Tentative Rulings for June 16, 2026
Department 403

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.

24CECG05078 ***Brooklyn Farms, LLC v. Fromaggio Farms, LLC*** **is continued to Thursday, June 18, 2026, at 3:30 p.m. in Department 403.**

19CECG03018 ***Aurora Gatica v. Valley AG, Inc.*** **is continued to Tuesday, July 28, 2026, at 3:30 p.m. in Department 403.**

22CECG04217 ***Sophia Herrera v. Pridestaff Inc.*** **is continued to Tuesday, July 28, 2026, at 3:30 p.m. in Department 403.**

24CECG00667 ***Carol Peterson v. NationWide Agribusiness Insurance Company*** **is continued to Tuesday, July 28, 2026, at 3:30 p.m. in Department 403.**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 403

Begin at the next page

(20) **Tentative Ruling**

Re: ***Polanco v. City of Fowler***
Superior Court Case No. 24CECG02037

Hearing Date: June 16, 2026 (Dept. 403)

Motion: By Plaintiff for Leave to Amend

Ruling:

The grant. (Code Civ. Proc., § 473.) Plaintiff shall file the proposed amended complaint within five days of service of the order by the clerk.

Explanation:

In this personal injury action plaintiff alleges that as he was walking to school though a crosswalk, he was hit by an oncoming vehicle driven by Maria Salas. The Complaint alleges a sole cause of action for dangerous condition of public property. The only dangerous condition alleged in the government claim submitted to the City and in the Complaint is that the crosswalk lights were not working. (See Complaint ¶¶ 19-21.) Plaintiff opposed the City's summary judgment motion in substantial reliance on other conditions that allegedly made the crosswalk dangerous - the placement of speed limit and school zone signs approaching the intersection. These latter conditions were not alleged in the Complaint, instead of entering judgment on the City's motion, the court gave plaintiff an opportunity to seek leave to amend the Complaint.

"The court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading ... " (Code Civ. Proc., § 473, subd. (a)(1).) The court's discretion will usually be exercised liberally to permit amendment of the pleadings. (See *Nestle v. Santa Monica* (1972) 6 Cal.3d 920, 939.)

Though compliance with Rules of Court, Rule 3.1324 is not perfect, sufficient information is submitted by plaintiff to substantially comply with the Rule and Code of Civil procedure 473. The motion is vague as to when counsel became aware of the need to amend the Complaint. Counsel should have thought of and added these allegations sooner, which is why the court stated it is willing to impose conditions on the amendment.

But in granting leave to amend the court is guided by the principle that if in ruling on a motion for summary judgment the court concludes the complaint is insufficient as a matter of law, it "may elect to treat the hearing of a summary judgment motion as a motion for judgment on the pleadings and grant the opposing party an opportunity to file an amended complaint to correct the defect." (*Hobson v. Raychem Corp*. (1999) 73 Cal.App.4th 614, 625, disapproved on other grounds by *Colmenares v. Braemar Country Club, Inc.* (2003) 29 Cal.4th 1019, 1031 fn. 6.) This is what the court intends to do now.

The City contends that the court should not allow the amendment because it would exceed the scope of the government claim previously submitted to the City.

Plaintiff's government claim spoke "only of the nonfunctioning crosswalk lights," not the additional factors plaintiff attempted to present in opposition.

Ordinarily, the judge will not consider the validity of the proposed amended pleading in deciding whether to grant leave to amend. Grounds for demurrer or motion to strike are premature. After leave to amend is granted, the opposing party will have the opportunity to attack the validity of the amended pleading. (See *Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1048; *Atkinson v. Elk Corp*. (2003) 109 Cal.App.4th 739, 760 ["the better course of action would have been to allow [plaintiff] to amend the complaint and then let the parties test its legal sufficiency in other appropriate proceedings"].) However, the court does have discretion to deny leave to amend where a proposed amendment fails to state a valid cause of action. (See *California Cas. Gen. Ins. Co. v. Superior Court* (1985) 173 Cal.App.3d 274, 280-281, disapproved on other grounds by *Kransco v. American Empire Surplus Lines Ins. Co.* (2000) 23 Cal.4th 390, 407, fn. 11.) Such denial is "most appropriate" where the pleading is deficient as a matter of law and the defect could not be cured by further appropriate amendment. (*California Cas. Gen. Ins. Co., supra*, 173 Cal.App.3d at p. 281.)

"[A] plaintiff must allege facts demonstrating or excusing compliance with the claim presentation requirement." (*State of California v. Superior Court* (2004) 32 Cal.4th 1234, 1243.) "Otherwise, his complaint is subject to a general demurrer for failure to state facts sufficient to constitute a cause of action." (*Ibid*.) Under Government Code section 945.4, "no suit for money or damages may be brought against a public entity … until a written claim therefore has been presented to the public entity and has been acted upon by the Board, or has been deemed to be have been denied by the Board."

"[T]the factual circumstances set forth in the written claim must correspond with the facts alleged in the complaint; even if the claim were timely, the complaint is vulnerable to a demurrer if it alleges a factual basis for recovery which is not fairly reflected in the written claim." (*Nelson v. State* (1982) 139 Cal.App.3d 72, 79.)

