

Tentative Rulings for July 21, 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.

24CECG00055	<i>Nieves Flores Amado v. Odyssey Agricultural Development LLC</i> is continued to Thursday, July 23, 2026, at 3:30 p.m. in Department 501.
25CECG01565	<i>Khachatryan v. Volkswagen Group of America, Inc.</i> is continued to Thursday, July 23, 2026, at 3:30 p.m. in Department 501.
26CU00931	<i>Watson, et al v. City of Sanger, et al</i> is continued to Wednesday, July 22, 2026, at 3:30 p.m. in Department 501.
25CECG05155	<i>John Doe 7156 v. Rohina Fazil</i> is continued to Tuesday, August 18, 2026, at 3:30 p.m. in Department 501.

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Tentative Ruling

Re: ***Don Arax v. Fresno Unified School District***
Superior Court Case No. 22CECG02449

Hearing Date: July 21, 2026 (Dept. 501)

Motion: By Defendant Keshia Thomas for Summary Judgment or
Summary Adjudication

Tentative Ruling:

To deny the motion for summary judgment, and the alternative motion for summary adjudication.

Explanation:

Plaintiff Don Ara Arax alleges a single cause of action for defamation based on statements made by defendant Keshia Thomas, an elected Trustee for defendant Fresno Unified School District (FUSD), following a viral social media post featuring a photograph of a student in the weight room at Bullard High School wearing what appeared to be a Ku Klux Klan hood. Thomas participated in a staff meeting at Bullard High School as well as press conferences with Superintendent Robert Nelson in the days following the public outcry over the picture.

On May 17, 2022, Thomas participated in a GV Wire discussion titled "Bullard High and Racism in Fresno Unified." Thomas was one of three guests on the program and was identified as an FUSD Trustee. During the program, which aired online, Thomas had the following exchange with host Darius Assemi:

Thomas: "Then my son, my middle son, goes to football practice, where he has Arax calling him [the N-word] and he decides he's not playing for Bullard anymore. Ok. And he ends up playing at Edison."

Assemi: "Could you tell our audience ... you said Arax. Who is Arax?"

Thomas: "Yeah. He's the football coach at Bullard. You know ... so my son, when he was starting high school, my 23 year old, when he was starting high school he said "mom I am not going to play football for them because the coach is saying this to me, and this is before I became a trustee."

(Comp., ¶ 10.)

The accusation against plaintiff from this interview was later republished in a written article on GV Wire on May 20, 2022, with a follow up comment from Thomas texted to GV Wire that plaintiff "was 'completely unfit ... a distraction to well[-]intentioned

people ... [not] present' in the weight room." (Comp., ¶ 20.) (The court has previously determined this statement is a nonactionable expression of opinion.)

Thomas contends she is entitled to summary judgment or summary adjudication on what she characterizes as three alternative grounds: (1) her statements are absolutely privileged under Civil Code section 47, subdivision (a); (2) Arax was a public figure as a matter of law; and (3) Arax cannot establish actual malice. The court denies the alternative motions for the reasons stated below.

Law Governing Summary Judgment and Summary 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.)

The trial court must "carefully scrutinize the moving party's papers and resolve all doubts regarding the existence of material, triable issues of fact in favor of the party opposing the motion." (*Connelly v. County of Fresno* (2006) 146 Cal.App.4th 29, 36.) The court must strictly construe the moving party's declarations and liberally construe the opposing party's declarations. (*Villacres v. ABM Industries Inc.* (2010) 189 Cal.App.4th 562, 575 [affirming trial court's granting of employer's summary judgment motion]; *Binder v. Aetna Life Ins. Co.* (1999) 75 Cal.App.4th 832, 839 [reversing summary judgment where evidence suggested strong possibility trier of fact would resolve issues in favor of moving defendant, but not necessarily so].) "A triable issue of fact is created when the evidence reasonably permits the trier of fact, under the applicable standard of proof, to find the purportedly contested fact in favor of the party opposing the motion." (*Loomis v. Amazon.com LLC* (2021) 63 Cal.App.5th 466, 475 [reversing summary judgment where genuine issues of material fact existed on consumer's strict products liability claim].)

Thomas Fails to Satisfy Her Initial Burden

Thomas acknowledges that this court and the Court of Appeal, Fifth Appellate District, have previously addressed her evidence and arguments in ruling on the anti-

SLAPP (Strategic Lawsuit Against Public Participation) motions filed by Thomas and FUSD. Thomas now contends "the instant motion is supported by an evidentiary record unavailable at the time the anti-SLAPP motions were decided." (Rpy., p. 1:22-24.)

