Tentative Rulings for July 28, 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.

(Tentative Rulings begin at the next page)

<u>Tentative Rulings for Department 501</u>

Begin at the next page

(34)

Tentative Ruling

Re: ***DeLeon v. Fresno Community Hospital and Medical Center, et al.***
Superior Court Case No. 24CECG00946

Hearing Date: July 28, 2026 (Dept. 501)

Motion: by Defendant Loveneet Singh, M.D. for Summary Judgment

If oral argument is timely requested, it will be entertained on Thursday, July 30, 2026, at 3:00 p.m. in Department 501.

Tentative Ruling:

To grant. Prevailing party is directed to submit to this court, within 5 days of service of the minute order, a proposed judgment consistent with the court's summary judgment order.

Explanation:

Plaintiff alleges in this medical malpractice action that defendant Loveneet Singh, M.D. was negligent in the care and treatment of plaintiff with regard to the obstetrics, anesthesia, and general pre and post-partum care rendered to decedent Kyana Hickenbottom between November 21, 2022 and December 7, 2022. (FAC, MM-1, ¶¶ 2-3.) Dr. Singh now moves for summary judgment.

As the moving party, Dr. Singh bears the initial burden of proof to show that plaintiff cannot establish one or more elements of their causes of action or to show that there is a complete defense. (Code Civ. Proc., § 437c, subd. (p)(2).) Only after the moving party has carried this burden of proof does the burden of proof shift to the other party to show that a triable issue of one or more material facts exists – and this must be shown via specific facts and not mere allegations. (*Id.*)

> 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.

(*Munro v. Regents of Univ. of Calif*. (1989) 215 Cal.App.3d 977, 984-85.)

Where the moving party produces competent expert opinion declarations showing that there is no triable issue of fact on an essential element of the opposing party's claim (e.g. that a medical defendant's treatment fell within the applicable standard of care), the opposing party's burden is to produce competent expert opinion declarations to the contrary. (*Ochoa v. Pacific Gas & Elec. Co.* (1998) 61 Cal.App.4th 1480, 1487.)

To establish that a physician's care was negligent, a plaintiff must provide expert testimony establishing that the treatment fell below the applicable standard, unless the medical process at issue is matter of common knowledge and thus susceptible to comprehension by a lay juror. (*Flowers v. Torrance Memorial Hospital Medical Center* (1994) 8 Cal.4th 992, 1001.)

Dr. Singh relies on a declaration by expert Peter Cassini, M.D., a board certified neurologist who has treated and cared for many patients similar to decedent. Based on his knowledge, education, training, professional experience and review of the relevant materials in this case, Dr. Cassini concludes that Dr. Singh complied with the applicable standard of care with respect to their treatment and care of plaintiff, and that no act or omission by Dr. Singh was a substantial factor in causing decedent's death. (Cassini Decl., ¶¶ 4, 6-7; UMF Nos. 22, 52, 53.)

This is sufficient to shift the burden to plaintiff to raise a triable issue of fact. Plaintiff has not filed any opposition to the motion. Accordingly, the court intends to grant the motion for summary judgment.

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 07/24/26 .
(Judge's initials) (Date)

(47)

Tentative Ruling

Re: ***Stacy Brock v. County of Fresno***
Superior Court Case No. 25CECG04670

Hearing Date: July 28, 2026 (Dept. 501)

Motion: Defendant, County of Fresno's Demurrer and Motion to Strike Plaintiffs La'Riah Mia Young and Latayja Audrey Renee Young, by and through their guardian ad litem Stacy Brock, First Amended Complaint

If oral argument is timely requested, it will be entertained on Thursday, July 30, 2026, at 3:00 p.m. in Department 501.

Tentative Ruling:

The motion to strike is denied.

To overrule County of Fresno's demurrer with respect to the first through fifth causes of action, with respect to the First Amended Complaint.

Defendant County of Fresno to file and serve their answer within 10 days of the clerk's service of this order.

Explanation:

Plaintiffs La'Riah Mia Young and Latayja Audrey Renee Young ("plaintiffs") are the minor daughters and successors in interest of decedent Larontreal Deshawn Young ("decedent"), appearing through their guardian ad litem, Stacy Brock. On February 8, 2025, Mr. Young was found unresponsive in his cell at the Fresno County Main Jail; staff utilized an Automated External Defibrillator (AED) that, per the County's coroner, "did not work" and "failed multiple times during resuscitative efforts," and Mr. Young was pronounced dead. (Salhab Decl., Exs. 5–6.)

