Tentative Rulings for May 5, 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.

20CECG01307 ***Zart Transmission, Inc. v. Kenneth Loveman*** **is continued to Tuesday, May 12, 2026, at 3:30 p.m. in Department 501.**

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Tentative Rulings for Department 501

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Tentative Ruling

Re: ***Hagen v. Save Mart Supermarkets, LLC, et al.***
Superior Court Case No. 25CECG03580

Hearing Date: May 5, 2026 (Dept. 501)

Motion: by Plaintiffs for an Order Compelling Defendant Save Mart Companies, LLC's Further Responses to Requests for Production of Documents, Form Interrogatories – General, and Form Interrogatories – Employment

by Plaintiffs for an Order Compelling Defendant Save Mart Supermarket, LLC's Further Responses to Requests for Production of Documents, Form Interrogatories – General, and Form Interrogatories – Employment

Tentative Ruling:

To deny plaintiff's motions to compel further responses of defendant Save Mart Companies, LLC, as moot in light of the verified supplemental responses served March 26, 2025. To impose monetary sanctions in the amount of $1,500 in favor of plaintiff and against defendant Save Mart Companies, LLC. Defendant is ordered to pay $1,500 in sanctions to Blackstone Law, APC within 30 days of the clerk's service of the minute order.

To grant, in part, plaintiff's motions to compel further responses from defendant Save Mart Supermarkets, LLC to Requests for Production of Documents, Form Interrogatories – General, and Form Interrogatories - Employment.

Defendant Save Mart Supermarkets, LLC shall provide further verified responses to request for production nos. 63-66 and 68. In light of the verified supplemental responses served April 9, 2026, the motion is moot as to the remaining requests.

Defendant Save Mart Supermarkets, LLC shall provide further verified responses to Form Interrogatories – General, interrogatory nos. 4.1, 12-1-12.7, 13.1, 13.2, 14.1 and 14.2.

Defendant Save Mart Supermarkets, LLC shall provide further verified responses to Form Interrogatories – Employment, interrogatory nos. 201.5, 201.6, and 209.2, subject to the limitations described below.

All further responses shall be served on plaintiff within 20 days from the date of service of the order by the clerk.

To impose further monetary sanctions in the amount of $3,900 in favor of plaintiff and against defendant Save Mart Supermarkets, LLC. Defendant is ordered to pay $3,900 in sanctions to Blackstone Law, APC within 30 days of the clerk's service of the minute order.

Explanation:

Save Mart Companies, LLC

Defendant Save Mart Companies, LLC has provided evidence of, and plaintiff acknowledges receipt of, further verified responses to the discovery at issue in these motions. Accordingly, the motions to compel are moot. As it appears the motions were necessary for plaintiff to obtain further responses, the court intends to award sanctions against defendant in the amount of $1,500, reflecting five hours of counsel's time at a reasonable hourly rate of $300.

Save Mart Supermarkets, LLC

On September 2, 2025, plaintiff served form interrogatories - general, form interrogatories - employment, and requests for production on defendant Save Mart Supermarkets, LLC. On October 27, 2025, defendant served responses. The parties have met and conferred in writing and telephonically and after requesting a Pretrial Discovery Conference, plaintiff was granted permission to file her motions to compel further responses.

Motion to Compel Further Responses to Requests for Production

Discovery requests are generally afforded liberal construction. (See Code of Civ. Proc., § 2017.010; *Williams v. Superior Court* (2017) 3 Cal.5th 531, 541.) A motion seeking further responses in a request for further production of documents "shall set forth specific facts showing good cause justifying the discovery sought by the demand." (Code of Civ. Proc., § 2031.310 subd. (b)(1).) Absent a privilege issue or claim of attorney work product, that burden is met simply by a fact-specific showing of relevance. (*Glenfed Dev. Corp. v. Superior Court* (1997) 53 Cal.App.4th 1113, 1117.) Once good cause is shown, the burden shifts to the opposing party to justify their objections. (*Kirkland v. Superior Court* (2002) 95 Cal.App.4th 92, 98.)

Declarations are generally used to show the requisite "good cause" for an order to compel inspection. The declarations must contain specific facts rather than mere conclusions. (*Fireman's Fund Ins. Co. v. Superior Court* (1991) 233 Cal.App.3d 1138, 1141.)

Though the declaration in support of the motion does not establish good cause, sufficient information is set forth in plaintiff's separate statement to proceed to the merits of the motion to compel.