In *Arax v. Thomas* (Cal. Ct. App., Jan. 31, 2024, No. F085518) 2024 WL 356456, the appellate court explained the tort of defamation as follows:

"Defamation is an invasion of the interest in reputation. The tort involves the intentional publication of a statement of fact that is false, unprivileged, and has a natural tendency to injure or which causes special damage. [Citations.] Publication means communication to some third person who understands the defamatory meaning of the statement and its application to the person to whom reference is made." (*Smith v. Maldonado* (1999) 72 Cal.App.4th 637, 645, fn. omitted.) Dissemination to "the 'public' at large" is actionable but not required. (*Ibid.*)

[¶] . . . [¶]

In general, defamation plaintiffs are not required to prove the elements of falsity and lack of privilege, or to show the defendant acted with malice. [Citations.] It is ordinarily the defendant's burden "to 'justify' or show the truth of the statements" in question. [Citation.] "However, where the communication involves a matter of public concern, the plaintiff does bear the burden of pleading and proving falsity." (*Industrial Waste & Debris Box Service, Inc. v. Murphy* (2016) 4 Cal.App.5th 1135, 1156.)

(*Arax v. Thomas* (Cal. Ct. App., Jan. 31, 2024, No. F085518) 2024 WL 356456, at *8)

The appellate court also explained that Arax need not prove malice unless he is deemed to be a "public figure"—which may be either "all purpose" or "limited purpose":

There are two types of public figures. "The first is the 'all purpose' public figure who has 'achiev[ed] such pervasive fame or notoriety that he becomes a public figure for all purposes and in all contexts.' The second category is that of the 'limited purpose' or 'vortex' public figure, an individual who 'voluntarily injects himself or is drawn into a particular public controversy and thereby becomes a public figure for a limited range of issues.' " (*Reader's Digest Assn. v. Superior Court* (1984) 37 Cal.3d 244, 253.) A limited purpose public figure "loses certain protection for his reputation only to the extent that the allegedly defamatory communication relates to his role in a public controversy." (*Id.* at p. 254.)

(*Arax v. Thomas, supra*, 2024 WL 356456, at *9.)

Civil Code Section 47, Subdivision (a)

Relying on Civil Code section 47, subdivision (a) ("section 47(a)"), Thomas contends her "allegedly defamatory statements are absolutely privileged . . . because Thomas made them as a public official acting within the scope of her official duties and in the

exercise of a policymaking function." (Memo., p. 2:25-27.) The appellate court noted that "[a]part from being renumbered in 1991 [citation], the text of section 47(a) has been the same for over 150 years: 'A privileged publication or broadcast is one made: [¶] (a) In the proper discharge of an official duty.' " (*Arax v. Thomas, supra*, 2024 WL 356456, at *10.)

The appellate court summarized the effect of Arax's judicial admission in the complaint that Thomas was acting in her "official capacity," when she made her comments, as follows:

Arax is deliberately pursuing a narrow theory of liability in order to seek recovery against both Thomas and FUSD. He contends Thomas was acting in her official capacity and "within the course and scope of her agency as a FUSD agent and elected trustee when she defamed [him]," but was *not* exercising a policymaking function.

(*Arax v. Thomas, supra*, 2024 WL 356456, at *15.)

The appellate court, after considering a long line of cases, plaintiff's allegations in the complaint, and the parties' evidence, concluded Thomas did not establish her privilege claim as a matter of law because she failed to conclusively establish that she was exercising a policymaking function:

In sum, Thomas is not a high-ranking government official. The evidence does not establish her allegedly defamatory statements about Arax were made in the exercise of a policymaking function or even in relation to a policy decision. We thus conclude the evidence does not show the applicability of section 47(a) as a matter of law.

(*Arax v. Thomas, supra*, 2024 WL 356456, at *19.)

In support of her motion for summary judgment, Thomas presents only eight facts in her separate statement. But none of these facts present new evidence. To support her claim of privilege, she contends fact numbers two, four, and five conclusively establish that she was engaged in a policymaking function during her GV Wire May 17, 2022 interview. Fact number two establishes that Thomas appeared on the "Unfiltered" program hosted by media outlet GV Wire on May 17, 2022. Fact number four states:

The KKK photo went viral, prompting community and student outrage and various press conferences, media appearances, staff meetings, policy review and policy revisions by FUSD officials including Thomas, other members of the FUSD Board of Trustees, and then-FUSD Superintendent Bob Nelson.

Fact number five states:

Thomas' appearance on Unfiltered and a regularly scheduled FUSD board meeting the following day (May 18, 2022) focused on FUSD's response to the KKK photo and revision of District policy in connection with past and present instances of racism within the District.