Fresno County now moves to strike the FAC in its entirety. Fresno County further demurs to the entire First Amended Complaint. ("FAC.")

Motion to Strike

Plaintiffs filed their original complaint on October 2, 2025. (Salhab Decl., Ex. 8.) Fresno County demurred. On January 22, 2026, Fresno County produced records in discovery, including its coroner report and AED inspection logs; five days later, rather than oppose the demurrer, plaintiffs filed the FAC on January 27, 2026, conforming the pleading to that evidence and alleging wrongful death, a survival action, failure to summon medical care, and negligence, including the negligent failure to maintain an operable AED. (Salhab Decl., Exs. 5–6.)

Fresno County's motion first argues that the FAC was an improper amendment requiring leave of court.

However, Code of Civil Procedure section 472, subdivision (a) permits a party to amend its pleading "once without leave of the court … after a demurrer … is filed but before the demurrer … is heard if the amended pleading is filed and served no later than the date for filing an opposition to the demurrer." Here, plaintiffs have met these requirements.

Fresno County further argues that the FAC does not relate back to the original complaint. Fresno County argues that "Plaintiffs' original complaint is based on wrongful death stemming from "forcible restraint" and "traumatic force" upon decedent by defendant's employees that restricted decedent's ability to breathe, and death. (Request for Judicial Notice, "RJN",¶1, Complaint, at pgs. 4-5.) Plaintiffs' Complaint claimed battery, assault, and negligence and wrongful death stemming from "excessive force." (RJN, ¶1, Complaint, at 4-7.) (Fresno County's Moving Papers, pg. 4:19-24.)

Fresno County argues that the FAC is based on an entirely new set of facts: "[T]he presence of a defective AED that defendant's personnel attempted to use to save decedent as he entered a form of cardiac arrest. (FAC, at pgs. 4-6.) Fresno County argues that the only connection between these two complaints is the fact that decedent died. But how decedent perished, the mechanism of his death, the theories of liability, and the facts regarding what actions were taken or not taken by defendant, are completely unrelated to one another. (Fresno County's Moving Papers, pps. 4:25-5:2.)

"Under the relation-back doctrine, an amendment relates back to the original complaint if the amendment: (1) rests on the same general set of facts; (2) involves the same injury; and (3) refers to the same [offending] instrumentality." (*Pointe San Diego Residential Community, L.P. v. Procopio, Cory, Hargreaves & Savitch, LLP* (2011) 195 Cal.App.4th 265, 276 ("*Pointe San Diego.*") "The criterion of relation back is whether the original complaint gave the defendant enough notice of the nature and scope of the plaintiff's claim that he shouldn't have been surprised by the amplification of the allegations of the original complaint in the amended one." (*Id*. at pg. 279.) Further, "in applying the relation-back analysis, courts should consider the 'strong policy in this state that cases should be decided on their merits.'" (Id. at pg. 277.)

"An amended complaint relates back to an earlier complaint if it is based on the same general set of facts, even if the plaintiff alleges a different legal theory or new cause of action." (*Id*. at 277; see also, *Smeltzley v. Nicholson Mfg. Co*. (1977) 18 Cal.3d 932, 934, 936; *Idding v. North Bay Construction Co*. (1995) 39 Cal.App.4th 1111, 1113.) Similarly, an amendment seeking new damages "relates back" to the original complaint if those damages resulted from the same operative facts previously alleged—i.e., the same misconduct and same injury. (*Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1200.)

Here, the Court finds that the claims in the FAC relate back to the original complaint. The original complaint and the FAC are predicated on the same set of general facts and both seek damages for the same primary alleged injury, which in this case, was Mr. Young's death in Fresno County's custody on February 8, 2025, and how

Fresno County personnel dealt with decedent. The fact that the FAC alleges new causes of action does not preclude application of the relation back doctrine, as those new causes of action are based on the same set of general facts alleged in the original complaint. Here, the complaint was amended only after Fresno County produced additional records in discovery, including its AED inspection logs for the Main Jail, and giving a more complete description of how Mr. Young passed away. (Salhab Decl., ¶5.)