Request Nos. 63-66 and 68

These requests seek documents related to complaints or concerns made to defendant alleging mistreatment because of a disability or their age, or a request for accommodation. Request nos. 63, 64 and 65 seek documents related to mistreatment by any person listed in defendant's response to Form Interrogatory 201.1. Request nos. 66 and 68 specifically seek documents as to complaints made by employees of defendant's

Fresno stores. All requests limit the time frame to 2015 to present. Plaintiff has demonstrated, and defendant does not dispute, that the "me too" evidence sought in these requests is relevant and discoverable.

Defendant objects that the requests do not adequately narrow the complaints to those sufficiently similar to those of plaintiff and asserts the requests seek private information of third parties. The objections are overruled. The requests are sufficiently tailored to plaintiff's claims and directly relevant to her FEHA claims.

Defendant is ordered to provide further, code-compliant responses.

On April 9, 2026, defendant served further verified responses to plaintiff's requests for production, with the exception of request nos. 63-66 and 68. (Archila Decl., ¶¶ 11, 13.) Although plaintiff asserts in her reply that the supplemental responses remain deficient, the court finds the supplemental responses moot the motion at bench as to the October 27, 2025 responses with the exception of request nos. 63-66 and 68. The court anticipates disputes with respect to the form of the supplemental responses, e.g., compliance with Code of Civil Procedure section 2031.280, subdivision (a), to be resolved during the meet and confer process.

Motions to Compel Further Responses to Form Interrogatories

Each answer in response to an interrogatory must be "as complete and straightforward as the information reasonably available to the responding party permits. If an interrogatory cannot be answered completely, it shall be answered to the extent possible." (Code Civ. Proc., § 2030.220, subd. (a), (b).) "Where the question is specific and explicit, an answer which supplies only a portion of the information sought is wholly insufficient. Likewise, a party may not provide deftly worded conclusionary answers designed to evade a series of explicit questions." (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 783.) Discovery requests are generally afforded liberal construction. (See Code of Civ. Proc., § 2017.010; *Williams v. Superior Court* (2017) 3 Cal.5th 531, 541.)

When the responding party answers with objections, and a motion to compel is filed, the burden is on the objecting party to establish whatever facts are necessary to justify the objection. (*Coy v. Superior Court* (1962) 58 Cal.2d 210, 220-221; *Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255.)

Defendant has objected to Form Interrogatory nos. 4.1, 12.1-12.7, 13.1, 13.2, 14.1, and 14.2 due to their use of the definition of "INCIDENT" encompassing the events giving rise to all claims in the complaint. Defendant argues the Judicial Council-prepared definition is ambiguous with respect to this case as the complaint alleges years of discriminatory conduct in addition to a specific incident resulting in plaintiff's termination. In other words, there are too many "incidents" giving rise to the claims in the complaint.

There is no dispute that each of the interrogatories at issue are seeking relevant, discoverable information. The problem appears to be one of organizing defendant's response with respect to the more general conduct alleged giving rise to the FEHA claims and the particular incident resulting in plaintiff's termination. The court trusts counsel for defendant have ample experience drafting responses to these routine form

interrogatories with respect to FEHA claims and can organize responses under these circumstances. The objections are overruled.

Defendant is ordered to provide further, code-compliant responses to Form Interrogatories – General, interrogatory nos. 4.1, 12.1-12.7, 13.1, 13.2, 14.1, and 14.2.

Plaintiff is also moving for defendant's further response to employment form interrogatory nos. 201.5 and 201.6 seeking information as to the person(s) who have been hired to replace plaintiff and those who have performed plaintiff's former job duties. Defendant's responses to both interrogatories are identical, asserting various objections and summarizing that a number of employees performed the same duties as plaintiff while she was employed and continued to do so after plaintiff was terminated. This response does not answer whether someone was hired to perform the job of meat clerk or identify the persons who performed plaintiff's job duties following her termination. Defendant's privacy objections are overruled. These are Judicial Council-prepared form interrogatories seeking relevant, discoverable information as to plaintiff's discrimination claims and potential witnesses. Defendant's objections are overruled.

Defendant is ordered to provide further, code-compliant responses to Form Interrogatories – Employment, interrogatory nos. 201.5 and 201.6.

