

Tentative Rulings for June 16, 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.*

21CECG03221 *Mohammad v. Fresno 62 Investment LLC*

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

24CECG04794 *Harout Torosian v. BMW of North America, LLC* is continued to Tuesday, June 23, 2026, at 3:30 p.m. in Department 503.

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Tentative Rulings for Department 503

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Tentative Ruling

Re: **GPP II, LLC v. Central Valley Community Sports Foundation**
Superior Court Case No. 24CECG02635

Hearing Date: June 16, 2026 (Dept. 503)

Motion: by GPP II, LLC for Summary Judgment of the First Amended Complaint and Summary Adjudication of the Second Amended Cross-Complaint

Tentative Ruling:

To deny GPP II, LLC's motions for summary judgment and summary adjudication.

Explanation:

Plaintiff and Cross-Defendant GPP II, LLC ("GPP") moves for summary judgment of its first amended complaint for damages and injunctive relief alleging trespass against Valley Community Sports Foundation ("Foundation") and for summary adjudication of the sixth cause of action for declaratory relief within Foundation's second amended cross-complaint.

"Summary judgment is granted when there is no triable issue as to any material fact and the moving party is entitled to judgment as a matter of law.'" (*Lopez v. Superior Court* (1996) 45 Cal.App.4th 705, 713, quoting Code Civ. Proc. § 437c(c).) Summary judgment is properly directed toward the entire complaint and not portions thereof. (see *Barnick v. Longs Drug Stores, Inc.* (1988) 203 Cal.App.3d 377, 384; *Khan v. Shiley, Inc.* (1990) 217 Cal.App.3d 848, 858-859.)

Summary adjudication is the proper mechanism for challenging a particular, "cause of action, an affirmative defense, a claim for punitive damages, or an issue of duty." (*Paramount Petroleum Corp. v. Superior Court* (2014) 227 Cal.App.4th 226, 242.) However, "[a] motion for summary adjudication shall be granted only if it completely disposes of a cause of action, an affirmative defense, a claim for damages, or an issue of duty." (Code Civ. Proc. § 437c(f)(1); see also *Catalano v. Superior Court* (2000) 82 Cal.App.4th 91, 97 [piecemeal adjudication prohibited].)

A party moving for summary judgment bears the initial burden of production to make a prima facie showing that no triable issue of material fact exists. Only when the initial burden of production is met, does the burden shift to the responding party to demonstrate the existence of a triable issue of material fact. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850-51; see also *Reeves v. Safeway Stores, Inc.* (2004) 121 Cal.App.4th 95, 107.)

Any doubts as to whether a triable issue of material fact exist are to be resolved in favor of the party opposing summary judgment/adjudication. (*Barber v. Marina Sailing, Inc.* (1995) 36 Cal.App.4th 558, 562; see also *See's Candy Shops, Inc. v. Superior Court*

(2012) 210 Cal.App.4th 889, 900 ["Summary adjudication is a drastic remedy and any doubts about the propriety of summary adjudication must be resolved in favor of the party opposing the motion."].)

Summary Adjudication of the Second Amended Cross-Complaint's Sixth Cause of Action

CVCSF's sixth cause of action for declaratory relief requests a judicial determination of rights of CVCSF, the City of Fresno, and GPP with respect to cross-access and parking rights throughout the Granite Park complex pursuant to the 2002-13 Statement of Covenants, 2002-13 Parcel Map Agreement, and the Conditions of Approval for both Parcel Maps 2002-13 and 2015-10. (SAXC, ¶¶ 65-67.)

In support of its motion, GPP sets forth as undisputed that neither the Parcel Map 2002-13 and related documents nor the Parcel Map 2015-10 and its related documents entitle CVCSF to parking rights on the "Retail Center," or parcels A through Q identified on Parcel Map 2015-10. (UMF Nos. 1, 2.) In support of these conclusions regarding the parties entitlements GPP primarily relies on the opinion of Mike Sanchez, a retired City Planner, Division Manager and Assistant Planning Director for the City of Fresno. Sanchez has reviewed the parcel maps and their related documents as well as CVCSF's discovery responses and it is his opinion that the language within the documents that CVCSF contends creates an easement for parking creates no such easement in favor of CVCSF. (Sanchez Decl., ¶¶ 16-24 [Parcel Map 2002-13 Documents], 25-28 [Parcel Map 2015-10 Documents].)¹

In its opposition, CVCSF argues the conclusions set forth as facts in the separate statement render the separate statement defective. The court acknowledges that these facts are conclusions but does not find the separate statement to be defective such that the motion should be denied. The presentation of the conclusion with supporting expert opinion is sufficient to meet GPP's initial burden on summary adjudication.

