

Tentative Rulings for March 5, 2026
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.*

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

24CECG01093 *Mary Breazeale v. Miller-Phelen, Inc.* is continued to Thursday, April 16, 2026, at 3:30 p.m. in Department 503.

25CECG04794 *Genesis Gutierrez Rodriguez v. Hyundai Motor America, a California Corporation* is continued to Thursday, April 16, 2026, at 3:30 p.m. in Department 503.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

Begin at the next page

(47)

Tentative Ruling

Re: ***Sophia Aguilar v. Saint Agnes Medical Center***
Case No. 23CECG02274

Hearing Date: March 5, 2026 (Dept. 503)

Motions: Plaintiff Aguilar's Motion to Compel Attendance of Defendant St. Agnes Medical Center

Tentative Ruling:

To order the motion off calendar with respect to St. Agnes, for plaintiff Aguilar's failure to comply with Fresno County Superior Court Local Rules, Rule 2.1.17. Sanctions are not warranted.

Explanation:

In this medical malpractice action, plaintiff Sophia Aguilar, ("plaintiff") individually, and as successor in interest to the Estate of Noe Aguilar ("Aguilar"), brings forth claims and allegations for negligence through a survival action and wrongful death against defendant St. Agnes Medical Center (St. Agnes").

Motion to Compel

Plaintiff filed and served the instant motion to compel the depositions of: (1) St. Agnes' PMK re Documentation of the Antibiotics and Other Medications Actually Administered; (2) St. Agnes' PMK re Antibiotic Stewardship Oversight Committee; (3) St. Agnes' PMK re PowerChart; (4) Walter Hurtado, P.A.; and (5) Denise Aguilar, N.P, pursuant to Code of Civil Procedure sections 2025.450 and 2023.010.

Fresno Superior Court Local Rule 2.1.17, subdivision (A) provides:

No motion under sections 2017.010 through 2036.050, inclusive, of the California Code of Civil Procedure shall be heard in a civil unlimited case unless the moving party has first requested an informal Pretrial Discovery Conference with the Court and such request has either been denied and permission to file the motion is granted via court order or the discovery dispute has not been resolved as a result of the Conference and permission to file the motion is expressly granted. This rule shall not apply the following:

1. Motions to compel the deposition of a duly noticed party or subpoenaed person(s) who have not timely served an objection pursuant to Code of Civil Procedure section 2025.410;

...

Here, the depositions for (1) St. Agnes' PMK re Documentation of the Antibiotics and Other Medications Actually Administered and (2) St. Agnes' PMK re Antibiotic Stewardship Oversight Committee were properly objected to. (Nicholas J. Penner ("NJP") Decl., Ex. 15, 16.)

Plaintiff argues that Fresno Superior Court Local Rule 2.1.17, subdivision (A)(1) does not preclude taking the current motion off calendar because the reason why St. Agnes timely served an objection was due to "unavailability." (Plaintiff's Reply Papers, pgs. 3-4.)

However, Fresno Superior Court Local Rule 2.1.17, subdivision (A)(1) is clear that all St. Agnes was required to do in this case was to provide a "timely served [] objection pursuant to Code of Civil Procedure section 2025.410." St. Agnes has done that with respect to plaintiff's first two requests.

Furthermore, the depositions of: (3) St. Agnes' PMK re PowerChart, (4) Walter Hurtado, P.A., and (5) Denise Aguilar, N.P. were never noticed. (NJP Decl., ¶ 18). Plaintiff acknowledges that this is in fact the case, but argues "these individuals possess direct, unique knowledge bearing on the central issues in this case and after two years, the Plaintiff cannot continue to work informally with a Defendant that will not participate in the informal meet and confer process." (Plaintiff's Reply Papers, pg. 4.)

Under these circumstances, plaintiff is the party that was required to request an informal Pretrial Discovery Conference pursuant to the Court's local rules, which did not occur. The local rules are designed to resolve discovery conflicts at an informal level. Accordingly, the motion will not be heard, and is ordered off calendar.

Sanctions

Plaintiff also seeks sanctions against St. Agnes pursuant to Code of Civil Procedure sections 2023.030 and 2025.450, subd. (g), in the amount of \$6,410.00, each. Sanctions are unwarranted under these circumstances given that the motion was procedurally defective.

Alternatively, St. Agnes requests \$1,540 in sanctions against Plaintiff pursuant to Code of Civil Procedure section 2023.010, subdivision (i). That subsection provides:

Misuses of the discovery process include, but are not limited to, the following:

...

(i) Failing to confer in person, by telephone, or by letter with an opposing party or attorney in a reasonable and good faith attempt to resolve informally any dispute concerning discovery, if the section governing a particular discovery motion requires the filing of a declaration stating facts

(37)

Tentative Ruling

Re: **Gonzales v. City of Fresno**
Superior Court Case No. 23CECG05172

Hearing Date: March 5, 2026 (Dept. 503)

Motion: By Plaintiff for Leave to Amend

Tentative Ruling:

To grant. Plaintiff is granted leave to file the Third Amended Complaint within 10 days of the clerk's service of the minute order. New allegations/language must be set in **boldface** type.

Explanation:

Plaintiff seeks to amend the complaint to add a wrongful death and survival claim and to add facts for the motor vehicle and general negligence claims. Trial courts have discretion to permit amendments to pleadings in the interest of justice. (Code Civ. Proc., § 473; *Hirsa v. Superior Court* (1981) 118 Cal.App.3d 486, 488.) There is a strong policy favoring liberality regarding amendments to pleadings. (*Foxborough v. Van Atta* (1994) Cal.App.4th 271, 230.) Liberality is used in allowing amendments, so long as these do not state facts giving rise to a wholly different obligation to the defendant. (*Herrera v. Superior Court* (1984) 158 Cal.App.3d 255, 259.) It is rare that a court would be justified in denying leave to amend. (*Morgan v. Superior Court of Cal. In and For Los Angeles County* (1959) 172 Cal.App.2d 527, 530.)

Additionally, such amendments may be sought at any time, before or after commencement of trial, in furtherance of justice. (Code Civ. Proc., § 576.) "Where no prejudice is shown to the adverse party, the liberal rule of allowance prevails." (*Higgins v. Del Faro* (1981) 123 Cal.App.3d 558, 564.) Courts have allowed amendments where a motion for summary judgment demonstrates a plaintiff has a good cause of action, but such is imperfectly pled. (*Falcon v. Long Beach Genetics, Inc.* (2014) 224 Cal.App.4th 1263, 1280.) Courts may exercise discretion to deny amendments where unwarranted delay in seeking leave is found by the court. (*Ibid.*)

Defendants argue that allowing the amendment while their summary judgment motion is pending would prejudice them. Defendants also assert the proposed amendments are futile. The court in *Falcon* acknowledged that there is a split in authority regarding amendments following summary judgment. (*Ibid.*) Here, the court is inclined to exercise its discretion and allow a potentially meritorious claim to be alleged. Also, the court is not inclined to address the proposed amendment's potential futility at this stage. Any challenges to the amended complaint may be addressed by the appropriate 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