Similar to the requests for documents at issue, Form Interrogatories – Employment, interrogatory no. 209.2 seeks information as to other civil actions filed against defendant in the last ten years. Defendant objects to the broad scope of the interrogatory as it is a large employer with store locations in both California and Nevada. Plaintiff's reply indicates she has agreed to narrow the scope of the question to civil actions brought alleging the same claims as those in plaintiff's complaint. The court agrees that narrowing the scope of the question is appropriate, however the objection does not justify the absence of a substantive response to the interrogatory.

Defendant is ordered to provide a further, code-compliant response to Form Interrogatories – Employment, interrogatory no. 209.2, limited to civil actions filed in the state of California alleging the same causes of action alleged in plaintiff's complaint.

Sanctions

Plaintiff seeks $4,500 in sanctions in connection with the motion to compel further responses to requests for production and $2,500 in connection with the motion to compel further responses to employment interrogatories. No sanctions are requested in connection with the motion to compel further responses to the general interrogatories. Plaintiff's counsel attests to a total of 7 hours spent to prepare the motions and anticipated three hours to review the opposition, prepare the reply and appear at the hearing for each motion. (Perez RFP Decl., ¶ 9; Perez Emp. Rog. Decl., ¶ 8.) Counsel's hourly rate is $500. (*Ibid*.) The billing rate of $500 exceeds that of comparable local counsel and the court declines to find it reasonable in this case. The court finds it

reasonable to award sanctions in the reduced amount of $3,900, representing 13 hours of attorney time at a rate of $300 per hour.

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 5/1/2026.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Santos v. Palogix International Limited***
Superior Court Case No. 24CECG03568

Hearing Date: May 5, 2026 (Dept. 501)

Motion: 1) Cross-Defendant Olman Santos' Demurrer to the Cross-Complaint
2) Cross-Defendant DJT Transport, Inc.'s Demurrer to the Cross-Complaint

Tentative Ruling:

To overrule the demurrers, with cross-defendants Olman Santos and DJT Transport, Inc., granted 10 days' leave to file their answer(s) to the Cross-Complaint. The time in which the answer(s) can be filed will run from service by the clerk of the minute order.

Explanation:

The function of a demurrer is to test the sufficiency of a pleading by raising questions of law. (*Plumlee v. Poag* (1984) 150 Cal.App.3d 541, 545.) The test is whether a plaintiff has succeeded in stating a cause of action; the court does not concern itself with the issue of a plaintiff's possible difficulty or inability in proving the allegations of the complaint. (*Highlanders, Inc. v. Olsan* (1978) 77 Cal.App.3d 690, 697.) In assessing the sufficiency of the complaint against the demurrer, we treat the demurrer as admitting all material facts properly pleaded, bearing in mind the appellate courts' well established policy of liberality in reviewing a demurrer sustained without leave to amend, liberally construing the allegations with a view to attaining substantial justice among the parties. (*Glaire v. LaLanne-Paris Health Spa, Inc*. (1974) 12 Cal.3d 915, 918.)
OLMAN SANTOS
Negligence

Cross-defendants argue that the Cross-Complaint is duplicative of the affirmative defenses alleged in cross-defendants' Answer to plaintiff's Complaint with regards to the negligence claim in the Cross-Complaint. Notably, cross-defendants do not cite to any legal authority barring a cross-complainant from asserting a claim where the cross-complainant has similarly pled in an answer to a complaint. Furthermore, cross-complainants argue that they have alleged independent negligence by the cross-defendants, going beyond the affirmative defenses. Thus, the court does not find this to be a basis for a demurrer.

To plead negligence, a cross-complaint must first allege the existence of a duty of care. (*Bily v. Arthur Young & Co*. (1992) 3 Cal.4th 370, 397.) Foreseeability of harm is a factor when considering the issue of duty. (*Id*. at p. 398.) Cross-defendants argue that the Cross-Complaint only alleges duty in conclusory terms. The Cross-Complaint alleges that "[c]ross-defendants owed a duty to Palogix to make sure their drivers were adequately trained to follow basic safety protocol and to ensure that all persons on the

site followed said protocols as set forth above." (Cross-complaint, ¶ 10.) As to Santos, the Cross-Complaint also alleges that "[p]laintiff failed to adhere to this procedure and was standing next to the truck during the loading process at the Palogix facility, unbeknownst to the forklift operator." (Id. at ¶ 7.) These allegations are sufficient.

Cross-defendants also argue that the alter ego language in the Cross-Complaint is conclusory. They cite no authority here. Cross-complainants argue that the alter ego allegations are not pertinent to the negligence claim. The court agrees and does not find this to be a basis for a demurrer.