CVCSF disputes the conclusion that the parcel maps and their covenants and conditions of approval fail to create a right to parking. It relies on the declaration of Dirk Poeschel, a land use planner who worked with Milt Barbis and Brent Levy in connection with Granite Park, including obtaining land use permits from the City of Fresno. (Poeschel Decl., ¶¶ 1-6.)² Poeschel shares his opinion that, based on his understanding of the project and established standard of the City of Fresno, the project's parking met all applicable development standards, Granite Park was intended to be a shared parking complex, and without shared parking the park could not have otherwise met the standards the City had in place. (*Id.*, ¶¶ 7-9.)³ Given the court's inclination to resolve doubts as to whether a fact is disputed in favor of the party opposing summary judgment, the evidence is sufficient to demonstrate there is a dispute as to the parking rights of the parties set forth in the parcel map documents.

¹ CVCSF's Objections to the Sanchez Declaration Nos. 2-8 are overruled. As to CVCSF's remaining evidentiary objections, the court declines to rule on them, as the evidence was not material to the disposition of the motion. (Code Civ. Proc., § 437c, subd. (q).)

² GPP's objections to paragraph 4 and paragraph 6, lines 22-23 are overruled. The objections to paragraph 5 lines 19-21 is sustained as hearsay.

³ GPP's objections to paragraphs 7, 8 and 9 are overruled.

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Tentative Ruling

Re: **City of Fresno v. County of Fresno, et al.**
Superior Court Case No. 24CECG01199

Hearing Date: June 16, 2026 (Dept. 503)

Motion: by Respondent for an Order Requiring Petitioner to Pay Costs Incurred in Preparing the Administrative Record

Tentative Ruling:

To grant. Petitioner City of Fresno is ordered to pay Respondent County of Fresno \$35,490.54 in costs incurred to prepare the record of proceedings within 15 days of the clerk's service of the minute order. (Code Civ. Proc. §1094.5, subd. (a); Pub. Resources Code, §21167.6, subd. (b)(1)(A).) Respondent is under no obligation to serve the certified record to Petitioner until payment is received.

Explanation:

Respondents County of Fresno and Board of Supervisors of County of Fresno ("County") move for an order requiring Petitioner City of Fresno ("City") to pay \$35,490.54 in costs the County incurred to prepare the record of proceeding for petitioner's petition for writ of mandate.

Code of Civil Procedure section 1094.5 regarding review of administrative orders provides in pertinent part, "[e]xcept where otherwise prescribed by statute, the cost of preparing the record shall be borne by the petitioner." (Code Civ. Proc., § 1094.5, subd. (a).)

California Public Resources Code section 21167.6 sets out the procedure of preparation of the record of proceedings in CEQA matters and states, "[t]he parties shall pay any reasonable costs or fees imposed for the preparation of the record of proceedings in conformance with any law or rule of court." (Pub. Resources Code, § 21167.6, subd. (b)(1)(A).) However, under this statute a petitioner may elect to prepare the record subject to certification of its accuracy by the public agency and should the agency deny petitioner's request, "the public agency or the real party in interest shall bear the costs of preparation and certification of the record of proceedings" (*Id.*, § 21167.6, subds. (b)(2) and (b)(3).)

In the case at bench, the City requested the County prepare the record and the County submitted an invoice to the City in the amount of \$35,490.54 pursuant to Public Resources Code section 21167.6(b)(1)(A). (Owsowitz Decl., ¶¶ 2, 10, Ex. 1, 7.) The City has not paid for the preparation of the record and the County has not provided a copy of the record to the City. (*Id.*, ¶¶ 14-15.) Meet and confer efforts to resolve the issue of payment have been unsuccessful.

