**Tentative Rulings for March 12, 2026**
**Department 502**

**For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)**

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**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.***

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**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 502

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(20) **Tentative Ruling**

Re: ***Doe v. Fresno Unified School District, et al.***
Superior Court Case No. 23CECG03206

Hearing Date: March 12, 2026 (Dept. 502)

Motion: By Defendant Fresno Unified School District for Summary Judgment, or alternatively, for Summary Adjudication

**Tentative Ruling:**

To deny.

**Explanation:**

Plaintiff John "HJ" Doe (hereinafter "plaintiff") alleges that he was the victim of childhood sexual abuse that occurred when he was approximately 15-17 years old. The alleged perpetrator, defendant Samuel Confectioner, was a substitute teacher employed by defendant Fresno Unified School District ("FUSD") when the abuse allegedly occurred.

The operative pleading is the Second Amended Complaint ("SAC") which alleges four causes of action against FUSD: (1) negligence; (2) negligent supervision; (3) negligent hiring/retention; and (4) public entity liability for failure to perform mandatory duty.

The undisputed facts as presented by the moving papers are quite brief. Confectioner sexually assaulted plaintiff twice in 2002 when plaintiff was a student at Edison High School. (UMF 2.) The two sexual assaults occurred at Confectioner's home after school hours. (UMF 3.) The SAC does not allege that there was an undertaking by FUSD to provide for plaintiff's transportation home or otherwise provide for plaintiff's safety after hours and/or off campus at the times the alleged sexual assaults occurred. (UMF 4.) FUSD then quotes from a paragraph in the SAC. (UMF 5.) Allegations of the complaint are not facts. FUSD asserts that there is no evidence that its personnel had actual knowledge of Confectioner's alleged sexual assault of plaintiff and/or acted with deliberate indifference in the face of such knowledge. (UMF 6.)

Plaintiff in response presents little admissible evidence. The court intends to sustain FUSD's evidentiary objection nos. 1, 2-13, and overrule objection no. 2. Most of the objections are sustained due to failure to authenticate exhibits. The simple fact that documents were produced by FUSD does not render them admissible. "Documents obtained in discovery in response to a request for production of documents may be used to support or oppose a motion for summary judgment, but must be presented in admissible form." (*Serri v. Santa Clara University* (2014) 226 Cal.App.4th 830, 855.)

Plaintiff has not submitted written objections in compliance with Cal. Rules of Court, rule 3.1354(b) [objections are to be filed separately from other papers in opposition to the motion; must be in specified format; may be referenced by objection number in the separate statement, but must not be restated or argued in the separate statement].

**First, Second and Third Causes of Action**

Government Code § 815.2, which provides:

> (a) A public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment if the act or omission would, apart from this section, have given rise to a cause of action against that employee or his personal representative.
> (b) Except as otherwise provided by statute, a public entity is not liable for an injury resulting from an act or omission of an employee of the public entity where the employee is immune from liability.

"[Government Code] Section 815.2 is … merely a general liability provision of the [Government Claims] Act, establishing vicarious liability for the acts or omissions of government employees." (*State Dept. of State Hospitals v. Superior Court* (2022) 84 Cal.App.5th 1069, 1076.) "Even when a duty exists, California has enacted specific immunity statutes that, if applicable, prevail over liability provisions." (*State Dept. of State Hospitals v. Superior Court* (2015) 61 Cal.4th 339, 348.)

In moving for summary adjudication of the first three causes of action, FUSD relies entirely on Education Code section 44808, which addresses liability for injury occurring when pupils are *not* on school property:

> Notwithstanding any other provision of this code, no school district, city or county board of education, county superintendent of schools, or any officer or employee of such district or board shall be responsible or in any way liable for the conduct or safety of any pupil of the public schools at any time when such pupil is not on school property, unless such district, board, or person has undertaken to provide transportation for such pupil to and from the school premises, has undertaken a school-sponsored activity off the premises of such school, has otherwise specifically assumed such responsibility or liability or has failed to exercise reasonable care under the circumstances.
>
> In the event of such a specific undertaking, the district, board, or person shall be liable or responsible for the conduct or safety of any pupil only while such pupil is or should be under the immediate and direct supervision of an employee of such district or board.

