

Tentative Rulings for July 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.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 403

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(35)

Tentative Ruling

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

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

Motion: Motion to be Relieved as Counsel

Tentative Ruling:

To take off calendar, as no moving papers have been 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 July 15, 2027.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Americreditfinancial Services, Inc. v. Ibrahim***
Superior Court Case No. 25CECG04247

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

Motion: Application for Writ of Possession

Tentative Ruling:

To take off calendar, as no moving papers have been 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 July 15, 2026.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Iler v. Fresno Community Hospital and Medical Center***
Superior Court Case No. 23CECG03097

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

Motion: By Defendant Fresno Community Hospital and Medical Center for Summary Judgment or, in the Alternative, Summary Adjudication

Tentative Ruling:

The parties are directed to appear. The court intends to continue hearing on the motion for summary judgment pursuant to Code of Civil Procedure section 437c, subdivision (h). The parties are directed to meet and confer as to a date for continued hearing on defendant Fresno Community Hospital and Medical Center's motion for summary judgment. The parties may further meet and confer as to any stipulations to vacate the present set trial date of August 17, 2026.

Explanation:

Defendant Fresno Community Hospital and Medical Center ("Defendant") moves for summary judgment of the Third Amended Complaint ("TAC") by plaintiff Henry Justin Iler ("Plaintiff"). Following successful challenges to the pleadings, at issue are two remaining causes of action, for medical negligence, and intentional infliction of emotional distress. Defendant now seeks summary judgment of the two causes of action based on the declarations of medical experts, Barry M. Simon, M.D. and Edward J. Yun, M.D.

"The standard of care in a medical malpractice case requires that physicians exercise in diagnosis and treatment that reasonable degree of skill, knowledge and care ordinarily possessed and exercised by members of the medical profession under similar circumstances. ' "The standard of care against which the acts of a physician are to be measured is a matter peculiarly within the knowledge of experts; it presents the basic issue in a malpractice action and can only be proved by their testimony, unless the conduct required by the particular circumstances is within the common knowledge of the layman."'" (Munro v. Regents of University of California (1989) 215 Cal.App.3d 977, 983-984, internal citations omitted.)

Normally, the question of whether a medical professional's care and treatment of a patient fell within the standard of care or caused the plaintiff's injuries is a matter that can only be established through expert testimony. (Landeros v. Flood (1976) 17 Cal.3d 399, 410.) "California courts have incorporated the expert evidence requirement into their standard for summary judgment in medical malpractice cases. When a defendant moves for summary judgment and supports his motion with expert declarations that his conduct fell within the community standard of care, he is entitled to summary judgment

unless the plaintiff comes forward with conflicting expert evidence." (*Hutchinson v. United States* (9th Cir. 1988) 838 F.2d 390, 392.)

Here, Defendant's expert submits that Defendant's care and treatment of Plaintiff did not fall below the standard of care or cause his injuries. (Defendant's Statement of Undisputed Material Fact ["UMF"], No. 5.) Dr. Simon, an emergency medicine specialist opined that Defendant's nursing and non-physician staff met applicable standards of care. (UMF No. 6.) Dr. Yun cumulatively opines as to the same. (UMF No. 7.) Dr. Simon further opined that the allegations that form the basis of the claims of the TAC are not duties owed by Defendant's nursing and non-physician staff. (UMF No. 8.) Defendant further submits expert opinion that Defendant's actions or failure to act did not cause any of the alleged harms to Plaintiff. (UMF Nos. 14, 16.) Finally, Defendant submits that any physicians related to Plaintiff's care were not agents of Defendant. (UMF No. 22.) Accordingly, Defendant meets its burden to show no triable issues as to the allegations of the claim for medical negligence.

