

Tentative Rulings for March 18, 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)

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.

25CECG03555 *Janice Gunlund v. Four Bar C Farms, Inc.* is continued to Wednesday, April 22, 2026, at 3:30 p.m. in Department 502.

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Tentative Rulings for Department 502

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(46)

Tentative Ruling

Re: **Min Wang v. Yanjiu Tan**
Superior Court Case No. 25CECG03386

Hearing Date: March 18, 2026 (Dept. 502)

Motion: Demurrer

Tentative Ruling:

To continue the hearing on this motion to Thursday, April 16, 2026 at 3:30 p.m. in Department 502. The parties are ordered to conduct a meet and confer session, in person, by telephone, or by videoconference at least 15 days prior to the hearing. If the meet and confer resolves the issues, defendant shall call the calendar clerk to take the motion off calendar. If it does not resolve the issues, defendant shall file a declaration, on or before Friday, April 10, 2026 at 5:00 p.m. stating the efforts made. (Code Civ. Proc., § 430.41.)

Explanation:

Before the merits of a demurrer are considered, the moving party must first have demonstrated that he or she fulfilled the meet and confer duties set forth in Code of Civil Procedure section 430.41. Code of Civil Procedure section 430.41 requires the party who is attacking the pleadings by way of demurrer to meet and confer in person, by telephone, or by videoconference prior to filing the motion, in order to determine if the parties can reach an agreement that would resolve the objections and avoid having to file the motion. Then, if these efforts do not result in reaching an agreement, the moving party must file a declaration, along with the moving papers, stating one of the following:

- (A) The means by which the demurring party met and conferred with the party who filed the pleading subject to demurrer, and that the parties did not reach an agreement resolving the objections raised in the demurrer.
- (B) That the party who filed the pleading subject to demurrer failed to respond to the meet and confer request of the demurring party or otherwise failed to meet and confer in good faith.

(Code Civ. Proc., § 430.41, subd. (a)(3).)

Here, the moving defendants Yanjiu Tan, Cuiqin Zhu, Ke Jing Huang, Yosemite Senior Haven, and Yosemite Cultural Creative Group LLC filed a declaration by their counsel, Leon Jew, regarding the efforts to meet and confer prior to filing the demurrer. The declaration detailed only two attempts to meet and confer with plaintiff Min Wang. The first was in the form of a letter sent via e-mail, to which plaintiff's counsel replied by e-mail. (Jew Decl., ¶ 5(a).) Mr. Jew called counsel's office a month later without reaching counsel, whereby he followed up with an e-mail. (*Id.*, ¶ 5(b).)

(03)

Tentative Ruling

Re: **Joy C&C, LLC v. Yang**
Case No. 25CECG04045

Hearing Date: March 18, 2026 (Dept. 502)

Motion: Plaintiff/Cross-Defendant's Demurrer and Motion to Strike
Portions of Cross-Complaint

Tentative Ruling:

To continue the hearing on the demurrer and motion to strike to May 20, 2026 at 3:30 p.m. in Department 502. To order plaintiff's counsel to engage in meet and confer efforts with defendants in person, by phone, or by videoconference, as required under Code of Civil Procedure sections 430.41 (a) and 435.5(a). To order plaintiff's counsel to file a declaration with the court by the close of business on May 13, 2026, regarding the outcome of the meet and confer efforts.

Explanation:

Under Code of Civil Procedure section 430.41, "Before filing a demurrer pursuant to this chapter, the demurring party shall meet and confer *in person, by telephone, or by video conference* with the party who filed the pleading that is subject to demurrer for the purpose of determining whether an agreement can be reached that would resolve the objections to be raised in the demurrer. If an amended complaint, cross-complaint, or answer is filed, the responding party shall meet and confer again with the party who filed the amended pleading before filing a demurrer to the amended pleading." (Code Civ. Proc., § 430.41, subd. (a), italics added.)

"As part of the meet and confer process, the demurring party shall identify all of the specific causes of action that it believes are subject to demurrer and identify with legal support the basis of the deficiencies. The party who filed the complaint, cross-complaint, or answer shall provide legal support for its position that the pleading is legally sufficient or, in the alternative, how the complaint, cross-complaint, or answer could be amended to cure any legal insufficiency." (Code Civ. Proc., s 430.41, subd. (a)(1).)

"The demurring party shall file and serve with the demurrer a declaration stating either of the following: (A) The means by which the demurring party met and conferred with the party who filed the pleading subject to demurrer, and that the parties did not reach an agreement resolving the objections raised in the demurrer. (B) That the party who filed the pleading subject to demurrer failed to respond to the meet and confer request of the demurring party or otherwise failed to meet and confer in good faith." (Code Civ. Proc., § 430.41, subd. (a)(3), para. breaks omitted.) However, "[a] determination by the court that the meet and confer process was insufficient shall not be grounds to overrule or sustain a demurrer." (Code Civ. Proc., § 430.41, subd. (a)(4).)