Fresno County argues in reply that plaintiffs had in their possession sufficient information to state their amended causes of action in their original complaint, as opposed to their FAC:

> Far from "new" facts "later" discovered, plaintiffs' submit and cite to Exhibit 5 [Coroner's Report for Larontreal Deshawn Young (Coroner Case No. 2502-0078), together with the County's September 29, 2025, transmittal producing it] which indicates they obtained these facts before filing the original complaint and did not introduce these facts until the FAC. (Strike Opposition, at 6:23-6:26; Plaintiffs' Exhibit 5.) Plaintiffs' early knowledge of facts they would later use to support brand new FAC allegations showcases exactly the type of demurrer evasion and abuse of process they agree is prohibited by law. (Opposition, at 6:9-6:16.)

(Fresno County's Reply, pg. 8:11-16.)

First, the description provided in the Coroner's Report in Exhibit 5 does not necessarily preclude any of the theories of battery or assault initially advanced by the plaintiffs. The description of how decedent died is as follows:

> At 0423 hours Fresno County Sheriff's Office Staff were passing out meals, and Mr. Young was found face down near the toilet, with his feet away from the toilet. Staff responded to the cell within minutes opened the door and entered the cell. He was moved out of the cell to allow additional staff to assist with life saving efforts. Mr. Young was unresponsive and resuscitative efforts were performed.

(Salhab Becl., Ex. 5.)

What happened when the staff responded? How did he get face down to begin with? What happened before decedent was moved out of his cell? These are some of the questions that can be resolved through discovery.

Second, Salhab's declaration at paragraph 5 provides the timeline for production of the Coroner's Report:

> Plaintiffs filed the original complaint on October 2, 2025, based on the family's initial understanding of the circumstances of Mr. Young's death. On September 29, 2025,

> in response to a Public Records Act request, the County's Sheriff-Coroner produced to my office the Coroner's Report for Larontreal Deshawn Young (Coroner Case No. 25-02-0078).

Salhab's declaration does not necessarily state when Salhab received the Coroner's Report. The letterhead from the Fresno County Sherriff's Office is dated September 29, 2025. (Salhab Decl., Exhibit 5.) There is no indication that plaintiffs' attorneys had received and reviewed Exhibit 5 prior to filing the original complaint.

Accordingly, Fresno County's motion to strike is denied.

Demurrer

Fresno County demurs to all five causes of action. The basis of Fresno County's demurrer as to each cause of action includes non-compliance with the Government Claims Act, immunity under Government Code section 844.6 and Civil Code section 1714.21, and failure to state a cause of action with respect to each claim.

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.) As relates to a complaint, the test is whether plaintiff has succeeded in stating a cause of action; the court does not concern itself with the issue of 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 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.)

Where a demurrer is based upon an affirmative defense, such as statutory immunity, the demurrer "will be sustained only where the face of the complaint discloses that the action is necessarily barred by the defense. [Citation.]" (*Casterson v. Superior Court* (2002) 101 Cal.App.4th 177, 183.)

Compliance with the Government Claims Act

Fresno County demurs that that plaintiffs did not comply with the Government Claims Act for three reasons. Fresno County first demurs to the second through fifth causes of action on the basis that plaintiffs' Government Claims requested damages on behalf of themselves only, and not as successors in interest. Fresno County then demurs to the first through fifth causes of action as those causes of action are completely different than the theories plaintiffs presented in their government claims to Fresno County. Fresno County further demurs on the grounds that the third through fifth causes of action were brought outside the statute of limitations. Each issue is addressed in turn.

Government Claims Act – Survival Action

Fresno County demurs as to the second through fifth causes of action on the basis that plaintiffs did not comply with the Government Claims Act. (Fresno County's Demurrer, pps. 4:6-5:1.) Fresno County in particular argues that "[t]he contents of plaintiffs' claims reveal that only individuals suing for a wrongful death theory of liability, requesting damages on behalf of themselves only. (RJN, 1-2, Exhibits A, B.) Failing to assert their status as successors or personal representatives on behalf of the Estate of Larontreal Deshawn Young and failing to seek damages for injuries suffered by decedent, plaintiffs failed to substantially comply with the claim filing requirements to notice Fresno County of a survival action. (Fresno County's Demurrer, pg. 4:12-17.)

