

Tentative Rulings for February 18, 2026
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.*

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 for Department 501

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Tentative Ruling

Re: ***Hernandez v. Sarwar, M.D., et al.***
Superior Court Case No. 25CECG04618

Hearing Date: February 18, 2026 (Dept. 501)

Motion: to Strike Punitive Damage Allegations

Tentative Ruling:

To grant and strike from the Complaint paragraphs 56 and 57 as well as the Prayer for Relief paragraph 5, without prejudice to plaintiffs filing a motion under Code of Civil Procedure section 425.13. (Code Civ. Proc., § 436, subd. (b).) Defendants shall file their answer to the Complaint within 10 days of service of the order by the clerk.

Explanation:

This is a medical malpractice / professional negligence action against a physician (and his corporate entity) for his negligence in treating plaintiff Rebecca Hernandez's medical condition. In addition to the allegations of professional negligence, the Complaint alleges that defendants engaged in "billing irregularities," with defendants falsely billing plaintiffs' insurance for a therapeutic level of care (i.e., 1,000 mg of corticosteroids), while only providing 5 mg of the steroid, which is a sub-therapeutic level.

The Complaint asserts causes of action for: (1) Medical Malpractice/Professional Negligence; (2) Loss of Consortium; (3) Unfair Business Practices; and (4) Corporate Negligence. The Complaint seeks punitive damages in connection with the first, second and fourth causes of action. Plaintiffs have not complied with Code of Civil Procedure section 425.13, subdivision (a), which provides: "In any action for damages arising out of the professional negligence of a health care provider, no claim for punitive damages shall be included in a complaint or other pleading unless the court enters an order allowing an amended pleading that includes a claim for punitive damages to be filed."

Defendants move to strike the punitive damage allegations and prayer.

"The court may, upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper: (a) Strike out any irrelevant, false, or improper matter inserted in any pleading, (b) Strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court." (Code Civ. Proc., § 436.)

As plaintiffs point out in the opposition, section 425.13 applies when "the injury for which damages are sought is directly related to the professional services provided by the health care provider acting in its capacity as such." (*Central Pathology Service Medical Clinic, Inc. v. Superior Court* (1992) 3 Cal.4th 181, 191-192.) The Complaint is clearly premised primarily on allegations of professional negligence, though it does include allegations of improper billing, which could be construed as separate from the medical

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Tentative Ruling

Re: **Cortez v. KWPH Enterprises, Inc., et al.**
Superior Court Case No. 23CECG03750

Hearing Date: February 18, 2026 (Dept. 501)

Motion: Petition to Compromise Disputed Claim

Tentative Ruling:

To deny without prejudice. In the event that oral argument is requested Ms. Cortez is excused from appearing.

Explanation:

Petitioner proposes to put the net settlement into a pooled special needs trust pursuant to Probate Code section 3604. The court generally approves of this arrangement, since this will ensure that receipt of this money will not disqualify Ms. Cortez from receiving the public benefits she may need due to her disabilities. However, petitioner must show that she has first filed, with the Probate Department, a Petition under Probate Code sections 3600-3613 to establish, join and fund an account in the chosen pooled special needs trust. The Probate Court is better suited to confirm that the Trust complies with California Rules of Court, rule 7.903, to ensure that the notice required by Probate Code section 3611, subdivision (c), is given, to address petitioner's requests in Attachment 20 regarding the trust, and to provide for the ongoing court supervision of the trust.

Once the probate petition has been granted, petitioner can then petition this court for approval of the compromise of the claim.

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 2/11/2026.
(Judge's initials) (Date)

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Tentative Ruling

Re: ***Maria Amezcuita v. Social Vocational Services, Inc.***
Superior Court Case No. 23CECG03858

Hearing Date: February 18, 2026 (Dept. 501)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To grant the Petition. The proposed Orders have been or will be signed. No appearances are necessary. The court sets a status conference for Thursday, May 14, 2026, at 3:30 p.m., in Department 501, for confirmation of deposit of the minors' funds into the 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: DTT on 2/13/2026.
(Judge's initials) (Date)

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Tentative Ruling

Re: **Blanca Brenes v. Five Below, Inc.**
Superior Court Case No. 2CECG04298

Hearing Date: February 18, 2026 (Dept. 501)

Motion: to Compel Arbitration

Tentative Ruling:

To grant the motion of defendant Five Below, Inc., to compel arbitration of plaintiff Blanca Brenes' claims, and to stay plaintiff's court action pending the arbitration of plaintiff's claims.