Also, Code of Civil Procedure section 435.5 imposes identical meet and confer requirements by a party may file a motion to strike.

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Tentative Ruling

Re: **Kylie Byrd v. City of Clovis**
Superior Court Case No. 25CECG00550

Hearing Date: March 18, 2026 (Dept. 502)

Motion: By Plaintiff for Leave to Amend Complaint of "Dismissal of Premise Liability Action with Prejudice"

Tentative Ruling:

To deny.

Explanation:

Plaintiff Kylie Byrd, a minor by and through her guardian ad litem, Tyla Byrd (Plaintiff), initiated this action on January 31, 2025, by filing a form complaint (Complaint) against codefendants Clovis Unified School District (CUSD) and the City of Clovis. Plaintiff alleges Kylie Byrd was injured at a softball practice session when another student swung a metal bat and struck Kylie Byrd in the mouth. The Complaint has two causes of action—the first for general negligence and the second for premises liability.

The court sustained CUSD's demurrer to the second cause of action for premises liability with leave to amend. The court gave Plaintiff 20 days from the clerk's July 29, 2025, electronic service of the minute order to file a first amended complaint, and directed that "[n]ew language must be set in **boldface** type." Plaintiff failed to file a first amended complaint by the August 20, 2025, deadline. On August 26, 2025, CUSD's counsel granted Plaintiff an extension to August 29, 2025, to file a first amended complaint.

After Plaintiff failed to file or serve any amended pleading, CUSD filed a motion on September 8, 2025, for dismissal with prejudice of the second cause of action for premises liability pursuant to Code of Civil Procedure section 581, subdivision (f)(2).¹ Under that section, the court may dismiss the complaint as to a defendant when: "after a demurrer to the complaint is sustained with leave to amend, the plaintiff fails to amend it within the time allowed by the court and either party moves for dismissal." (*Ibid.*) After the matter was argued and submitted, this court granted CUSD's motion on November 20, 2025.

On December 8, 2025, Plaintiff filed a six-page document (with several errors) entitled, "Plaintiff Motion for Leave to Amend Complaint of 'Dismissal with Prejudice'; Proposed Pleading to Be Refiled; Declaration of David Amirian, Esq.; Case Management Conference on March 25, 2026." (All caps and boldface omitted.) Although listed in the title, Plaintiff's moving papers do not include a proposed pleading. On the first page of the motion (which has a footer "EX PARTE" on each page), Plaintiff mistakenly states she is seeking relief from "dismissal of action *without* prejudice[.]" (All caps omitted, italics

¹ Unless otherwise noted, all further statutory references are to the Code of Civil Procedure.

added). On the second page she acknowledges the court ordered dismissal with prejudice, but Plaintiff seeks an order “to relieve Plaintiff from dismissal of Plaintiff’s Complaint,” rather than dismissal of Plaintiff’s second cause of action for premises liability. Plaintiff summarizes the relief she seeks as follows: “Plaintiff requests that the Court grant the Motion for Relief from ‘Dismissal of Premise Liability Action with Prejudice’ and the [C]omplaint to be reinstated.” (Memo., p. 4:14-16, all caps omitted.)

After the court sustained CUSD’s demurrer to the second cause of action for premises liability on July 29, 2025, and granted CUSD’s motion to dismiss the second cause of action on November 20, 2025—the Complaint remains the operative pleading—with one cause of action for negligence alleged against CUSD. (Plaintiff dismissed codefendant City of Clovis without prejudice on October 21, 2025.)

CUSD points out that Plaintiff fails to follow the procedural prerequisites to obtain the relief she seeks. Plaintiff could have filed a first amended complaint within the time granted by the court and extended by CUSD, moved for discretionary relief under section 473, subdivision (b), or moved for reconsideration under section 1008, but she did not.

The procedural prerequisites for leave to amend require Plaintiff to present a copy of the proposed amended pleading and a declaration addressing the factors specified in rule 3.1324 of the California Rules of Court, which she fails to do. In her two-page memorandum of points and authorities, Plaintiff simply cites and quotes (with no analysis) section 473, subdivision (a)(1), which gives the court discretion to permit amendment and provides:

The court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect; and may, upon like terms, enlarge the time for answer or demurrer. The court may likewise, in its discretion, after notice to the adverse party, allow, upon any terms as may be just, an amendment to any pleading or proceeding in other particulars; and may upon like terms allow an answer to be made after the time limited by this code.

She follows this quotation with citations to cases to support the well-established principle that the court has wide discretion to allow amendments.

In the final paragraph before the conclusion, Plaintiff claims she has a “statutory right” to amend the Complaint under section 377.31, which provides:

On motion after the death of a person who commenced an action or proceeding, the court shall allow a pending action or proceeding that does not abate to be continued by the decedent’s personal representative or, if none, by the decedent’s successor in interest.