Under the Government Claims Act, the general rule is that any party with a claim for money or damages against a public entity must first file a claim directly with that entity; only if that claim is denied or rejected may the claimant file a lawsuit. (Gov. Code, §§ 905, 945.4; *City of Ontario v. Superior Court* (1993) 12 Cal.App.4th 894.) This provides the public entity with an opportunity to evaluate the claim and make a determination as to whether it will pay on the claim. (*Roberts v. County of Los Angeles* (2009) 175 Cal.App.4th 474.) Failure to timely file a tort claim renders the complaint subject to demurrer. (*V.C. v. Los Angeles Unified School Dist.* (2006) 139 Cal.App.4th 499, 509—affirming trial court decision to sustain demurrer without leave to amend on the ground that V.C.'s failure to timely comply with the requirements of the Tort Claims Act barred her action.)

Where a public entity provides written notice that a claim has been rejected, the claimant has six months from the date the notice was personally delivered or deposited in the mail to file suit. (Gov. Code, §945.6, subd. (a)(1).) The statute of limitations imposed by section 945.6 is mandatory and must be strictly complied with. (*Cole v. Los Angeles Unified School District* (1986) 177 Cal. App. 3d 1, 5.) If the claimant fails to commence an action within the time period prescribed by section 945.6, the court is without jurisdiction to grant relief, and dismissal of the action is required. (*Id*.)

In *Nelson v County of Los Angeles* (2003) 113 Cal. App. 4th 783, 796-797 ("*Nelson*"), the decedent's parents filed a government claim on their own behalf but did not file a government claim on behalf of decedent or decedent's estate. The Court found that due to this, claims presented by decedent's estate were barred as a matter of law due to failure to abide by the Government Claims Act.

The circumstances here are different than *Nelson* where each minor presented a written claim to Fresno County "individually, **and as successor in interest to Decedent Larontreal Deshawn Young**." (Salhab Decl., Exs. 2, Young Claim for Damages at 1; Claim for Damages - LaRiah Young at 1, Emphasis added.) Furthermore, the claims attribute the in custody death to the County's "negligence, willful and wanton, or malicious" conduct and state that the cause of death "remains unknown." (*Id.*) The County rejected the minors' claims on July 8, 2025. (Fresno County Board Resolution No. 25-210 at 2.) (Salhab Decl., Ex. 3-4.)

Accordingly, Fresno County's demurrer to the second through fifth causes of action, for failure to comply with the Government Claims Act is overruled.

Government Claims Act – Failure to State Facts

Fresno County demurs to the first through fifth causes of action on the basis that those causes of action are completely different than the theories plaintiffs presented in their government claims to Fresno County.

Fresno County asserts that "[t]he FAC alleges no force, excessive or otherwise, and instead defendant had a duty to provide immediate, timely, effective, and adequate medical care and maintain the AED machine that was used when attempting to save defendant's life. (FAC, at 4:2-4:8) Plaintiffs' FAC claims the existence of a defective AED machine, a dangerous condition, and that defendant breached a variety of statutes and regulations, thereby breaching their duty to decedent. (FAC, at 4:2-4:8.)" (Fresno County's Demurrer, pg. 5:9-11.) Fresno County then argues that the FAC is different than plaintiffs' government claims as "plaintiffs' government claims make no mention of any AED machine, a dangerous condition, or a failure to summon medical care. (RJN, 111| 1-2, Exhibits A B.) Nothing in plaintiffs' government claims was carried into the FAC." (Fresno County's Demurrer, pg. 6:14-15.)

Per the Government Claims Act, a party with a claim for money or damages against a public entity must present a written claim directly with that public entity. (Gov. Code, §905.) Under Government Code section 945.4, "no suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Section 910 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 have been rejected by the board." (*Stockett v. Association of Cal. Water Agencies Joint Powers Ins. Authority* (2004) 34 Cal.4th 441, 445 [cleaned up] ("*Stockett*"); see also *Munoz v. State of Cal.* (1995) 33 Cal.App.4th 1767.) In sum, "compliance with the claims provisions is mandatory. Fulfilling the requirements of the tort claims presentation procedure is a condition precedent to filing suit; it is not an affirmative defense." (*Castaneda v. Department of Corrections & Rehabilitation* (2013) 212 Cal.App.4th 1051, 1061 ("*Castaneda*") [cleaned up].)