Explanation:

Defendant Five Below, Inc. ("defendant") moves to compel plaintiff Blanca Brenes ("plaintiff") to arbitrate her aggrieved status and her individual PAGA claim pursuant to the parties' arbitration agreement.

Pursuant to California Code of Civil Procedure section 1281.2, "[o]n petition of a party to an arbitration agreement alleging the existence of a written agreement to arbitrate a controversy and that a party thereto refuses to arbitrate such controversy, the court shall order the petitioner and the respondent to arbitrate the controversy if it determines that an agreement to arbitrate the controversy exists, unless it determines that: (a) The right to compel arbitration has been waived by the petitioner; or (b) Grounds exist for the revocation of the agreement. (c) A party to the arbitration agreement is also a party to a pending court action or special proceeding with a third party, arising out of the same transaction or series of related transactions and there is a possibility of conflicting rulings on a common issue of law or fact." (Civ. Proc. Code § 1281.2, paragraph breaks omitted.)

"[W]hen a petition to compel arbitration is filed and accompanied by prima facie evidence of a written agreement to arbitrate the controversy, the court itself must determine whether the agreement exists and, if any defense to its enforcement is raised, whether it is enforceable. Because the existence of the agreement is a statutory prerequisite to granting the petition, the petitioner bears the burden of proving its existence by a preponderance of the evidence. If the party opposing the petition raises a defense to enforcement - either fraud in the execution voiding the agreement, or a statutory defense of waiver or revocation (see § 1281.2, subds. (a), (b))—that party bears the burden of producing evidence of, and proving by a preponderance of the evidence, any fact necessary to the defense." (*Rosenthal v. Great Western Fin. Securities Corp.* (1996) 14 Cal. 4th 394, 413.) Thus, in ruling on a motion to compel arbitration, the court must first determine whether the parties actually agreed to arbitrate the dispute, and general principles of California contract law guide the court in making this determination. (*Mendez v. Mid-Wilshire Health Care Center* (2013) 220 Cal.App.4th 534.)

By its terms, the agreement is governed by the Federal Arbitration Act (“FAA”), 9 U.S.C. § 1, et seq. Section 2 of the FAA provides for enforcement of arbitration provisions in any contract “evidencing a transaction involving commerce.” (9 U.S.C. § 2.) To determine whether there is an enforceable arbitration agreement, courts apply state law principles related to formation, revocation, and enforcement of contracts. (*Banner Entertainment, Inc. v. Alchemy Filmworks, Inc.* (1998) 62 Cal.App.4th 348, 357.) Moving defendant is not required to submit evidence of impact on interstate commerce to establish FAA preemption. (See *Valencia v. Smyth* (2010) 185 Cal.App.4th 153, 157; *Cronus Investments, Inc. v. Concierge Services* (2005) 35 Cal.4th 376, 387, 394.) Plaintiff does not challenge the governance of the FAA.

Here, defendant¹ has met its burden of showing that there is an agreement to arbitrate the claims that plaintiff has raised in her Complaint. Defendant has presented a copy of the “Mutual Arbitration Policy” that plaintiff signed during the course of her employment. (Rector Decl., ¶¶ 12, 13, and Exhs. A, B, thereto.) The agreement states that plaintiff and defendant agree to arbitrate “[a]ny controversy, dispute or claim between You and the Company, or its current or former officers, agents or employees[.]” (*Id.*, Exh. A, at p. 1.) In her opposition, plaintiff does not deny that she signed the arbitration agreement.

Plaintiff argues the agreement is unenforceable due to procedural and substantive unconscionability. Plaintiff argues the agreement is procedurally unconscionable as a contract of adhesion. Plaintiff additionally argues the agreement’s overbroad scope, infinite duration, lack of mutuality, and waiver of participation in representative actions make the agreement substantively unconscionable. Plaintiff asserts the problematic provisions cannot be severed to make the agreement enforceable. However, plaintiff fails to meet her burden of showing that she did not agree to arbitrate her claims, or that the agreement is unenforceable.