The court overrules the demurrer as to Santos with regard to the negligence cause of action.

Indemnity/Apportionment

Cross-defendants argue that the equitable indemnity/apportionment claim against Santos fails because Santos, as the injured person, is not a concurrent tortfeasor. California law regarding equitable indemnity permits "concurrent tortfeasor[s] to obtain partial indemnity from other concurrent tortfeasors on a comparative fault basis." (*American Motorcycle Assn. v. Superior Court* (1978) 20 Cal.3d 578, 591.) However, cross-defendants have not cited to any legal authority for the position that the person injured can never be a concurrent tortfeasor.

Cross-defendants also argue that the prayer contains a mixture of requests for damages, apportionment and a declaration. A demurrer is an improper vehicle to challenge how the prayer is alleged.

Cross-defendants also argue that fault allocation is addressed by several liability and comparative fault principles. While this is true, cross-defendants have not cited to any authority saying that these are the exclusive means of addressing fault or that a cross-complaint is not permitted for addressing such fault.

The court overrules the demurrer as to Santos with regard to the indemnity/apportionment cause of action.

Uncertainty

A party may object by demurrer to any pleading on the ground that it is uncertain. (Code Civ. Proc., § 430.10, subd. (f).) As used in this subdivision, 'uncertain' includes ambiguous and unintelligible." (Ibid.) Demurrers for uncertainty are disfavored. (*Khoury v. Maly's of California, Inc*. (1993) 14 Cal.App.4th 612, 616.) A demurrer for uncertainty may be sustained when the complaint is drafted in a manner that is so vague or uncertain that the defendant cannot reasonably respond, e.g., the defendant cannot determine what issues must be admitted or denied, or what causes of action are directed against the defendant. (*Ibid*.) Demurrers for uncertainty are appropriately overruled where "ambiguities can reasonably be clarified under modern rules of discovery." (*Ibid*.)

Cross-defendants argue that the Cross-Complaint lumps cross-defendants together and does not specify the individual conduct of cross-defendants, rendering the

Cross-Complaint uncertain. However, the Cross-Complaint alleges that J Delgadillo Trucking, Inc., is the trucking company that hired cross-defendant Santos and/or his company DJT Transport, Inc., to pick up bins at Palogix's facility. (Cross-Complaint, ¶¶ 2-4.) The Cross-Complaint alleges failure to train drivers and that a particular driver, Santos, failed to follow safety protocol by standing near the truck while it was being loaded. (Id. at ¶ 7.) As such, uncertainty does not provide a basis for demurrer here.

DJT TRANSPORT, INC.

Negligence

Cross-defendants argue that the Cross-Complaint insufficiently alleges a duty owed by DJT Transport, Inc., to Palogix. For the same reasons as those discussed above, the Cross-Complaint sufficiently alleges a duty by DJT Transport, Inc., in alleging failure to train its drivers. The court does not find this to be a basis of a demurrer here.

Cross-defendants argue that comparative fault is addressed through affirmative defenses, which have been pled here. Cross-defendants do not cite to any legal authority for the position that such affirmative defenses bar also alleging negligence.

The court overrules the demurrer as to DJT Transport, Inc., with regard to the negligence cause of action.

Indemnity/Apportionment

Cross-defendants argue that an indemnity claim against plaintiff's employer is barred here based on Labor Code section 3864. That code section provides: "If an action as provided in this chapter prosecuted by the employee, the employer, or both jointly against a third person results in judgment against such third person, or settlement by such third person, the employer shall have no liability to reimburse or hold such third person harmless on such judgment or settlement in absence of a written agreement so to do executed prior to the injury." (Lab. Code, § 3864.) Employers cannot be sued in tort for work-related injuries to employees; rather workers compensation is the exclusive remedy. (*DaFonte v. Up-Right, Inc*. (1992) 2 Cal.4th 593, 598; *E.B. Wills Co. v. Superior Court* (1976) 56 Cal.App.3d 650, 654-655.) Labor Code section 3864 applies to equitable indemnity, apportionment of fault, indemnity, and declaratory relief claims. (*State v. Superior Court (Glovsky)* (1997) 60 Cal.App.4th 659, 664.) In order to bring a civil action, cross-complainants would need to demonstrate an applicable exception.

Cross-complainants argue that an exception exists because DJT Transport, Inc., has "not complied with the requisite corporate formalities imposed by the State of California, is undercapitalized, and failed to maintain all necessary insurance to safely and reasonably do business in the State of California." (Cross-Complaint, ¶ 4.) Thus, they argue, this claim does not come under the Workers Compensation Act provisions. To the extent cross-defendants disagree with the applicability of the exception, this argues the merits inappropriately on demurrer.