Government Code section 910 provides in relevant part:

> "A claim shall be presented by the claimant or by a person acting on his or her behalf and shall show all of the following:
>
> (a) The name and post office address of the claimant.
> …
> (c) The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.
> (d) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim.
> …

"[F]ailure to allege facts demonstrating or excusing compliance with the claim presentation requirements subjects a claim against a public entity to a demurrer for failure to state a cause of action." (*State of California v. Superior Court* (2004) 32 Cal.4th

1234, 1239.) "Moreover, a plaintiff need not allege strict compliance with the statutory claim presentation requirement. Courts have long recognized that a claim that fails to substantially comply with sections 910 and 910.2, may still be considered a 'claim as presented' if it puts the public entity on notice both that the claimant is attempting to file a valid claim and that litigation will result if the matter is not resolved." (Id. at p.1245 [cleaned up].)

"Only where there has been a "complete shift in allegations, usually involving an effort to premise civil liability on acts or omissions committed at different times or by different persons than those described in the claim," have courts generally found the complaint barred. 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,* 34 Cal.4th at pg. 447. (Citations omitted.))

Here, there has not been a complete shift in allegations. Each minor's claim expressly attributes Mr. Young's in-custody death to the County's "any negligence, willful and wanton, or malicious conduct." (Salhab Decl., Ex.2 - Claim for Damages – LaRiah Young at 2; Latayja Young Claim for Damages at 2.) Furthermore, the factual circumstances set forth in the government claim correspond with the facts alleged in the complaint. (*Castaneda,* 212 Cal.App.4th at pg. 1060.) The FAC and the Government Claims are predicated on the same set of general facts for the same primary alleged injury, which in this case, was Mr. Young's death in Fresno County's custody on February 8, 2025.

Accordingly, Fresno County's demurrer to the first through fifth causes of action, on the basis that those causes of action are completely different than the theories plaintiffs presented in their government claims to Fresno County, is overruled.

Government Claims Act – Statute of Limitations

Fresno County further demurs on the grounds that the third through fifth causes of action were brought outside the statute of limitations.

The statute of limitations period at issue stems from the requirement that any tort action against a government entity must be brought within a certain period of time. If a government agency that has received a claim from a Plaintiff does not respond to said claim within 45-days, then the statute of limitations for a Plaintiff to file its complaint is two-years. (Gov. Code, § 945.6 subd. (a)(2).) However, if the agency provides a timely rejection, then Plaintiff has only six-months from the date the rejection is mailed or served to file a complaint. (Gov. Code, §945.6 subd. (a)(1).)

Fresno County argues that the third through fifth causes of action are untimely as they should have been brought forth by January 8, 2026 where plaintiffs' received their rejection on July 11, 2025. However, plaintiffs' instant FAC was filed on January 27, 2026. Fresno County Demurrer, pg. 8:10-13.)

However, allegations in an amended complaint may relate back to a timely original complaint if they "(1) rest on the same general set of facts, (2) involve the same injury, and (3) refer to the same instrumentality, as the original one." (*Norgart v. Upjohn Co.* (1999) 21 Cal.4th 383, 409.) "An amended complaint relates back to an earlier complaint if it is based on the same general set of facts, even if the plaintiff alleges a different legal theory or new cause of action." (*Pointe San Diego* 195 Cal.App.4th at pg. 277.) "[T]he critical inquiry is whether the defendant had adequate notice of the claim based on the original pleading." (*Ibid.*) "Additionally, in applying the relation-back analysis, courts should consider the strong policy in this state that cases should be decided on their merits." (*Ibid.*)

As discussed above, these claims relate back.

Accordingly, Fresno County's demurrer to the third through fifth causes of action, on the action were brought outside the statute of limitations, is overruled.

Immunity under Government Code section 844.6

Fresno County demurs as to the entire FAC arguing it is immune under Government Code section 844.6. Government Code section 844.6 provides that a "public entity" is not liable for "an injury to any prisoner" unless certain exceptions apply, including as provided in Government Code section 845.6. (Gov. Code, §844.6, subd. (a)(2).) However, "[n]othing in this section exonerates a public employee from liability for injury proximately caused by his negligent or wrongful act or omission." (Gov. Code, § 844.6, subd. (d).)