The burden shifts to Plaintiff to come forward with conflicting expert evidence. Plaintiff opposes solely on the grounds of Code of Civil Procedure section 437c, subdivision (h), and seeks a continuance to conduct discovery thereon. There is no dispute that Plaintiff bears the burden to identify the facts essential to opposing the motion; the reason to believe such facts may exist; and the reasons why additional time is necessary to obtain these facts. (*E.g.*, *Frazee v. Seely* (2002) 95 Cal.App.4th 627, 633.)

Plaintiff submits that he only recently obtained counsel on June 3, 2026, which was roughly three weeks prior to the date the opposition to this motion was due. (Covolo Decl., ¶ 2.) Counsel submits that Plaintiff has not yet been able to retain an expert to rebut the opinions of Dr. Simon and Dr. Yun. (*Id.*, ¶ 5.) Counsel submits that efforts have been made since his retention. (*Ibid.*) Plaintiff identifies as essential facts, whether nursing staff's insistence to obtain consent to place a Foley catheter met applicable standards of care; whether genital exposure comports with applicable standards of patient dignity and privacy; whether Plaintiff's mental condition was adequately managed; and whether Defendant's conduct contributed to Plaintiff's alleged damages. (*Ibid.*) Plaintiff submits that discovery is yet ongoing, despite Plaintiff's prior attempts to obtain information in pro per. (*Id.*, ¶¶ 6, 7.)

On reply, Defendant submits that Plaintiff's efforts, including his time in pro per, reflect undue delay. While Defendant submits that no discovery is currently pending, Defendant does not contest that discovery has occurred during the pendency of this motion.

Based on the above, the court finds good cause to continue the motion pursuant to Code of Civil Procedure section 437c, subdivision (h). However, trial remains set for August 17, 2026. Plaintiff appears to seek additional time beyond the present set trial date. (Covolo Decl., ¶ 9.) While Defendant opposes the continuance of the motion and trial, presently before the court is only the motion for summary judgment or, in the alternative, summary adjudication. Accordingly, the parties are directed to meet and confer as to continuance of the present motion and supplemental briefing schedule, and the possibility of a stipulation to continue trial, which the court is willing to entertain. All

issues regarding summary judgment or adjudication are reserved. All objections presently lodged are preserved.

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** July 15, 2026.
(Judge's initials) (Date)

(49)

Tentative Ruling

Re: ***Brooklyn Farms, LLC v. Fromaggio Farms, LLC et al.***
Superior Court Case No. 24CECG05078

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

Motion: By Plaintiff to Strike Answer and Cross-Complaint

Tentative Ruling:

To grant and strike the answer and cross-complaint as to defendant Fromaggio Farms, LLC, without leave to amend. (Code Civ. Proc., § 436.)

Explanation:

Plaintiff Brooklyn Farms, LLC ("Plaintiff") moves to strike the Answer and Cross-Complaint filed on behalf of defendant Fromaggio Farms, LLC ("Defendant"). Plaintiff submits that Defendant is now improperly a self-represented business entity.

The court previously found good cause as to striking the pleadings as sought against Defendant. The court thereon continued this matter from June 18, 2026 to give Defendant one final opportunity to find representation. Defendant has failed to do so. Defendant has also failed to file any response to this motion. Accordingly, the court grants the motion to strike, without leave to amend. The answer and cross-complaint as to Fromaggio Farms, LLC, is ordered stricken.

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** July 15, 2026.

(41)

Tentative Ruling

Re: ***Michael Delgado v. Ford Motor Company***
Superior Court Case No. 24CECG05167

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

Motion: By Defendant Ford Motor Company for Summary
Adjudication

Tentative Ruling:

To deny defendant's motion for summary adjudication as to Plaintiff's second cause of action for violation of the Magnuson-Moss Warranty Act, without prejudice. (Code Civ. Proc., § 437c.)