The appellate court discussed the rule that an official's lower-level decision provides no basis for immunity, if the decision merely implements a basic policy already formulated. Then the court addressed some of the deficiencies in Thomas's evidence as follows:

Thomas merely claims to have voiced a suggestion during a press conference, which is quite different from making a formal motion during board proceedings or voting on an agenda item. It is not clear her alleged remarks at the press conference would qualify as a policy decision. (See generally Ed. Code, §§ 35163 ["Every official action taken by the governing board of every school district shall be affirmed by a formal vote of the members of the board"], 35164 ["The governing board shall act by majority vote of all of the membership constituting the governing board"].) And although defendants want us to *assume* Thomas's statements about Arax were made in direct relation to her "special commission" proposal, the evidence does not clearly establish such a connection.

(*Arax v. Thomas*, *supra*, 2024 WL 356456, at *18, fn. omitted.)

Thomas now fails to present additional evidence to establish that she was exercising a policymaking function or even acting in relation to a policy decision, when she made her comments about Arax. Therefore, the court finds Thomas fails to show, as a matter of law, that the section 47(a) privilege provides a complete defense.

Limited Public Figure and Malice

The appellate court determined that the evidence before it presented triable issues of fact on the question of malice, therefore, it had no need to resolve the public figure issue. As Arax summarizes, if he is treated as a private figure, the actual malice standard does not apply. If Arax is treated as a limited public figure, overwhelming evidence creates triable issues of fact that preclude summary judgment as a matter of law. Because the determination of whether Arax is a limited public figure does not completely dispose of a cause of action, Thomas is not entitled to a determination of this issue on summary adjudication, unless she can also meet her initial burden to establish the absence of malice as a matter of law. (Code Civ. Proc., § 437c, subd. (f)(1) ["[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"].)

In ruling on the anti-SLAPP motions, the appellate court concluded "the parties' evidence does not show the absence of malice as a matter of law." (*Arax v. Thomas*, *supra*, 2024 WL 356456, at *20.) Thomas now submits the same eight facts she submitted for her privilege claim to support her limited public figure and malice claims.

Thomas's fact numbers six and seven relate to the determination of whether Arax was a limited public figure. Fact number six provides:

On or about May 6, 2022, Plaintiff affirmatively injected himself into the KKK photo controversy in a statement to GV Wire published on May 6, 2022, that the KKK photo depicted a student wearing a ninja mask, not a KKK hood.

Thomas supports this fact with an excerpt from Arax's July 24, 2025 deposition, wherein Arax affirmed that he stated the student in the photo "was doing a Ninja dance, whatever that is." (Milton decl., ex. E [Arax depo., p. 204:13].) Although Arax's deposition testimony was previously unavailable, the cited testimony provides no new evidence.

Thomas's fact number seven simply states, "Arax was an influential voice in the Bullard High School community at all relevant times." Thomas supports this fact with excerpts from Arax's July 24, 2025 deposition. In the cited deposition testimony, Arax describes his employment history, coaching responsibilities, interactions with parents, students, and school district personnel.

Fact number eight is offered on the issue of malice and provides: "It was Thomas' motion to rename Forkner Elementary School to H. Roger Tartarian Elementary School, which motion was unanimously carried." Thomas does not state whether this information was presented to the appellate court. But the appellate court considered the "'Forkner Elementary' dispute" in its analysis of malice:

Arax, who declares himself to be of Armenian descent, alleges a feud of sorts developed between Thomas and Arax's brother in 2021 stemming from "the Arax-family effort to rename Forkner Elementary [School] to H. Roger Tatarian Elementary School." Thomas allegedly acted with "contempt and ridicule" toward the renaming effort, and she allegedly received negative publicity as a result. Thomas's briefing of the malice issue is almost entirely devoted to Arax's contentions about the "Forkner Elementary" dispute.

(*Arax v. Thomas, supra*, 2024 WL 356456, at *20.) The court then noted the Forkner Elementary dispute was not the only evidence of malice because Arax had also submitted the following evidence about a dispute with Thomas's youngest son, wherein Arax declared:

"On December 13, 2021, [five months prior to the allegedly defamatory statements,] one [of] my student aids [sic] in my class observed and reported an incident concerning Ms. Thomas' youngest son, who is in fact a Bullard High Student unlike [her middle son]. The [youngest son] had inappropriately patted a female student on the rear end at school. As a mandatory reporter, I had to report the incident to the vice-principal, which I did. As I perceived it, this reignited and fueled Ms. Thomas' animosity towards me and directly towards me now. At the time I made the report, I did not know that the student was Ms. Thomas' son, I learned that later."