Fresno County specifically demurs that it is immune because decedent was a prisoner in custody at the Fresno County jail. (Fresno County's Demurrer, pps. 6:28-7:5.)

The exception Government Code section 845.6 provides to Government Code section 844.6 states in relevant part that a government entity or employee may still be liable if "the employee knows or has reason to know that the prisoner is in need of immediate medical care and he fails to take reasonable action to summon such medical care."

Here, the FAC sufficiently pleads the exception under Government Code section 845.6 as to each of the five causes of action. Each of the causes of action allege that Fresno County failed to properly inspect a defective defibrillator which Fresno County used on decedent, and which never worked. Here, it is alleged not ensuring the maintenance of operable emergency medical equipment is not reasonable.

Accordingly, the demurrer on the basis of Immunity under Government Code section 844.6 is overruled.

Immunity under Civil Code section 1714.21

Fresno County demurs to the entire complaint on the basis that it is immune under Civil Code section 1714.21. (Fresno County Demurrer, pg. 10:2-11:18.)

Government Code section 815 provides:

> Except as otherwise provided by statute:

> (a) A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person.
> (b) The liability of a public entity established by this part (commencing with Section 814) is subject to any immunity of the public entity provided by statute, including this part, and is subject to any defenses that would be available to the public entity if it were a private person.

Immunity accorded under Civil Code section 1714.21 applies to Fresno County as it is an immunity available to a private person, as allowed under Government Code section 815, subdivision (b).

Civil Code section 1714.21 generally provides immunity where a person or entity complies with Health and Safety Code 1797.196. Civil Code section 1714.21, subdivisions (d) and (e) provide:

> (d) (1) A person or entity that acquires an AED for emergency use pursuant to this section is not liable for any civil damages resulting from any acts or omissions in the rendering of the emergency care by use of an AED if that person or entity has complied with subdivision (b) of Section 1797.196 of the Health and Safety Code.
> (2) A physician and surgeon or other health care professional that is involved in the selection, placement, or installation of an AED pursuant to Section 1797.196 of the Health and Safety Code is not liable for civil damages resulting from acts or omissions in the rendering of emergency care by use of that AED.
> (e) The protections specified in this section do not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED.

The relevant portions of Health and Safety Code 1797.196, subdivision (b) are as follows:

> (b)(1) In order to ensure public safety, a person or entity that acquires an AED shall do all of the following:
> (A) Comply with all regulations governing the placement of an AED.
> (B) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.
> (C) Ensure that the AED is maintained and tested according to the operation and maintenance guidelines set forth by the manufacturer.
> (D) Ensure that the AED is tested at least biannually and after each use.

> (E) Ensure that an inspection is made of all AEDs on the premises at least every 90 days for potential issues related to operability of the device, including a blinking light or other obvious defect that may suggest tampering or that another problem has arisen with the functionality of the AED.
> (F) Ensure that records of the maintenance and testing required pursuant to this paragraph are maintained.
> (2) When an AED is placed in a building, the building owner shall do all of the following:
> (A) At least once a year, notify the tenants as to the location of the AED units and provide information to tenants about who they can contact if they want to voluntarily take AED or CPR training.
> (B) At least once a year, offer a demonstration to at least one person associated with the building so that the person can be walked through how to use an AED properly in an emergency. The building owner may arrange for the demonstration or partner with a nonprofit organization to do so.
> (C) Next to the AED, post instructions, in no less than 14-point type, on how to use the AED.
> (3) A medical director or other physician and surgeon is not required to be involved in the acquisition or placement of an AED.

Fresno County specifically demurs that the dates provided in plaintiffs' FAC are not set by law. (Fresno County Demurrer, pg. 10:2-11:11.) The relevant portion of the FAC states:

> 4. Prior to February 8, 2025, Defendants failed to inspect, maintain, and ensure the operability of the automated external defibrillator ("AED") assigned to Decedent's housing unit, including failing to conduct required inspections on January 10, 2025, January30, 2025, and February 6, 2025. (FAC, pg. 4, ¶4.)

"In addition to accepting as true all properly pleaded material facts, we also accept as true those facts that may be implied or inferred from facts expressly alleged. (Citations Omitted.)" (*Nguyen v. Western Digital Corp.* (2014) 229 Cal.App.4th 1522, 1536.) Here plaintiffs have sufficiently pled that the AED's were not maintained and tested appropriately, nor were the required inspections carried out. Here, it is alleged not ensuring the maintenance of operable emergence medical equipment is not reasonable. Furthermore, the dates plaintiffs refer to are indicative that plaintiffs are alleging that the AED was not inspected in accordance with Health and Safety Code 1797.196, subdivision (b)(1).