Explanation:

On April 21, 2023, the plaintiff, Michael Delgado (Plaintiff), purchased a used 2021 Ford Bronco (Subject Vehicle) from third-party Fahrney Automotive. On December 5, 2024, Plaintiff filed a complaint against the manufacturer, Ford Motor Company (Defendant). Plaintiff later filed his first amended complaint (FAC), which contains causes of action for: (1) breach of express warranty under California Commercial Code section 2313; (2) violation of the Magnuson-Moss Warranty Act (Magnuson-Moss Act); and (3) violations of the Consumers Legal Remedies Act (Civ. Code, § 1750 et seq.). Defendant now moves for summary adjudication as to Plaintiff's second cause of action.

Summary Judgment/Adjudication

A motion for summary judgment is generally directed toward an entire action or pleading. (Code Civ. Proc., § 437c, subd. (a).) By comparison "[a] party may move for summary adjudication as to one or more causes of action within an action" (Code Civ. Proc., § 437c, subd. (f)(1).) In addition, "[a] motion for summary adjudication shall be granted only if it completely disposes of a cause of action" (Code Civ. Proc., § 437c, subd. (f)(1).) "A motion for summary adjudication may be made by itself or as an alternative to a motion for summary judgment and shall proceed in all procedural respects as a motion for summary judgment." (Code Civ. Proc., § 437c, subd. (f)(2).)

Code of Civil Procedure section 437c, subdivision (c) provides that summary judgment "shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." A defendant moving for summary judgment has the initial burden of presenting evidence that a cause of action lacks merit because the plaintiff cannot establish an element of the cause of action or there is a complete defense. (Code Civ. Proc., § 437c, subd. (p)(2); *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 853 (*Aguilar*).) If the defendant satisfies this initial burden, the burden shifts to the plaintiff to present evidence demonstrating there is a triable issue of material fact. (Code Civ. Proc., § 437c, subd. (p)(2); *Aguilar*, at p. 850.)

If a defendant fails to address all theories of liability alleged in the complaint, the trial court should stop its analysis and deny the motion for summary judgment:

If the defendant does not address an issue in a motion for summary judgment that has been raised in the plaintiff's complaint, it fails to meet its initial burden to show the plaintiff's action has no merit; the motion therefore fails to shift the burden to the plaintiff to oppose summary judgment. [Citation.]

(*Hedayati v. Interinsurance Exchange of the Automobile Club* (2021) 67 Cal.App.5th 833, 846.)

Defendant Fails to Satisfy Its Initial Burden

In his second cause of action, Plaintiff alleges breach of warranty under the Magnuson-Moss Act. The parties agree that if a warrantor establishes a compliant informal dispute settlement procedure that meets the requirements of the Federal Trade Commission's rules, a plaintiff who fails to use the compliant procedure before filing suit is precluded from filing a claim under the Magnuson-Moss Act. (15 U.S.C. § 2310(a)(3).) Defendant now contends Plaintiff's failure to use Defendant's established dispute-resolution program precludes his cause of action under the Magnuson-Moss Act.

To meet its initial burden to establish that it participates in a compliant procedure, Defendant includes a legal conclusion as part of its "fact" number two, which provides in full:

Ford participates in the Better Business Bureau's ("BBB") Autoline [sic] Program for alternative dispute resolution, *a process that substantially complies with the Magnuson-Moss Warranty Act.*

(Fact No. 2, italics added.)

The court finds Defendant provides evidentiary support to show Defendant participates in the BBB Auto Line Program. But Defendant fails to meet its initial burden to establish, as a matter of law, that the BBB Auto Line Program complies with the Magnuson-Moss Act. Defendant relies solely on the declaration of Jon Sprunger, Defendant's Customer Relationship Center Operations Manager, at paragraph 2, wherein Mr. Sprunger states:

Ford participates in the Better Business Bureau's Auto Line Program for alternative dispute resolution, a process that complies with the Magnuson-Moss Warranty Act. Attached hereto as Exhibit "A" is a true and correct copy of the 2021 Model Year Warranty Guide showing that Defendant Ford participates in the Better Business Bureau's Autoline [sic] Program.