To the extent that plaintiff argues that the policy is a contract of adhesion and mandatory for employment, courts will generally enforce mandatory arbitration clauses in employment contracts as long as there are no other factors that render the agreement unconscionable. “[A]s *Gilmer* and its progeny make clear, the compulsory nature of a predispute arbitration agreement does not render the agreement unenforceable on grounds of coercion or for lack of voluntariness.” (*Lagatree v. Luce, Forward, Hamilton & Scripps* (1999) 74 Cal.App.4th 1105, 1129.) “As one federal court has accurately noted: ‘Arbitration clauses such as the one in *Gilmer* are, for the average employee, not the product of bargaining but a non-negotiable adhesion contract. Consent to the arbitration clause is the price for obtaining or retaining employment.’ Even so, the courts have characterized the arbitration agreement in *Gilmer*—despite its compulsory nature—as consensual and voluntary.” (*Ibid*, citations omitted.) Therefore, the fact that the arbitration agreement is a contract of adhesion does not render the agreement unenforceable.

Mandatory arbitration clauses in employment contracts are enforceable if they provide essential fairness to the employee. (*Armendariz v. Foundation Health Psychcare Services, Inc.* (2000) 24 Cal.4th 83, 90-91; see also *24 Hour Fitness v. Superior Court* (1998)

¹ The court declines to take judicial notice as requested by defendant.

66 Cal.App.4th 1199, 1212 [arbitration clause in employee handbook was not unconscionable where it provided all parties with substantially same rights and remedies].) In the employment context, an agreement must include the following five minimum requirements designed to provide necessary safeguards to protect unwaivable statutory rights where important public policies are implicated: (1) a neutral arbitrator; (2) adequate discovery; (3) a written, reasoned, opinion from the arbitrator; (4) identical types of relief as available in a judicial forum; and (5) that undue costs of arbitration will not be placed on the employee. (*Armendariz, supra*, 24 Cal.4th at p. 102.) While Plaintiff references *Armendariz*, she does not raise issue with these minimum standards. Instead, she compares the policy at issue to the agreement in *Cook v. University of Southern California* (“Cook”) (2024) 102 Cal.App.5th 312.

Defendant contends that the arbitration agreement at issue differs from the aspects of the agreement in *Cook* that rendered it substantively unconscionable. The court is inclined to agree. First, there is no “whether or not” language for whether the agreement applies to claims arising outside of the employment context. The agreement specifies covered claims which all relate to employment, and submits to the JAMS Employment Arbitration Rules and Procedures. Second, there is no term for duration of the agreement explicitly stated, the lack of which has been generally held to render the agreement as terminable at will and not indefinite. Third, there is no lack of mutuality because, even if officers/agents/employees are not directly named, they are part of the “subsidiaries or affiliated entities” comprising the “Company,” and any claims may be brought to arbitration “at the request of either party.” (see Rector Decl., Exh. A.)

With regard to the contention that the requirement that claims only be pursued in an individual and not representative capacity is substantively unconscionable, the court notes that the agreement was intended to be covered by the Federal Arbitration Act. California’s state law rendering such a waiver unenforceable and substantively unconscionable is preempted by federal law where an agreement is to be governed under the FAA. (*AT&T Mobility v. LLC v. Concepcion* (2011) 563 U.S. 333, 341.) Plaintiff has raised no dispute as to the applicability of the FAA to this agreement.

The court is not persuaded that plaintiff’s arguments regarding unconscionability are sufficient to render the agreement so unconscionable that it should not be enforced. The court is inclined to find the agreement is enforceable and intends to order the parties to attend arbitration pursuant to the terms of the Mutual Arbitration Policy.

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 2/13/2026.
(Judge’s initials) (Date)

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Tentative Ruling

Re: ***Davis v. Omobolajiadeola Delu Properties and Investments, LLC***
Superior Court Case No. 23CECG01680

Hearing Date: February 18, 2026 (Dept. 501)

Motions (x2): Petitions to Compromise Minors' Claims

Tentative Ruling:

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

Explanation:

It remains unclear why, if both children lived in the home, only Jayveyonn received medical treatment. It is also unclear why both children are receiving the same settlement amount when it appears that Javeyonn underwent multiple forms of treatment for lead poisoning and, according to the Petition, Jaylynn suffered no injuries and underwent no medical treatment.