Accordingly, the demurrer on the basis under Civil Code section 1714.21 is overruled.

Failure to State a Cause of Action

First, Second and Fifth Causes of Action

Defendant demurs to plaintiffs' first, second and fifth causes of action on the basis that plaintiffs have not pled sufficient facts. In particular, Fresno County argues that it did not owe decedent a duty of care, and that there is no statutory basis for such claims:

> Plaintiffs claim that "defendant owed decedent. . .a duty to exercise reasonable care in his custody and supervision and to provide timely and appropriate medical care, including compliance with mandatory duties imposed by law and regulation." In addition, plaintiffs claim that "defendants further owed decedent statutory duties, including duties to summon and provide immediate medical care and to maintain operable emergency medical equipment" pursuant to various statutes and regulations. (FAC, 4:6-4:8, 5:6-5:8, 8:1-8:2.) However, these are not statutory duties required of defendant. Plaintiffs' claims that defendant was required to exercise reasonable care and supervision and provide appropriate medical care are absent from any of the statutes they list. (Id)

(Fresno County Demurrer, pg. 13:1-9.)

"The elements of a negligence cause of action are the existence of a legal duty of care, breach of that duty, and proximate cause resulting in injury." (*Castellon v. U.S. Bancorp* (2013) 220 Cal.App.4th 994, 998 [citation omitted].) Under Code of Civil Procedure section 377.60, a decedent's surviving spouse and children may bring a cause of action for the death of a person caused by the wrongful act or neglect of another.

Government Code section 815 provides that "[a] public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person" except as provided by statute. (Gov. Code, § 815, subd. (a); see *Hoff v. Vacaville Unified School Dist.* (1998) 19 Cal.4th 925, 932.) "[D]irect tort liability of public entities must be based on a specific statute declaring them to be liable, or at least creating some specific duty of care, and not on the general tort provisions of Civil Code section 1714. Otherwise, the general rule of immunity for public entities would be largely eroded by the routine application of general tort principles." (*Eastburn v. Regional Fire Protection Authority* (2003) 31 Cal.4th 1175, 1183.) Consequently, "public entities may be liable only if a statute declares them to be liable." (*Tuthill v. City of San Buenaventura* (2014) 223 Cal.App.4th 1081, 1088.) It has been recognized that it is impermissible to sue a public entity for common law negligence. (*Torres v. Department of Corrections and Rehabilitation* (2013) 217 Cal.App.4th 844, 850.)

In general, "under the Tort Claims Act, public employees are liable for injuries caused by their acts and omissions to the same extent as private persons. (Gov. Code, § 820, subd. (a).) Vicarious liability is a primary basis for liability on the part of a public entity, and flows from the responsibility of such an entity for the acts of its employees under the principle of respondeat superior. [Citations.] As the Act provides, '[a] public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment if the act or omission would ... have given rise to a cause of action against that employee,' unless 'the employee is immune from liability.' (Gov. Code, § 815.2, subds.(a), (b).)" (*Zelig v. County of Los Angeles* (2002) 27 Cal.4th 1112, 1128.)

Here, as discussed above, plaintiffs' allegations are sufficient to demonstrate that Fresno County owed decedent a duty of care with respect to the maintenance of the AED, as required under Health and Safety Code 1797.196.

Accordingly, the demurrer as to the first, second and fifth causes of action, on the basis plaintiffs' failed to state a cause of action is overruled.

Third Cause of Action

Fresno County demurs to plaintiffs' third cause of action on the grounds plaintiffs failed to plead sufficient facts to state a Government Code Section 845.6 claim and Fresno County is also immune from plaintiff's claim under Government Code Section 856.4.

Government Code section 845.6 provides that "a public employee, and the public entity where the employee is acting within the scope of his employment, is liable if the employee knows or has reason to know the prisoner is in need of immediate medical care and he fails to take reasonable action to summon such medical care." (Gov. Code, §845.6.)