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Tentative Ruling

Re: **Chavez v. McKneely**
Superior Court Case No. 25CECG05139

Hearing Date: June 16, 2026 (Dept. 503)

Motion: Demurer and Motion to Strike

Tentative Ruling:

To sustain the general demurrer to each cause of action. (Code Civ. Proc., § 430.10, subd. (e).) To sustain the special demurrer for uncertainty to the first, fourth, fifth, sixth, and eighth causes of action. (Code Civ. Proc., § 430.10, subd. (f).) To overrule the special demurrer for uncertainty to the seventh cause of action.

To grant the motion to strike in its entirety, with leave to amend.

Plaintiff is granted 20 days leave to file the First Amended Complaint, which will run from service by the clerk of the minute order. New allegations/language must be set in **boldface** type.

Explanation:

Demurrer

The function of a demurrer is to test the sufficiency of a plaintiff's pleading by raising questions of law. (*Plumlee v Poag* (1984) 150 Cal.App.3d 541, 545) The truth of the facts alleged in the complaint are assumed true as well as the reasonable inferences that may be drawn from those facts. (*Miklosy v. Regents of University of California* (2008) 2 Cal.4th 876, 883; see also *Daniels v. Select Portfolio Servicing, Inc.* (2016) 246 Cal.App.4th 1150, 1168 [actual reliance in support of a fraud claim reasonably inferable from the plaintiff's complaint]; Code Civ. Proc., 452 ["In the construction of a pleading, for the purpose of determining its effect, its allegations must be liberally construed, with a view to substantial justice between the parties."].)

A general demurrer, "admits the truth of all material factual allegations in the complaint;" the plaintiff's "ability to prove these allegations, or the possible difficulty in making such proof does not concern the reviewing court" (*Alcorn v. Anbro Engineering, Inc.* (1970) 2 Cal.3d 493, 496; *Stella v. Asset Management Consultants, Inc.* (2017) 8 Cal.App.5th 181, 190 ["We assume the truth of the properly pleaded factual allegations, facts that reasonably can be inferred from those expressly pleaded and matters of which judicial notice has been taken."].)

Defendant Mike McKneely demurs to each cause of action of the complaint filed by plaintiff Giovanni Chavez. The complaint⁴ alleges plaintiff hired defendant to provide legal representation for him in a criminal action. Defendant is alleged to have made representations of his opinions to plaintiff that discouraged him from pursuing trial and to instead accept a plea. Defendant is alleged to have refused to allow plaintiff to accept the plea based on plaintiff maintaining his innocence and requested to withdraw as counsel on this basis.

First Cause of Action: Breach of Contract

A cause of action for damages for breach of contract is comprised of the following elements: (1) the existence of a contract, (2) plaintiff's performance or excuse for nonperformance, (3) defendant's breach, and (4) the resulting damages to plaintiff. (*Careau & Co. v. Security Pacific Business Center* (1990) 222 Cal.App.3d 1371, 1388.)

Where plaintiff alleges breach of contract, "the terms must be set out verbatim in the body of the complaint or a copy of the written agreement must be attached and incorporated by reference." (*Harris v. Rudin, Richman & Appel* (1999) 74 Cal.App.4th 299, 307). However, more recent California Supreme Court authority provides otherwise: "In an action based on a written contract, a plaintiff may plead the legal effect of the contract rather than its precise language." (*Construction Protective Services, Inc. v. TIG Specialty Ins. Co.* (2002) 29 Cal.4th 189, 198–199; see *Miles v. Deutsche Bank National Trust Company* (2015) 236 Cal.App.4th 394, 402 ["we are bound by our Supreme Court...plaintiff's failure either to attach or to set out verbatim the terms of the contract was not fatal to his breach of contract cause of action."]; see also *Pneucrete Corp. v. U.S. Fidelity & Guaranty Co.* (1935) 7 Cal.App.2d 733, 741–742 ["That a contract may be pleaded in its legal effect and need not be set forth *in haec verba* is thoroughly settled".].)