As before, attachment 11b(6) indicates that petitioner may be receiving monies that would otherwise go to claimants, in order to provide funds for petitioner to purchase a vehicle and a home. Though the Petition states that the children would benefit from both of these purchases, it does not address the appropriateness of using funds to which claimants are entitled, for these purposes. As the children will not be on the title to the house or the vehicle, it is not clear that it is in their best interest for the funds to be distributed in this manner.

Based on the issues set out above, the Petitions are 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 2/13/2026.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Hall v. Fresno Unified School District Employee Health Care Plan***

Superior Court Case No. 20CECG00607

Hearing Date: February 18, 2026 (Dept. 501)

Motions: (1) by Plaintiff Worldwide Aircraft Services, Inc., for Sanctions;
(2) by Defendant Fresno Unified School District Employee Health Care Plan for Summary Judgment or, in the Alternative, Summary Adjudication;
(3) by Plaintiff Worldwide Aircraft Services, Inc. for Summary Judgment;
(4) by Defendant Fresno Unified School District Employee Health Care Plan to Compel Further Responses to Form Interrogatories, Set Two, and Request for Sanctions;
(5) by Defendant Fresno Unified School District Employee Health Care Plan to Compel Further Responses to Special Interrogatories, Set Three, and Request for Sanctions;
(6) by Defendant Fresno Unified School District Employee Health Care Plan to Compel Further Responses to Requests for Production, Set Seven, and Request for Sanctions

Tentative Ruling:

To deny the motion for sanctions.

To deny defendant Fresno Unified School District Employee Health Care Plan's motion for summary judgment. To grant the alternative motion for summary adjudication of the second cause of action.

To deny plaintiff Worldwide Aircraft Services, Inc.'s motion for summary judgment.

To continue defendant Fresno Unified School District Health Care Plan's motions to compel further responses to Thursday, February 19, 2026, 3:30 p.m. in Department 501.

Explanation:

Sanctions

Plaintiff Worldwide Aircraft Services, Inc., ("plaintiff") seeks an order striking the motion for summary judgment filed by defendant Fresno Unified School District Employee Health Care Plan ("defendant"), and an award of attorney fees. Plaintiff moves under Code of Civil Procedure section 128.7, subdivision (b)(1), which provides that matters presented to the court are not being presented for an improper purpose.

Plaintiff submits that defendant has no legitimate basis to assert a defense of government immunity, an argument that defendant forwards in a separate motion for summary judgment. In effect, plaintiff opposes defendant's motion for summary judgment, concluding that the motion has no merit. The parties both argue the merits of the claims made on defendant's motion for summary judgment, demonstrating a difference of interpretation of the same applicable laws. The court finds that the pleadings were not submitted for an improper purpose. The motion for sanctions is denied. The request for judicial notice is denied as moot. Nothing in the Fifth District Court of Appeals opinion, aside from the sufficiency of the pleadings of the operative complaint, constitutes the law of the case. The court issues no rulings as to the objections lodged in this motion, as moot.

Cross Motions for Summary Judgment

Plaintiff and defendant separately move for summary judgment but submit substantially the same arguments on each motion. Defendant submits that it is immune from suit of the two causes of action of the Fifth Amended Complaint and seeks either summary judgment or summary adjudication. Plaintiff seeks only summary judgment of its Fifth Amended Complaint.

On defendant's motion, plaintiff submits a threshold inquiry of timeliness of the motion, that electronic service of the motion should have been completed by August 20, 2025, for a hearing date of November 13, 2025. Under the circumstances, and in light of the many procedural delays that these motions have undergone, the court proceeds on a finding that sufficient notice was given and that due process was not impeded.

A trial court shall grant summary judgment where there are no triable issues of material fact and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc. §437c(c); *Schacter v. Citigroup* (2009) 47 Cal.4th 610, 618.) The issue to be determined by the trial court in consideration of a motion for summary judgment is whether or not any facts have been presented which give rise to a triable issue, and not to pass upon or determine the true facts in the case. (*Petersen v. City of Vallejo* (1968) 259 Cal.App.2d 757, 775.)