Plaintiff's evidentiary objection number 2 objects to portions of the above-quoted paragraph 2 as an improper legal conclusion under Evidence Code section 800:

Regarding the statements that “Better Business Bureau's Auto Line Program for alternative dispute resolution” is “a process that complies with the Magnuson-Moss Warranty Act.” Evidence Code section 800 restricts the opinions of a nonexpert witness to those that are “(a) [r]ationally based on the perception of the witness; and (b) [h]elpful to a clear understanding of his testimony.” Whether a private alternative dispute resolution program satisfies the requirements of a federal statute—the Magnuson-Moss Warranty Act, 15 U.S.C. § 2301 et seq.—is plainly not a matter “rationally based on perception.” It is a legal judgment requiring analysis of the statute's requirements and the program's conformance with them.

The court sustains Plaintiff's evidentiary objection number 2 to the statements that “Better Business Bureau's Auto Line Program for alternative dispute resolution” is “a process that complies with the Magnuson-Moss Warranty Act,” on the grounds noted above.

In its reply, Defendant criticizes Plaintiff for failing to produce any evidence to support his position that the BBB Auto Line Program fails to comply with the Magnuson-Moss Act. But until Defendant meets its initial burden of persuasion and production, which it fails to do, the burden does not shift to Plaintiff to raise a triable issue of material fact. Defendant in its reply suggests the BBB Auto Line Program is compliant “[a]s recognized by the Department of Consumer Affairs[.]” (Rpy., p. 2:25-26.) In its moving papers Defendant submits no supporting evidence to support this statement, and such evidence would be inappropriate with its reply. (Code Civ. Proc., § 437c, subd. (b)(4) [“The reply shall not include any new evidentiary matter, additional material facts, or separate statement submitted with the reply and not presented in the moving papers or opposing papers.”])

When the moving party fails to make the initial showing, it is unnecessary to review the opposing party's evidence and the court must deny the motion. (*Aguilar, supra*, 25 Cal.4th at p. 849-850; *Hawkins v. Wilton* (2006) 144 Cal.App.4th 936, 940 [defendant's motion for summary judgment should have been denied without looking at opposing evidence because defendant failed to refute tenable pleaded theories].) Here, the burden here does not shift to Plaintiff to raise a triable issue of fact and the court may stop its analysis here.¹

¹ Plaintiff cites federal laws and regulations to show Defendant's BBB Auto Line Program fails to satisfy the Federal Trade Commission's minimum requirements. Plaintiff also cites other authorities, such as *Muller v. Winnebago Industries, Inc.* (D. Ariz. 2004) 318 F.Supp.2d 844, where the federal district court considered a manufacturer's evidence to show compliance with an informal dispute resolution procedure (the BBB Auto Line Program) under the Magnuson-Moss Act, such as audits completed by state regulators, but found the evidence concerning the BBB Auto Line Program insufficient to establish compliance for purposes of federal and Arizona law. The court need not consider Plaintiff's authorities at this juncture. (Although the cited federal decision is not binding on this court, the court may consider such a case insofar as it finds the reasoning persuasive. [See *Episcopal Church Cases* (2009) 45 Cal.4th 467, 490.]

Evidentiary Objections

The court sustains Plaintiff's evidentiary objection number 2 to Mr. Sprunger's declaration as to the statement that the BBB's Auto Line Program for alternative dispute resolution is a process that complies with the Magnuson-Moss Act. The remaining objections either go to the weight of the evidence rather than the admissibility, or are not dispositive to the motion, therefore, the court need not rule on them. (Code Civ. Proc., § 437c, subd. (q) [court need rule only on objections court deems material to its disposition].)

Conclusion

In conclusion, Defendant fails to meet its burden of production and persuasion to prevail on its motion for summary adjudication. Therefore, the court denies Defendant's motion for summary adjudication as to Plaintiff's second cause of action for violation of the Magnuson-Moss Act, 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 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 July 15, 2026.
(Judge's initials)