To sufficiently allege a contract's legal effect, plaintiff must allege the making of the contract, and then the substance of its relevant terms. (4 Witkin, Cal. Proc. (6th 2026) Plead. §§ 527-528.)

Here, the complaint alleges that plaintiff entered into a retainer with defendant, defendant breached the contract in various ways, and plaintiff was damaged as a result. (Complaint, ¶¶ 17-19.)

Defendant challenges the sufficiency of the allegations as no copy of a written agreement was attached to the complaint and there are no allegations attempting to plead the legal effect in lieu of attaching the written agreement. The court agrees that the contract is not sufficiently plead and additionally notes that there is no allegation as to whether the contract was written or oral. It is further unclear what damages resulted from the breach of contract. The general demurrer and special demurrer for uncertainty are sustained with leave to amend.

⁴ Defendant's request for judicial notice of the complaint filed by plaintiff on November 14, 2025 is granted. (Evid. Code, § 452, subd. (d).)

Professional Negligence-Based Causes of Action

Plaintiff's second cause of action for breach of fiduciary duty, third cause of action for legal malpractice/professional negligence, and sixth cause of action for wrongful refusal to follow client's lawful decisions are restatements of the same allegations of legal malpractice under different titles. Defendant demurs to the second and sixth causes of action on the basis that they are duplicative of the third cause of action. The demurrer to the second and sixth causes of action on this basis is sustained. (*Palm Springs Villas II Homeowners Assn., Inc. v. Parth* (2016) 248 Cal.App.4th 268, 290.)

The elements of a cause of action for professional negligence are: (1) the duty of the professional to use such skill, prudence and diligence as other members of the profession commonly possess and exercise; (2) breach of that duty; (3) a causal connection between the negligent conduct and the resulting injury; and (4) actual loss or damage resulting from the professional negligence.' [Citation.]" (*Loube v. Loube* (1998) 64 Cal.App.4th 421, 429.)

Defendant demurs to the third cause of action alleging professional negligence as failing to state a cause of action and uncertain as plaintiff's cannot allege damages. "To show damages proximately caused by the breach, the plaintiff must allege facts establishing that, 'but for the alleged malpractice, it is more likely than not the plaintiff would have obtained a more favorable result.' [Citations.]" (*Charnay v. Cobert* (2006) 145 Cal.App.4th 170, 179.)

Here, plaintiff's underlying criminal case remains pending⁵, thus plaintiff has obtained no result against which he can establish he would have obtained a better result. As such, any damages alleged in the complaint are speculative and will not support a cause of action. (*Shopoff & Cavallo LLP v. Hyon* (2008) 167 Cal.App.4th 1489, 1509.) The speculative nature of the damages alleged further renders the complaint uncertain. As such, the general and special demurrer are sustained.

Plaintiff's eighth cause of action alleging negligent infliction of emotional distress is premised on the claim for professional negligence and damages arising therefrom. (Complaint, ¶¶ 37-38.) Negligent causing of emotional distress is not an independent tort but, rather, rests on the tort of negligence. Thus, plaintiff must state a prima facie negligence action--i.e., the usual duty, breach, causation and damages elements apply. (*Marlene F. v. Affiliated Psychiatric Med. Clinic, Inc.* (1989) 48 Cal.3d 583, 588.) As plaintiff has pled only speculative damages in the professional negligence claim, the cause of action for emotional distress caused by this professional negligence is also subject to demurrer for failure to state a claim and is rendered uncertain.

Fraud-Based Causes of Action

Plaintiff's fourth cause of action for constructive fraud and fifth cause of action for negligent misrepresentation sound in fraud and must be pleaded with specificity. (*Hills Transp. Co. v. Southwest Forest Industries, Inc.* (1968) 266 Cal.App.2d 702, 707.)

⁵ Defendant's request for judicial notice of the court's docket in Fresno Superior Court Case no. F24905971 is granted. (Evid. Code, § 452, subd. (d).)

Accordingly, the policy of liberal construction of the pleadings "will not ordinarily be invoked to sustain a pleading defective in any material respect[;]" instead, this "particularity requirement necessitates pleading facts which show how, when, where, to whom, and by what means the representations were tendered. (*Stansfield v. Starkey* (1990) 220 Cal.App.3d 59, 73, internal citations and quotation marks omitted.)