"[S]ection 44808 limits the liability of schools for after-hours, off-campus activity, absent a specific undertaking." (*Cerna v. City of Oakland* (2008) 161 Cal.App.4th 1340, 1356.)

In addressing the scope of the immunity, FUSD relies on *LeRoy v. Yarboi* (2021) 71 Cal.App.5th 737, where a student committed suicide at home two days after the end of the school year, due to bullying that occurred at school, and of which the school was aware. Section 44808 immunity applied since the student was not directly supervised during a specified undertaking. Section 44808 "does not create a common law form of general negligence; it refers to the failure to exercise reasonable care during one of the

three mentioned undertakings in section 44808. … Kennedy committed suicide off campus during summer break in the LeRoys' home while he was not and should not have been supervised by Respondents or any other [school] employee. At the time, no one at [the school] had assumed responsibility for his well-being. Under these tragic circumstances, Respondents are immune from liability for Kennedy's death under section 44808, even if they breached a duty they owed him." (*Id.* at pp. 743-744.)

FUSD seems to bury its head in the sand a bit by simply pointing out the fact that the sexual abuse occurred at Confectioner's home, and not on school property or during school hours. (UMF 3.) That is true, but ignores how plaintiff came to be at Confectioner's home.

In the first instance of abuse, Confectioner picked plaintiff up in his personal vehicle from the yellow benches in front of Edison High School after football practice. Confectioner drove plaintiff to his personal residence and sexually abused him. (AMF 13.) A few months later, Confectioner picked plaintiff up in his personal vehicle from the front of the school, drove plaintiff to his home, and sexually abused him again. (AMF 14.)

Confectioner was a FUSD substitute teacher, and additionally held himself out as a football scout with knowledge of the football coach. (AMF 16.) It is odd that FUSD would rely on section 44808 in a situation in which a school employee transported a student, picking him up in front of the school, after school/practice, to the employee's home to sexually abuse him. In order to establish applicability of section 44808, FUSD would have to submit a great deal more detail about Confectioner's position and standing with FUSD on the days in question. Based on the evidence submitted, the court cannot conclude that FUSD has met its burden of establishing applicability of section 44808. The motion is therefore denied as to the first three causes of action.

**Fourth Cause of Action**

This cause of action alleges breach of mandatory duties under Education Code sections 200, 201(c)-(f), and Title IX of 20 U.S.C. §1681. The SAC alleges that FUSD acted with deliberate indifference to Confectioner's grooming of students, allowing him to remain in the classroom and participate in extracurricular activities on the Edison High School campus, to sexually harass and abuse minor students, including plaintiff. The SAC alleges that "CONFECTIONER's inappropriate behavior with students that occurred on school grounds at Edison High School were known to teachers and an administrator."

FUSD asserts that there is no evidence that its personnel had actual knowledge of Confectioner's alleged sexual assault of plaintiff and/or acted with deliberate indifference in the face of such knowledge. (UMF 6.) In support of this contention, FUSD cites to plaintiff's deposition, Confectioner's deposition, the interrogatories propounded on plaintiff, and plaintiff's responses to the interrogatories (original and supplemental).

In its analysis of the cause of action, FUSD relies on the notion that plaintiff's discovery responses were factually devoid. FUSD does not point to any particular interrogatory or interrogatory response, instead generally pointing out that plaintiff's interrogatory responses identify FUSD employees and/or students, Bernard Smith, Jim Bowen, Tim McDonald, McDonald, Santiago Woods, Diane Parrish, Chris Finley, Tony

Perry, Diddy Bo, James Edwards, Robert Peele, Jr., Montreal Williams, Bernard Hicks, and Chris Brown as persons with knowledge of such facts, as well as certain categories of documents.