The moving party bears the initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he or she carries this burden, the burden shifts to plaintiff to make a prima facie showing of the existence of a triable issue. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 849.) A defendant has met his burden of showing that a cause of action has no merit if he has shown that one or more elements of the cause of action cannot be established, or that there is a complete defense to that cause of action. (*Ibid.*) Once the defendant has met that burden, the burden shifts to the plaintiff to show a triable issue of one or more material facts exists as to the cause of action or a defense thereto. (*Ibid.*)

Affidavits of the moving party must be strictly construed and those of the opponent liberally construed. (*Petersen, supra*, 259 Cal.App.2d at p. 775.) The opposing affidavit must be accepted as true, and need not be composed wholly of strictly evidentiary facts. (*Ibid.*) Any doubts are to be resolved against the moving party. The facts in the affidavits shall be set forth with particularity. (*Ibid.*) The movant's affidavit must

state all of the requisite evidentiary facts and not merely the ultimate facts or conclusions of law or conclusions of fact. (*Ibid.*) All doubts as to the propriety of granting the motion are to be resolved in favor of the party opposing the motion. (*Hamburg v. Wal-Mart Stores, Inc.* (2004) 116 Cal.App.4th 497, 502.)

Defendant submits that it is not a separate legal entity from Fresno Unified School District ("FUSD"), which is a public entity. It is undisputed that FUSD is a public entity, a school district. (Defendant's Undisputed Material Fact ["UMF"] No. 2, and response thereto.) Defendant submits that it is an authorized plan under various code sections. It is not materially disputed that FUSD had the authority to provide health and welfare benefits for the benefits of, among others, employees. (Gov. Code, § 53201.) The dispute is solely as to whether defendant functions as an arm or division of FUSD, as opposed to being authorized to act in fulfillment of FUSD's statutory elections.

Defendant submits that it does not have its own employees, tax identification number, bank accounts, or distinct legal separation. (UMF Nos. 34-38, 43, 44.) Defendant concludes that it is merely a division of FUSD. Moreover, defendant submits that oversight and financial ties are indicative of an extension of a governmental entity. Specifically, any contracts related to defendant's administration are entered by FUSD and approved by FUSD's board. (UMF Nos. 23-25.) Defendant submits that any judgment paid in this action by defendant will be paid primarily from government money. (UMF Nos. 35-37.)

In opposition, plaintiff submits that defendant merely subjects itself to FUSD's authority for approval. (Response to UMF Nos. 23-27.) Plaintiff otherwise does not materially dispute that defendant lacks a bank account. Rather, plaintiff submits that defendant's funds are mandated by law to be separated from other funds owned by FUSD. This statement is not materially disputed. (See also Ed. Code, § 17566, subd. (a).) Plaintiff also does not dispute that defendant does not have a tax identification number, or employees. (Response to UMF Nos. 43, 44.)

Plaintiff focuses instead that defendant has no governmental service or function. However, as defendant noted, the State Legislature expressly authorizes the legislative body of a local agency to provide for health and welfare benefits. (Gov. Code, § 53201, subd. (a).)

Plaintiff appears to agree that where a money judgment would be enforceable against the State of California, the so-called "essential nature and effect of the proceeding", the action should be treated as an arm of the State. (*Regents of the Univ. of Cal. v. Doe* (1997) 519 U.S. 425, 429-430 [discussing the extension of state sovereign immunity to certain entities].) Plaintiff concludes however that the State Legislature intended to exclude school employers. Plaintiff specifically refers to a statute that identifies school employers when discussing a particular issue of disallowed compensation, compensation that is not to be considered for retirement purposes, under Government Code section 20164.5. This does not support the conclusion drawn.

Plaintiff argues that the Government Claims Act does not specifically identify school employers or employer health plans. (Gov. Code, § 810 *et seq.*) Public entity, however, is defined to include, among other entities, districts. (*Id.*, § 811.2.) That is the core of the dispute, whether defendant is, in essence, FUSD.

Both parties cite to *Stone v. Alameda Health System*, 16 Cal.5th 1040 (“*Stone*”). *Stone* is indicative of nothing as the situation there was entirely unique. The entity at issue in *Stone* was itself, by definition, a special act. (Health & Saf. Code, § 101850, subd. (a)(1).) The State Legislature expressly acknowledge that “[b]ecause there is no general law under which this authority could be formed, the adoption of a special act and the formation of a special authority is required.” (*Ibid.*) Thereafter, the special act specifically named the Alameda Health System as “the separate public agency” established by the Board of Supervisors of Alameda County to manage, administer, and control the Alameda Health System. (*Id.*, § 101850, subd. (a)(2)(C), (D); *Stone, supra*, 16 Cal.5th at p. 1061.) The special act created a public entity, separate from the County of Alameda, which itself is a public entity. (*Stone, supra*, 16 Cal.5th at p. 1061.) The issue here is not whether defendant is a separate public entity as in *Stone*, but whether defendant is FUSD. For these reasons, plaintiff’s further arguments that defendant may not be subject to democratic consent and accountability are misplaced. It is uncontested that FUSD is a public entity.