The elements of constructive fraud cause of action are (1) a fiduciary or confidential relationship; (2) nondisclosure (breach of fiduciary duty); (3) intent to deceive, and (4) reliance and resulting injury (causation.) (*Prakashpalan v. Engstrom, Lipscomb & Lack* (2014) 223 Cal.App.4th 1105, 1131.) While the complaint includes allegations of what was not disclosed to plaintiff, there are no allegations of defendant's intent to deceive or plaintiff's reliance. (See Complaint, ¶¶ 26-27.)

The elements of a cause of action for negligent misrepresentation are: (1) The defendant must have made a representation as to a past or existing material fact; (2) The representation must have been untrue; (3) Regardless of his actual belief the defendant must have made the representation without any reasonable ground for believing it to be true; (4) The representation must have been made with the intent to induce plaintiff to rely upon it; (5) The plaintiff must have been unaware of the falsity of the representation; he must have acted in reliance upon the truth of the representation and he must have been justified in relying upon the representation; and (6) As a result of his reliance upon the truth of the representation, the plaintiff must have sustained damage. (*Christiansen v. Roddy* (1986) 186 Cal.App.3d 780, 785-786.) The allegations of the complaint include several purported false statements but fail to allege defendant's having made the statements with intent to induce plaintiff's reliance or that the statements were made without reasonable ground for believing them to be true. (Complaint, ¶¶ 28-29.)

As the complaint fails to allege facts to support every element of the fourth and fifth causes of action, the general demurrer to these causes of action is sustained. Additionally, as the nature of the damages alleges is speculative the causes of action are also uncertain. The special demurrers are sustained.

Seventh Cause of Action: Intentional Infliction of Emotional Distress

The elements of a prima facie case of intentional infliction of emotional distress are: (1) outrageous conduct by the defendant; (2) intent to cause or reckless disregard of the probability of causing emotional distress; (3) severe emotional suffering; and (4) actual and proximate causation of emotional distress. "Outrageous conduct" denotes conduct which is so extreme as to exceed all bounds of decency and which is to be regarded as "atrocious and utterly intolerable in a civilized community." (*Bartling v. Glendale Adventist Medical Center* (1986) 184 Cal.App.3d 961, 969.)

The complaint does not include allegations of any outrageous conduct on the part of the defendant. As a result, no cause of action is stated. The general demurrer is sustained. Although the conclusory allegation that plaintiff suffered emotional distress is inadequate to state a claim the inadequate pleading is not uncertain. The special demurrer to the seventh cause of action is overruled.

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Tentative Ruling

Re: **Gonzalez v. City of Clovis, et al.**
Superior Court Case No. 25CECG03033

Hearing Date: June 16, 2026 (Dept. 503)

Motion: Defendant California Highway Patrol's Demurrer to Complaint

Tentative Ruling:

To continue the motion to Thursday, July 30, 2026 at 3:30 p.m. in Department 503, in order to allow the parties to meet and confer in person or by telephone, as required. If this resolves the issues, defendants shall call the calendar clerk to take the motion off calendar. If it does not resolve the issues, counsel for defendants shall file a declaration, on or before July 20, 2026, stating the efforts made. If no declaration is filed, the motion will be taken off calendar.

Explanation:

Under Code of Civil Procedure section 430.41, “[b]efore filing a demurrer pursuant to this chapter, the demurring party shall meet and confer in person or by telephone 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.” (Code Civ. Proc., § 430.41, subd. (a).) “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.” (Code Civ. Proc., § 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., § 430.41m subd. (a)(3)(A), (B), paragraph breaks omitted.) The statute regarding motions to strike contains the same requirements regarding meet and confer efforts. (Code Civ. Proc. § 435.5.)

Here, counsel for defendant has filed a declaration indicating counsel sent several emails to plaintiffs' attorney that went unanswered with the exception of the grant of an extension of time to respond to the First Amended Complaint. The declaration does not show that counsel complied with the requirement to meet and confer in person or by telephone.