The proposed First Amended Complaint does not allege a different accident, a different public entity, or a different cause of action. Rather, it clarifies the factual basis for the same dangerous-condition claim arising from the May 25, 2023, pedestrian collision at the school-crossing location. The claim need not specify each particular act or omission later proven to have caused the injury. Where the complaint merely elaborates or adds further detail to a claim, but is predicated on the same fundamental actions or failures to act by the defendants, courts have generally found the claim fairly reflects the facts pled in the complaint. (*Stockett v. Association of Cal. Water Agencies Joint Powers Ins. Authority* (2004) 34 Cal.4th 441, 447.) The court finds that such is the case here.

In granting plaintiff leave to file a motion for leave to amend, the court indicated that conditions may be set, such as requiring plaintiff to compensate the City for the cost of preparing and filing this motion for summary judgment. (See *Cal. Practice Guide: Civ. Proc. Before Trial* (TRG 2025) 11 6: 639.5.) Though the court invited the parties to address this issue in the motion to amend papers, Plaintiff does not address this issue in the moving papers. Likewise, the City requests that plaintiff compensate the city for the costs of preparing and filing the motion for summary judgment, "to be addressed by later

declaration." It is unclear why the City does not present that information now. Accordingly, there is no basis to impose a monetary condition at this time.

The court notes that in its opposition the City incorrectly contends that the motion was not timely filed within the time permitted by the court in the February 11, 2026 minute order. The City's calculation of the filing deadline fails to account for the two court days added for electronic service of the order. (Code Civ. Proc., § 1010.6, subd. (a)(4)(B).) The motion was timely filed.

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: SMC on 6/15/26 .
(Judge's initials) (Date)

(03)

Tentative Ruling

Re: ***Bouloutian v. American Honda Motor Co., Inc.***
Case No. 24CECG04538

Hearing Date: June 16, 2026 (Dept. 403)

Motion: Plaintiff's Motion to Compel Further Responses to Request for Production of Documents

Tentative Ruling:

To deny plaintiff's motion to compel further responses to request for production of documents, as plaintiff did not file a request for pretrial discovery conference or obtain leave of court to bring the motion. (See Fresno Sup. Ct. Local Rules, rule 2.1.17 A.)

Explanation:

Under the Fresno Superior Court Local Rules, rule 2.1.17 A, "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."

However, "[t]his 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; 2. Motions to compel initial responses to interrogatories, requests for production and requests for admissions; 3. Motions to quash or compel compliance regarding a subpoena served on a nonparty; and 4. Motions to compel compliance with initial disclosures." (Fresno Sup. Ct. Local Rules, rule 2.1.17 A 1-4, para. breaks omitted.)

Here, plaintiff has brought a motion to compel further responses to document requests, so she needed to first file a request for pretrial discovery conference regarding the dispute and obtain leave of court before filing the motion. However, she did not file a pretrial discovery conference request, nor did the court grant leave to file the motion. Therefore, the motion is not properly before the court, and the court intends to deny it without considering its merits.

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: SMC on 6/15/26.
(Judge's initials) (Date)

(49)

Tentative Ruling

Re: ***Matuszewicz v. Phenos Collective, Inc. et al.***
Superior Court Case No. 24CECG04227

Hearing Date: June 16, 2026 (Dept. 403)

Motions (x2): 1) By Plaintiff Morgan Matuszewicz to Compel Defendant East Bay HC Resource's Response to Special Interrogatories, Set Two, and Request for Sanctions;
2) By Plaintiff Morgan Matuszewicz to Compel Defendant East Bay HC Resource's Response to Requests for Production of Documents, Set Two, and Request for Sanctions;

Tentative Ruling:

To deny, without prejudice, plaintiff Morgan Matuszewicz's motions to compel defendant East Bay HC Resource's response to Special Interrogatories, Set Two, and Requests for Production of Documents, Set Two. (Code Civ. Proc., §§ 1011, 1013a, & 1013b.)

Explanation:

Plaintiff Morgan Matuszewicz ("Plaintiff") moves to compel initial responses from defendant East Bay HC Resource ("Defendant") for Plaintiff's Special Interrogatories, Set Two and Plaintiff's Requests for Production of Documents, Set Two (collectively "Set Two")[1].

The evidence required for an order compelling initial responses is that the discovery was properly served, and that no responses were received by the due date. While this is not an express requirement, attaching copies of the discovery served, including the proof(s) of service, is the standard method of proving service on a motion to compel. Here, copies of the discovery requests have been attached to counsel's declaration without the proofs of service. Counsel's declaration stating the date of service does not include the information required by statute to prove service. (See Code Civ. Proc., § 1011, 1013a, & 1013b.) Counsel's declaration does not even identify how service was completed. Accordingly, the motions to compel 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

[1] The court notes that Plaintiff filed two motions, but paid one filing fee. If Plaintiff intends to refile the motions, filing fees in the appropriate amount must be paid in advance of the hearing.

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: SMC (Judge's initials) on 6/15/26 (Date).

(29)

Tentative Ruling

Re: ***In re: Alexander Hernandez Rodriguez***
Superior Court Case No. 25CECG04197

Hearing Date: June 16, 2026 (Dept. 403)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To grant the petition and sign the proposed orders. No appearances necessary.

The court sets a status conference for Wednesday, September 16, 2026, at 3:30 p.m., in Department 403, for confirmation of deposit of claimant's 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: SMC on 6/15/26.
(Judge's initials) (Date)