Cross-defendants also argue that concurrent tortfeasor status is required for equitable indemnity and apportionment. (*American Motorcycle Assn. v. Superior Court*

(1978) 20 Cal.3d 578, 591.) Cross-defendants argue the Cross-Complaint pleads negligence too broadly without stating how DJT Transport, Inc., is a tortfeasor as to Palogix, as opposed to the employee. The court has already addressed the issue of negligence above.

The court overrules the demurrer as to DJT Transport, Inc., with regard to the indemnity cause of action.

Uncertainty

For the same reasons as those described above, the court does not sustain any demurrer as to uncertainty with respect to DJT Transport, Inc.

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 5/1/2026.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Aranzasu v. Central Unified School District***
Superior Court Case No. 25CECG03077

Hearing Date: May 5, 2026 (Dept. 501)

Motion: 1) Defendants' Demurrer to the First Amended Complaint
2) Defendants' Motion to Strike
4) Plaintiffs' Motion for Summary Adjudication

Tentative Ruling:

To sustain defendants' demurrer as to the first, second, fourth and fifth causes of action, without leave to amend as to a denial of a FAPE. Plaintiff has leave to amend these if she can base these claims on conduct other than a denial of a FAPE. To sustain the demurrer to the third cause of action, with leave to amend. Plaintiff(s) is/are granted 10 days leave to file a second amended complaint, which will run from service by the clerk of the minute order. New allegations/language must be set in **boldface** type.

To grant the motion to strike as to punitive damages, with leave to amend. To find the motion to strike as to attorney's fees moot.

To continue the motion for summary adjudication to Thursday, July 16, 2026, at 3:30 p.m. in Department 501. The court notes declarations filed by one plaintiff and defense counsel indicate that there may be a desire to withdraw the motion for summary adjudication. The court will honor any request by that plaintiff made *to the court* to do so.

Explanation:

The function of a demurrer is to test the sufficiency of a pleading by raising questions of law. (*Plumlee v. Poag* (1984) 150 Cal.App.3d 541, 545.) The test is whether a plaintiff has succeeded in stating a cause of action; the court does not concern itself with the issue of a plaintiff's possible difficulty or inability in proving the allegations of the complaint. (*Highlanders, Inc. v. Olsan* (1978) 77 Cal.App.3d 690, 697.) In assessing the sufficiency of the complaint against the demurrer, we treat the demurrer as admitting all material facts properly pleaded, bearing in mind the appellate courts' well established policy of liberality in reviewing a demurrer sustained without leave to amend, liberally construing the allegations with a view to attaining substantial justice among the parties. (*Glaire v. LaLanne-Paris Health Spa, Inc*. (1974) 12 Cal.3d 915, 918.)

Failure to Exhaust Administrative Remedies

Defendants assert that the First Amended Complaint ("FAC") is subject to demurrer for failing to exhaust administrative remedies. Under the Individuals with Disabilities Education Act ("IDEA"), "[f]ederal law creates a comprehensive framework for the provision of educational services to children with disabilities." (*B.H. v. Manhattan*

Beach Unified School Dist. (2019) 35 Cal.App.5th 563, 567.) California has adopted a statutory scheme to conform with IDEA. (*Id*. at p. 571.) Subject to IDEA's application in the State of California, "local education agencies under the responsibility of the State Department of Education are tasked with furnishing special education services to all eligible children at no cost to their parents or guardians." (*Id*. at p. 567.) This works to "guarantee a 'free appropriate public education,' commonly referred to as a 'FAPE,' for disabled students." (*Id*. at p. 568.) "A FAPE is implemented through the child's [individualized education program] IEP." (*Id*. at p. 570.) This is a written statement describing the child's needs and goals and the services and programs to be provided to address these needs and goals. (*Ibid*.)