(*Arax v. Thomas, supra*, 2024 WL 356456, at *20, citing Arax decl., ¶ 17.) The court found this "evidence is obviously probative of malice." (*Ibid.*)

In her moving papers, Thomas devotes one sentence to this evidence of malice (also alleged at paragraph 17 of the complaint): "Again, this allegation is pure

speculation without evidence linking this alleged event to the renaming of Forkner." (Memo., p. 11:14-15.) After briefly discussing a May 26, 2022, email wherein Thomas wrote to Bullard High School principal Armen Torigian about Arax's comments about "black boys," described at paragraph 18 of the complaint, Thomas concludes, "Taken together, the forgoing instances do not constitute clear and convincing evidence . . . so clear as to leave no substantial doubt – of malice on the part of Thomas as a matter of law." (Memo., p. 12:1-3.) But on Thomas's anti-SLAPP motion, and on her summary judgment motion, as the moving defendant, Thomas, not Arax, has the initial burden to show the absence of malice as a matter of law. Thomas fails to meet her initial burden, therefore, the burden does not shift to Arax to present evidence demonstrating there is a triable issue of material fact. (Code Civ. Proc., § 437c, subd. (p)(2); *Aguilar*, at p. 850.)¹

Evidentiary Objections

The court declines to rule on the parties' evidentiary objections because none are directed to evidence that is material to the disposition of Thomas's motion. (Code Civ. Proc., § 437c, subd. (q) [court need rule only on objections court deems material to its disposition].) Furthermore, the court overrules the evidentiary objections by Arax included in the separate statement. (Cal. Rules of Court, rule 3.1354(b) ["All written objections to

¹ As an additional reason to deny Thomas's motion, the court finds Arax presents new evidence to raise a triable issue of material fact. Arax cites *Sanders v. Walsh* (2013) 219 Cal.App.4th 855, 874, where the court found a defendant's false denial of making a defamatory statement was circumstantial evidence to support the trial court's finding of malice. Here, Arax presents new evidence that Thomas appeared for her 2025 deposition and denied making the allegedly defamatory statements at issue. For example, Arax's additional fact number four provides, "Defendant [Thomas] later denied under oath that she ever stated [Arax] called her son the N-word." To support additional fact number four, Arax cites Thomas's deposition, at pages 86:20 through 87:15, wherein Thomas testified:

Q. [By Mr. Whelan] At any point in time, did you tell Oliver Baines that Mr. Arax was a racist?

A. I have never referred to him as a racist to anyone,

Q. You've never referred to --

A. To --

Q. -- Mr. Arax --

A. -- Mr. Arax as a racist.

Q. Okay. Do you understand that if you tell people that Mr. Arax refers to your son as the N word, that they would understand that Mr. Arax is racist?

A. I never said --

MR. BERGER: Objection. Calls for speculation.

THE WITNESS: Thank you.

And I never said he called my son the N word.

BY MR. WHELAN:

Q. Okay. You never told anyone that Mr. Arax called your son the N word?

A. No.

Q. You're sure about that?

A. I'm pretty sure.

The court has not considered the new evidentiary matter submitted with Thomas's 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."])

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.

Issued By: KCK on 07/20/26
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***In re: Carlos Rodriguez***
Superior Court Case No. 21CECG02536

Hearing Date: July 21, 2026 (Dept. 501)

Motion: by Mercury Insurance Company to File an Interpleader of Funds and Discharge of Liability

Tentative Ruling:

To deny without prejudice.

Explanation:

On August 28, 2024 and October 23, 2024, the hearing on the motion to file an interpleader was continued to allow plaintiff to serve all defendants. On January 8, 2025, plaintiff's motion was ultimately denied without prejudice due to the failure to provide proof of service. Plaintiff's renewed motion was filed on February 5, 2025 and denied without prejudice due to failure to provide proof of service. On February 2, 2026, plaintiff's renewed motion was filed and the original hearing date continued for plaintiff to file proof of service. No proofs of service have been filed.

Plaintiff Mercury Insurance Company's renewed application to serve summons on defendants Ronnie Rodriguez, Adrianna Rodriguez, Raquel Rodriguez, Carlos Rodriguez and Michelle Rodriguez by publication was granted on October 8, 2025. No proof of service by publication has been filed. (Cal. Rules of Court, rule 3.1300, subd. (d).) Defendant Christina Rodriguez was not included in the October 8, 2025 order and there is no proof of service of the motion for defendant Christina Rodriguez. Accordingly, plaintiff Mercury Insurance Company's motion is 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 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: KCK on 0720/26
(Judge's initials) (Date)