For the above reasons, the court finds that defendant met its burden to demonstrate no triable issues of material fact that it does not operate or is financed completely independent to FUSD. These facts support the conclusion of law advanced by defendant, that defendant is a public entity by and through FUSD. The burden shifts to plaintiff. While plaintiff’s opposition did not materially contest the material facts supporting the conclusion of law, plaintiff adds additional material facts.

Plaintiff adds that defendant’s bylaws show independent operation. (Plaintiff’s Additional Material Fact [“AMF”] Nos. 162-164.) Plaintiff further adds that the funds submitted by FUSD are, in effect, nonreversionary, and mixed with employee withholdings. (AMF No. 168.) On reply, defendant does not submit responses to plaintiff’s AMFs. Neither does the reply brief address these AMFs in particular. The court finds that plaintiff meets its shifted burden to demonstrate triable issues of material fact as to the conclusion of law that defendant is a public entity, namely FUSD.

Defendant alternatively submits that the first cause of action for quantum meruit fails because defendant did not benefit from a service. To recover under a quantum meruit theory, a plaintiff must establish both that he/it was acting pursuant to either an express or implied request for such services from the defendant and that the services rendered were intended to and did benefit the defendant. (*Day v. Alta Bates Medical Center* (2002) 98 Cal.App.4th 243, 248 [“*Day*”].) Stated another way, the theory of quasi-contractual recovery is that one party has accepted and retained a benefit with full appreciation of the facts, under circumstances making it inequitable for him to retain the benefit without payment of its reasonable value. (*Id.*, citing *Truestone, Inc. v. Simi West Industrial Park II* (1984) 163 Cal.App.3d 715, 724.)

Here, it is generally undisputed that Pete Hall initiated the services in question. (Response to UMF Nos. 63-66.)¹ Though plaintiff submits argument that defendant was materially involved in the request, the objections to the evidence in support are

¹ Defendant’s Objection Nos. 3 and 4 are sustained as to hearsay.

sustained, as to defendant's Objection Nos. 3 and 4, as to hearsay. Plaintiff alternatively submits that its agent discussed the services contemplated. (AMF No. 181.)²

With all reasonable inferences given to the opposition, there is a factual dispute as to whether defendant accepted and retained a benefit on behalf of itself for services rendered to its member without payment as to the reasonable value.³ Specifically, there are triable issues of material fact as to whether defendant participated before services were rendered, and therefore whether a direct benefit was conferred by way of express or implied request, independent of any contractual arrangement between plaintiff and Pete Hall.

Defendant next submits that the Fifth Amended Complaint is preempted by the federal Airline Deregulation Act. This issue of law has already been argued by the parties and the arguments submitted appear identical to those challenges on demurrer. The court renews its prior findings.

The ADA expressly preempts states from “enact[ing] or enforc[ing] any law, rule, regulation, standard, or other provision having the force and effect of law relat[ing] to rates, routes, or services of any air carrier....” (49 U.S.C. § 41713, subd. (b)(1) [formerly 49 U.S.C. § 1305, subd. (a)(1)], emphasis added.) “Relating to” is broadly construed, meaning “‘to stand in some relation; to have bearing or concern; to pertain; refer; to bring into association with or connection with,’” (*Morales v. Trans World Airlines* (1992) 504 U.S. 374, 383 [“*Morales*”].) In other words, “Congress used the word ‘service’ in the phrase ‘rates, routes, or service’ in the ADA’s preemption clause to refer to the prices, schedules, origins and destinations of the point-to-point transportation of passengers, cargo, or mail.” (*Charas v. Trans World Airlines, Inc.* (9th Cir. 1998) 160 F.3d 1259, 1261 [“*Charas*”].)