Where a dispute arises related to a child's FAPE, IDEA and California law provide for impartial administrative hearings. (*Id*. at p. 572.) Exhaustion of this remedy is required prior to filing suit. (*Fry v. Napoleon Community Schools* (2017) 580 U.S. 154, 158.) However, exhaustion of the administrative remedy is not required where the "gravamen of the plaintiff's suit is something other than the denial of the IDEA's core guarantee—what the Act calls a 'free appropriate public education.'" (*Id*. at p. 158, citing 20 U.S.C., § 1412 (a)(1)(A).) This "exhaustion rule hinges on whether a lawsuit seeks relief for the denial of a FAPE." (*Id*. at p. 168.) "A school's conduct toward such a child—say, some refusal to make an accommodation—might injure her in ways unrelated to a FAPE, which are addressed in statutes other than the IDEA." (*Ibid*.) Complaints seeking redress for harms independent of a FAPE denial are not subject to the exhaustion rule because "the only 'relief' the IDEA makes 'available' is relief for the denial of a FAPE." (*Id*. at p. 169.)

Here, the FAC begins stating, "Plaintiff seeks redress for Defendants' persistent, unlawful denial of a Free Appropriate Public Education ("FAPE") to minor K.A." (FAC, ¶ 1.) The FAC also indicates plaintiff's intent to pursue other claims in federal court. (FAC, ¶ 3.) Plaintiff alleges she filed and prevailed in a CDE complaint. (FAC, ¶¶ 22-23.) Plaintiff also alleges an OAH settlement was finalized March 2024. Given the use of acronyms without reference to what these mean, it is unclear if these might allege compliance with exhausting administrative remedies prior to filing this suit. The court sustains the demurrer for failure to exhaust the administrative remedy, with leave to amend, in light of this lack of clarity.

Private Cause of Action

Defendants assert that failure to provide a FAPE does not give rise to a private cause of action. The appellate court in *Keech v. Berkeley Unified School Dist*. (1984) 162 Cal.App.3d 464, 468, noted "both the federal and the California statutory schemes establish certain guidelines and procedures to be followed in providing public education for emotionally and psychologically handicapped students, neither expressly sets forth any private cause of action for damages." In *Keech*, plaintiffs had alleged negligence relating to a child's IEP resulting in hospitalization, attorney's fees, and emotional distress. (*Id*. at p. 467.) Similar to the FAC here, the complaint there alleged negligence, negligent infliction of emotional distress, and failure to discharge a mandatory governmental duty. (*Ibid*.) The appellate court affirmed the dismissal of these claims. (*Id*. at p. 471.) Consistent with *Keech*, the court sustains the demurrer as to the first, second, fourth and fifth causes of action, without leave to amend, insomuch as these causes of action are founded on an alleged denial of a FAPE. Plaintiff is permitted to amend the complaint

to allege these causes of action to the extent she can base them on conduct not based on a denial of a FAPE.

Intentional Infliction of Emotional Distress

To allege intentional infliction of emotional distress, a plaintiff must allege 1) outrageous conduct by the defendant, 2) intention to cause or reckless disregard of the probability of causing emotional distress, 3) severe emotional suffering, and 4) actual and proximate causation. (*Bartling v. Glendale Adventist Medical Center* (1986) 184 Cal.App.3d 961, 970.) Plaintiff alleges this cause of action solely against defendants Shafer and Franco. The FAC states, "Shafer and Franco knowingly imposed in-person-only schooling after documented trauma; assigned an unqualified teacher; ignored medical warnings, evaluations, and regression; denied alternatives in retaliation for complaints." (FAC, ¶ 45.) The FAC alleges the imposition of in person education in paragraph 31. Here, the FAC, particularly with regard to what conduct occurred and by which defendant, is not clear. The Court sustains the demurrer as to this cause of action.
Uncertainty as to Plaintiff(s)

The caption of the FAC names plaintiff(s) as "Kathryn Aranzasu, individually and as Guardian Ad Litem for minor, K.A." It is apparent that the intent was to name both mother and child. In any amended pleading, the caption shall clearly state the intended plaintiff(s).
Strike

A motion to strike may be used to address defects in pleadings otherwise not challengeable by a demurrer. (See Code Civ. Proc., § 435.) Code of Civil Procedure section 436 provides that a court may strike irrelevant, false, or improper matters, or parts of pleadings not filed in conformity with the rules of court. A motion to strike can be used to attack either a portion or the entirety of a pleading. (*Baral v. Schnitt* (2016) 1 Cal.5th 376, 393.) Defendants seek to strike the prayer for attorney's fees and costs and for punitive damages. Given the Court is sustaining the demurrer with leave to amend, the court grants the motion to strike as to the punitive damages from the prayer for relief, with leave to amend consistent with its ruling on the demurrer. The issue of attorney's fees is moot in light of counsel being retained.

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 5/4/2026.
(Judge's initials) (Date)