> In moving for summary judgment, "[t]he defendant may ... present evidence that the plaintiff **does not possess, and cannot reasonably obtain, needed evidence**—as through admissions by the plaintiff following extensive discovery to the effect that he has discovered nothing." (*Aguilar [v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 855.) If plaintiffs respond to comprehensive interrogatories seeking all known facts with boilerplate answers that restate their allegations, or simply provide laundry lists of people and/or documents, the burden of production will almost certainly be shifted to them once defendants move for summary judgment and properly present plaintiffs' factually devoid discovery responses.

(*Andrews v. Foster Wheeler LLC* (2006) 138 Cal.App.4th 96, 106-07, emphasis added.)

However, "[i]t is not enough for defendant to show merely that plaintiff 'has no evidence' on a key element of plaintiff's claim. Defendant must also produce evidence showing plaintiff *cannot reasonably obtain* evidence to support that claim. [*Gaggero v. Yura* (2003) 108 CA4th 884, 891, 134 CR2d 313, 318; *Zoran Corp. v. Chen* (2010) 185 CA4th 799, 808, 110 CR3d 597, 604]." (Weil & Brown, *Cal. Practice Guide: Civ. Proc. Before Trial* (TRG 2025) § 10:244.) A moving party does not satisfy its burden of proof by producing discovery responses that do not exclude the possibility that the plaintiff may possess or may reasonably obtain evidence sufficient to establish their claim. (*Weber v. John Crane, Inc.* (2006) 143 Cal.App.4th 1433, 1441-1442.)

FUSD contends that plaintiff's discovery responses are factually devoid, shifting the burden of production to plaintiff. However, FUSD does not specifically identify (in either the points an authorities or separate statement of undisputed material facts) any particular interrogatory or interrogatories seeking specific facts going to FUSD personnel's actual knowledge of Confectioner's inappropriate behavior. While plaintiff fails to submit admissible evidence showing anyone did have such knowledge, FUSD has not succeeded in shifting the burden to plaintiff. Accordingly, the motion is denied as to the fourth cause of action as well.

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: KCK on 03/11/26 .**
(Judge's initials) (Date)

(47)

**Tentative Ruling**

Re: ***Felix Silva Tellez v. Leticia Ramos***
Superior Court Case No. 25CECG00725

Hearing Date: March 12, 2026 (Dept. 502)

Motion: By Plaintiffs to Compel Production of Documents

**Tentative Ruling:**

To grant plaintiffs motion to compel defendant Susana Ramos Hernandez to produce responses to the Request for Production of Documents (Set One),within 20 days of the clerk's service of the minute order.

To impose monetary sanctions in favor of plaintiffs and against defendant Susana Ramos Hernandez. Defendant Susana Ramos Hernandez is ordered to pay $900 in sanctions to plaintiffs' attorneys at Dillon, Miller, Ahuja & Boss, LLP, within 30 days of the clerk's service of the minute order.

**Explanation:**

Plaintiffs Felix G. Silva Tellez and Oscar Valdez Roque ("plaintiffs") make a motion to compel responses to the Request for Production of Documents (Set One) from defendant Susana Ramos Hernandez. ("Defendant.") (Code of Civ. Proc., § 2030.300.)

Plaintiffs' motion demonstrates that the subject discovery was served on defendant on October 16, 2025, due on November 8, 2025, and that responsive documents have still not yet been received. (Lea Decl., ¶¶ 5,8,9.) Opposition to this motion has not been filed. Therefore, the motion is granted.

Code of Civil Procedure section 2023.030, subdivision (a) provides, in relevant part: "The court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process, or any attorney advising that conduct, or both pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct."

