, 756.) A party may move for summary adjudication as to one or more affirmative defenses if the party contends that there is no merit to the affirmative defense. (Code Civ. Proc., § 437c subd. (f)(1).)

Defendant failed to plead facts in support of her asserted affirmative defenses of Statute of Limitations, Laches, Waiver, Estoppel, and Unclean Hands. Plaintiff has sufficiently demonstrated that there is no merit to the affirmative defenses raised, and thus no defense to the causes of action shown (i.e. Quiet Title and Declaratory Relief). Defendant has failed to show that there is a triable issue of material fact as to her defenses.

For the foregoing reasons, the court intends to grant summary adjudication as to the first and third causes of action set forth in the Complaint and the affirmative defenses set forth in the Answer. The court intends to deny summary adjudication as to the second cause of action.

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: JS on 11/18/2025 .
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Yang v. Farmer et al.***
Superior Court Case No. 24CECG01894

Hearing Date: November 19, 2025 (Dept. 503)

Motion: By Defendant Cross River Bank for Stay

If oral argument is timely requested, it will be entertained on Wednesday, December 3, 2025, at 3:30 p.m. in Department 503.

Tentative Ruling:

To deny.

Explanation:

Defendant Cross River Bank ("Defendant") seeks the imposition of a stay under the court's inherent authority to manage and control its docket. (Code Civ. Proc., § 128, subd. (a).) Defendant submits that a stay is appropriate pending appeal of this court's order of reinstatement, which vacated a prior order compelling plaintiff Bao Yang ("Plaintiff") to arbitrate her claims.

Trial courts generally have the inherent power to stay proceedings in the interest of justice and to promote judicial efficiency. (*Walker v. Superior Court* (1991) 53 Cal.3d 257, 266.) Staying a matter until a party's appeal is decided may be in the interests of justice. (*See Freiberg v. City of Mission Viejo* (1995) 33 Cal.App.4th 1484, 1489.) Defendant otherwise cites to federal decisions applying federal procedure as guidance, some of which is unpublished. None of these decisions address what the parties acknowledge, that the California State Legislature in 2023, and with certain concerns in mind, enacted a statute specifically targeting appeals of arbitration orders as an exception to the automatic stay. (Code Civ. Proc., § 1294, subd. (a).)

Defendant as the moving party bears the burden. The substance of the stay sought is due to a recent California Supreme Court decision, *Hohenshelt v. Superior Court*. (*Hohenshelt v. Superior Court* (2025) 18 Cal.5th 310 ["*Hohenshelt*"].) Just over two months after this court's June 4, 2025, order vacating a prior order to arbitrate, on August 11, 2025, the California Supreme Court issued the opinion of interest. The California Supreme Court evaluated:

> Whether the Federal Arbitration Act [citation] preempts California Code of Civil Procedure section 1281.98, a provision of the California Arbitration Act [citation] that governs the payment of fees in employment and consumer arbitrations. (*Id.* at p. 322.)

The California Supreme Court concluded that the California Arbitration Act ("CAA") was not preempted in this regard by the Federal Arbitration Act ("FAA"). (*Id.* at p. 323.) In so concluding, however, the California Supreme Court further evaluated the application of Code of Civil Procedure section 1281.98. The conclusions drawn therefrom disapproved, among other cases, in part, *Gallo v. Wood Ranch USA, Inc.* ((2022) 81 Cal.App.5th 621 ["*Gallo*"]). (*Hohenshelt*, *supra*, 18 Cal.5th at p. 349.) Specifically, to the extent that *Gallo* and other decisions held that "the excuse-laden inquiry required for discretionary relief under [Code of Civil Procedure] section 473(b) is incompatible with the 'simple bright-line rule set forth in section 1281.98", and therefore strictly enforced the provision with no exceptions, such positions were disapproved. (*Id.* at p. 335.) The California Supreme Court merely tempered such positions from being absolute, finding that strict readings of the statute are not implausible constructions. (*Id.* at pp. 340-341.) In sum, *Gallo* was disapproved to the extent it may suggest that only a bright-line test be applied in determining a default under the CAA. (*Id.* at p. 349.)

Defendant argues that *Hohenshelt* "expressly disapproved of the authority this Court relied on to find that there is no federal preemption of Section 1281.97 and strictly interpret the statute." From the above, *Hohenshelt* affirmed this court's position regarding no federal preemption. Defendant presumes that thereafter, this court applied the "inflexible and harsh" interpretation of the statute expressly rejected in *Hohenshelt*. Defendant then cites to the portion of this court's ruling evaluating Code of Civil Procedure section 1281.97. Defendant fails its burden as the moving party to demonstrate where in the ruling this court relied on *Gallo* for the application of Code of Civil Procedure section 1281.97.

In light of Defendant's failed burden, this court will not relitigate the merits of the prior motion, and particularly where an appeal on that order is pending. The motion is denied.[1]

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: JS on 11/18/2025 .
(Judge's initials) (Date)

[1] Defendant's Request for Judicial Notice is denied as moot.