California courts have construed the provision to create limited liability "when: (1) the public employee knows or has reason to know of the need, (2) of immediate medical care, and (3) fails to take reasonable action to summon such medical care." (*Castaneda* 212 Cal.App.4th at 1070 [internal quotations, brackets and emphasis omitted].)

Defendant argues plaintiffs' own pleadings demonstrate that Fresno County did "summon medical care." (Fresno County's Demurrer, pg. 9:14-15.) Fresno County also argues that plaintiffs' did not plead the appropriate standard. (Fresno County's Demurrer, pg. 9:4-9.)

Here, the allegations in the third cause of action are that immediate care was not provided with the use of a malfunctioning AED, which was not properly maintained under Health and Safety Code 1797.196.

Accordingly, the demurrer with respect to the third cause of action is overruled.

Fourth Cause of Action

Fresno County demurs to plaintiffs' fourth cause of action on the grounds plaintiffs failed to plead sufficient facts to state a cause of action.

In order to plead a negligence claim under Government Code section 835, a plaintiff must plead a dangerous condition exists on a property meaning "a condition of property that creates a substantial (as distinguished from a minor, trivial or insignificant) risk of injury when such property or adjacent property is used with due care in a manner in which it is reasonably foreseeable that it will be used." (Gov. Code, § 830, subd. (a).)

Government Code section 835 provides:

> Except as provided by statute, a public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and that either:
> (a) A negligent or wrongful act or omission of an employee of the public entity within the scope of his employment created the dangerous condition; or
> (b) The public entity had actual or constructive notice of the dangerous condition under Section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition.

Fresno County's arguments are predicated on its prior arguments pertaining to Immunity under both Government Code section 844.6 and Civil Code section 1714.21. (Fresno County's demurrer, pg. 12:2-12.)

For the reasons already discussed above, plaintiffs' claims in the fourth cause of action pertain to not maintaining, testing or appropriately inspecting the AED.

Accordingly, the demurrer as to the fourth cause of action, on the basis plaintiffs' failed to state a cause of action is overruled.

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 07/24/26 .
(Judge's initials) (Date)

(48)

Tentative Ruling

Re: ***Capelle v. Saldivar***
Superior Court Case No. 25CECG00676

Hearing Date: July 28, 2026 (Dept. 501)

Motion: By Plaintiff to Substitute Successor in Interest for Deceased Plaintiff George Capelle

If oral argument is timely requested, it will be entertained on Thursday, July 30, 2026, at 3:00 p.m. in Department 501.

Tentative Ruling:

To deny. (Code Civ. Proc., § 377.32.)

Explanation:

Code of Civil Procedure section 377.31 provides that "[o]n motion after the death of a person who commenced an action or proceeding, the court shall allow a pending action or proceeding that does not abate to be continued by the decedent's personal representative or, if none, by the decedent's successor in interest."

Under Code of Civil Procedure section 377.32,

> (a) The person who seeks to commence an action or proceeding or to continue a pending action or proceeding as the decedent's successor in interest under this article, shall execute and file an affidavit or a declaration under penalty of perjury under the laws of this state stating all of the following:
>
> (1) The decedent's name.
>
> (2) The date and place of the decedent's death.
>
> (3) "No proceeding is now pending in California for administration of the decedent's estate."
>
> (4) If the decedent's estate was administered, a copy of the final order showing the distribution of the decedent's cause of action to the successor in interest.
>
> (5) Either of the following, as appropriate, with facts in support thereof:

(A) "The affiant or declarant is the decedent's successor in interest (as defined in Section 377.11 of the California Code of Civil Procedure) and succeeds to the decedent's interest in the action or proceeding."

(B) "The affiant or declarant is authorized to act on behalf of the decedent's successor in interest (as defined in Section 377.11 of the California Code of Civil Procedure) with respect to the decedent's interest in the action or proceeding."

(6) "No other person has a superior right to commence the action or proceeding or to be substituted for the decedent in the pending action or proceeding."

(7) "The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

(b) Where more than one person executes the affidavit or declaration under this section, the statements required by subdivision (a) shall be modified as appropriate to reflect that fact.

(c) A certified copy of the decedent's death certificate shall be attached to the affidavit or declaration.

Neither a declaration by the successor in interest nor a certified copy of the decedent's death certificate was filed or attached to the instant motion. As such, the motion is denied.

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 07/27/26 .
(Judge's initials) (Date)