Under these circumstances, the court orders monetary sanctions against defendant for reasonable attorney fees and costs of $900 incurred to bring this 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: KCK on 03/11/26.**
(Judge's initials) (Date

(46)

**Tentative Ruling**

Re: ***Laura Veronica-Montano v. Enrique Arriola***
Superior Court Case No. 25CECG00069

Hearing Date: March 12, 2026 (Dept. 502)

Motion: by Defendants to Compel Further Responses to Discovery

**Tentative Ruling:**

To order the motion off calendar.

**Explanation:**

Defendants Arriola Farm Labor Inc. and Enrique Arriola ("defendants") move to compel further responses from plaintiff Laura Veronica-Montano ("plaintiff") to defendant's Request for Production of Documents, Set One.

*Local Rule 2.1.17 — No Permission to File Motion*

Fresno Superior Court Local Rules, Rule 2.1.17 requires that before filing, *inter alia,* a motion to compel further discovery responses under Code of Civil Procedure sections 2016.010 through 2036.050, inclusive, the party desiring to file such a motion must first request an informal Pretrial Discovery Conference with the Court and wait until either (1) the court denies that request and gives permission to file the motion, or (2) the conference is held but the dispute is not resolved at the conference and the court grants express permission to file the motion. (emphasis added.)

Here, defendants filed a Request for Pretrial Discovery Conference regarding the insufficient discovery responses on October 7, 2025. This court denied the request, and ordered plaintiff to provide the responsive documents or else sanctions would be imposed. (See Order on Request for Pretrial Discovery Conference dated October 21, 2025.) However, the court did not include in its order any permission for defendants to file a discovery motion. Therefore, this motion is improperly before the court and is ordered off calendar.

*Code of Civil Procedure section 2031.310 — Motion is Untimely*

Even had express permission been granted to file this motion, it would have been untimely.

Code of Civil Procedure section 2031.310, subdivision (c) provides with respect to motions to compel further responses to requests for production: "Unless notice of this motion is given within 45 days of the service of the verified response, or any supplemental verified response, or on or before any specific later date to which the demanding party and the responding party have agreed in writing, the demanding party waives any right to compel a further response to the demand." (Code Civ. Proc., § 2031.310 subd. (c).)

In construing similar predecessor statutory provisions, the court in *Sexton v. Superior Court* (1997) 58 Cal.App.4th 1403, concluded that the 45-day time limitation or otherwise specified period to file for motions to compel further answers to interrogatories and to compel production of documents was not "'jurisdictional' in the fundamental sense, but is only 'jurisdictional' in the sense that it renders the court *without authority* to rule on motions to compel other than to deny them." (*Id*. at p. 1410, emphasis added.)

The parties to an action may agree in writing to a specific later date for this type of motion to be filed beyond the 45-day limit. (Code Civ. Proc., § 2031.310, subd. (c).) Without such written agreement, the demanding party has waived any right to compel a further response to the demand. (*Ibid*.)

Here, defendants propounded their Request for Production of Documents, Set One on plaintiff on April 18, 2025. (Rodriguez Decl., ¶ 3.) Plaintiff provided verified responses to this request on June 17, 2025. (*Id*., ¶ 6.) Prior to filing this motion, it does not appear that plaintiff provided any supplemental verified responses that would renew the time to file this motion.[1] While defendants submit that the parties discussed production of additional responsive messages, these discussions alone are insufficient to extend the time to bring a motion to compel further responses. There must be a written agreement to extend time to a specific date. The moving party did not demonstrate any written agreement to extend the time to file a motion to compel further responses. As such, this motion is untimely.

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: KCK on 03/11/26.**
(Judge's initials) (Date)

[1] Per the Reply papers, plaintiff has now served unverified supplemental responses. (Rodriguez Decl. to Reply, ¶¶ 2-3.) These *unverified* responses do not reset the 45-day time limit, should defendants again seek to compel further responses. Verification and permission by the court following a request for pretrial discovery conference would again be required.