Generally, “for a claim to be preempted by the ADA, “two things must be true[:] (1) the claim must derive from the enactment or enforcement of state law, and (2) the claim must relate to airline rates, routes, or services, either by expressly referring to them or by having a significant economic effect upon them.”” (*SwiftAir, LLC v. Southwest Airlines Co.* (2022) 77 Cal.App.5th 46, 54.) However, the United States Supreme Court was careful to note that “[s]ome state actions may affect [airline fares] in too tenuous, remote, or peripheral a manner’ to have pre-emptive effect.” (*Morales, supra*, 504 U.S. at p. 390, citations omitted.)

Defendant attempts to analogize the instant facts with those of out of state authority such as *PHI Air Medical, LLC v. Corizon, Inc.* (2021) 628 S.W.3d 460, which involved air ambulance services for “government entities across the country to provide healthcare to individuals in state custody.” (*Id.* at p. 463.) The Tennessee Appellate Court

² Defendant's Objection No. 19 is overruled.

³ Defendant relies on *California Medical Association, Inc. v. Aetna U.S. Healthcare of California, Inc.*, 94 Cal.App.4th 151, for the premise that insurance cannot be made liable for deficiencies of payment from the insured. There, however, there were contractual agreements between the insurance and the service provider, in addition to contractual agreements between insurance and insured, as well as insured and provider. (*Id.* at p. 172-173 [noting that the plaintiff could not proceed on a quasi-contract theory where there were three different contracts].)

found that such claims closely related to pricing because they sought “court enforcement of the prices it has set or, alternatively, for the court to determine a reasonable price.” (*Id.* at p. 469.) In other words, the gravamen of the case involved practices applicable across multiple flights to have a significant effect, not, as the case is here, one solitary flight arranged from immediate medical need.

Considering that plaintiff seeks recovery of the charges incurred from the single flight at issue, which was arranged expeditiously to address immediate medical need, the matter appears to relate to pricing in too “tenuous, remote, or peripheral a manner” that plaintiff's claim is not preempted by the ADA. Accordingly, defendant's motion for summary judgment is denied. Defendant's alternative motion for summary adjudication is denied as to all challenges to the first cause of action for quantum meruit. Plaintiff's motion for summary judgment is denied.

Finally, defendant submits that the second cause of action for receipt of stolen property is untimely. Defendant argues that plaintiff had inquiry notice of the cause of action when compensation was negotiated after services. (UMF Nos. 85-89, 92, 93.) It is undisputed that the second cause of action was added on November 4, 2024. (Response to UMF Nos. 114-116.) It is undisputed that Michael Brannigan is general counsel since 2017, that he negotiated an agreement with defendant, that in 2017, his duties included filling out and submitting insurance claims, that he did so for the service provided to Cheryl Hall, and that he prepared demand letters for claims on those services rendered. (Response to UMF No. 121-126.) It is undisputed that on November 8, 2017, Jack London sent an email to Brannigan stating, among other things, that defendant would never agree to a million dollar plus flight. (Response to UMF No. 132.) It is undisputed that Brannigan responded stating that defendant had no intention of satisfying its obligations, and that defendant believed the invoice had been paid. (Response to UMF No. 133.)

Plaintiff adds that other sources of payment for the services were not confirmed until April 10, 2018. (AMF No. 186.)⁴ Plaintiff otherwise submits without evidence that on March 29, 2024, discovery responses revealed for the first time “Plan-level direction and motive”.

Based on the above, the court finds that defendant sufficiently meets its burden to demonstrate no triable issues as to the applicable statutes of limitation. The burden shifts to plaintiff. Plaintiff fails to create a triable issue of material fact. Though plaintiff argues that it first learned of motive or intent through discovery in the present action, inquiry notice does not require actual knowledge. Inquiry notice is that which would place a reasonable person on inquiry as to their potential claim. (*E.g.*, *Vaca v. Wachovia Mortgage Corp.* (2011) 198 Cal.App.4th 737, 743.) Aggrieved parties generally need not know the exact manner in which their injuries were effected, nor the identities of all parties who may have played a role therein. (*Id.* at pp. 743-744.) Here, the undisputed facts show that by April 10, 2018, it became clear that no further payments were forthcoming, putting plaintiff on inquiry notice as to its claim. Accordingly, the alternative

⁴ Defendant's Objection No. 10 is sustained as to hearsay, and No. 11 is overruled.