To support this claim, Plaintiff improperly cites an unpublished case, and provides no facts or analysis to show she has a statutory right to amend under section 377.31. (Cal. Rules

of Court, rule 8.1115(a); *People v. Gray* (2014) 229 Cal.App.4th 285, 292, fn. 15 [with limited exceptions inapplicable here, improper to cite unpublished opinion].)

Plaintiff essentially seeks reconsideration of the court's November 20, 2025 order dismissing the second cause of action against CUSD. (See Amirian decl., ¶ 8.) To obtain reconsideration, Plaintiff must follow the jurisdictional prerequisites under section 1008, which generally require a motion for reconsideration to be "based upon new or different facts, circumstances, or law." (§ 1008, subd. (a).) Subdivision (a) provides in full:

When an application for an order has been made to a judge, or to a court, and refused in whole or in part, or granted, or granted conditionally, or on terms, any party affected by the order may, within 10 days after service upon the party of written notice of entry of the order and based upon new or different facts, circumstances, or law, make application to the same judge or court that made the order, to reconsider the matter and modify, amend, or revoke the prior order. *The party making the application shall state by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown.*

(*Ibid.*, italics added.)

Section 1008, subdivision (e) explicitly states the requirements set forth in the statute are jurisdictional:

This section specifies the court's jurisdiction with regard to applications for reconsideration of its orders and renewals of previous motions, and applies to all applications to reconsider any order of a judge or court, or for the renewal of a previous motion, whether the order deciding the previous matter or motion is interim or final. No application to reconsider any order or for the renewal of a previous motion may be considered by any judge or court unless made according to this section.

Thus, "[a]ccording to the plain language of the statute, a court acts in excess of jurisdiction when it grants a motion to reconsider that is not based upon "new or different facts, circumstances, or law." ' ' *Pazderka v. Caballeros Dimas Alang, Inc.* (1998) 62 Cal.App.4th 658, 670 (*Pazderka*) [trial court lacked jurisdiction to reconsider its prior order where moving party's declaration failed to raise any new facts or law], quoting *Gilberd v. AC Transit* (1995) 32 Cal.App.4th 1494, 1500.) Here, as in *Pazderka*, Plaintiff offers no new or different facts or law.

For example, Plaintiff offers no new facts or analysis to change the court's November 20, 2025 order, wherein the court noted CUSD's citation to *Leader v. Health Industries of America, Inc.* (2001) 89 Cal.App.4th 603 (*Leader*). In that case the court explained that a plaintiff's failure to file an amended complaint within the time specified after a court sustains a demurrer has several immediate statutory ramifications, including:

Finally, plaintiffs' failure to file an amended complaint within the time specified subjected their entire action to dismissal in the court's discretion

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Tentative Ruling

Re: **Usman Bhatti v. General Motors LLC**
Superior Court Case No. 25CECG02406

Hearing Date: March 18, 2026 (Dept. 502)

Motion: by Defendant General Motors LLC for Compliance and Sanctions

Tentative Ruling:

To deny the motion for compliance.

To impose monetary sanctions in favor of defendant General Motors LLC and against counsel for plaintiff Usman Ahmad Bhatti. Plaintiff's counsel is ordered to pay \$1,500.00 in sanctions to counsel for defendant within 30 days of the clerk's service of the minute order.

Explanation:

Defendant General Motors LLC ("defendant") moves for an order for compliance, requiring plaintiff Usman Ahmad Bhatti ("plaintiff") to produce documents and written disclosures under Code of Civil Procedure section 871.26, subdivisions (f) and (g). Defendant further moves for monetary sanctions in the amount of \$1,500.00, pursuant to Code of Civil Procedure section 871.26, subdivision (j)(1).

Motion for Compliance

Aiding in the procedures for discovery exchange in Song-Beverly actions, Code of Civil Procedure section 871.26, subdivisions (f) and (g) set out the initial disclosures and documents plaintiff is required to provide to defendant within 60 days of the filing of defendant's responsive pleading. (Code Civ. Proc., § 871.26, subd. (b).) Defendant's Answer was filed in this action on July 28, 2025. To date, plaintiff has failed to provide defendant with the complete documentation as outlined in the statute. (Nelson Decl., ¶ 4.)

However, defendant has not provided authority to support that compliance with the initial disclosures and production of documents may be compelled under Code of Civil Procedure section 871.26. Under subdivision (j), the statute provides that when a party has failed to comply, monetary sanctions may be imposed and the case potentially dismissed after repeated noncompliance. (Code Civ. Proc., § 871.26, subd. (j).) The court is unaware of any other provision that allows the court to otherwise compel compliance with the disclosure provisions delineated in this code section, and defendant has not provided such authority.

Thus, the court intends to deny the motion for compliance.

