

**Tentative Rulings for July 30, 2026**  
**Department 502**

**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)**

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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.*

25CECG05651      *Andrea Guerrero v. Thampi K. John, M.D., Inc. (Dept. 502)*

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

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(Tentative Rulings begin at the next page)

## **Tentative Rulings for Department 502**

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**Tentative Ruling**

Re: ***Harmon v. Central Unified School District***  
Superior Court Case No. 25CECG04621

Hearing Date: July 30, 2026 (Dept. 502)

Motion: Defendants' Demurrer and Motion to Strike

**Tentative Ruling:**

To sustain the demurrer as to defendant Harvest Elementary School, without leave to amend. To sustain the demurrer to the fourth cause of action, with leave to amend. To overrule the demurrer as to the first, second, third, and fifth causes of action. Plaintiff is granted 10 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.

To grant the motion to strike as to the reference to treble damages in the prayer for relief. To deny the motion to strike as to the reference to "assault" and "battery" in paragraph 48. Plaintiff shall make the appropriate changes in the First Amended Complaint.

**Explanation:**

Demurrer

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.) The test is whether a plaintiff has succeeded in stating a cause of action; the court does not concern itself with the issue of a 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 the 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.)

*Misjoinder*

Plaintiff concedes that Harvest Elementary School should be removed as a named defendant.

*Statutory Basis*

Defendants argue that plaintiff has failed to identify a statutory basis for liability throughout the complaint. The Government Claims Act requires that government tort liability be based on a statute. (*County of San Bernardino v. Superior Court* (2022) 77 Cal.App.5th 1100, 1107; *State ex rel. Dept. of California Highway Patrol v. Superior Court*

(2015) 60 Cal.4th 1002, 1009.) However, plaintiff has alleged the statutory bases for liability to include Government Code section 815.6 and Education Code section 44808. (Complaint, ¶ 48.) To the extent defendants challenge the merits of such, this is not the appropriate subject for a demurrer.

### *Negligence Causes of Action*

Defendants assert the first three causes of action fail to state facts sufficient to constitute a cause of action. Defendants emphasize that plaintiff failed to allege facts to show that defendants knew the bus driver was unfit.

Courts have found that school supervisory employees have a duty to oversee the educational environment, including protecting students against harassment from foreseeable sources. (*C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal.4th 861, 871.) Failure to adequately supervise students can give rise to liability for injuries proximately caused by such failure. (*M.W. v. Panama Buena Vista Union School Dist.* (2003) 110 Cal.App.4th 508, 518.) A district owes a duty to protect from reasonably foreseeable harm. (*Ibid.*)

Here, plaintiff has alleged that the bus driver failed to adequately supervise the children on the bus. (Complaint, ¶ 34.) Plaintiff alleges that the bus driver had previously failed to adequately supervise students. (*Id.* at ¶¶ 29, 72.) Plaintiff alleges that the district was or should have been aware that the bus driver had work performance issues. (*Id.* at ¶¶ 73-75.) Plaintiff has also alleged the district had knowledge of the boys involved and their histories and had failed to discipline them or act to protect plaintiff. (*Id.* at ¶ 40.) Plaintiff has adequately pled the district's knowledge in the first three causes of action. The court overrules the demurrer as to these three causes of action.

### *Negligent Infliction of Emotional Distress*

Defendants argue that negligent infliction of emotional distress is not a recognized cause of action. Negligent infliction of emotional distress is not an independent tort, but rather the tort of negligence. (*Belen v. Ryan Seacrest Productions, LLC* (2021) 65 Cal.App.5th 1145, 1165; *Marlene F. v. Affiliated Psychiatric Medical Clinic, Inc.* (1989) 48 Cal.3d 583, 588.) As such, the traditional elements of duty, breach, causation, and damages apply. (*Burgess v. Superior Court* (1992) 2 Cal.4th 1064, 1072.)

Here, plaintiff has already alleged negligence in the first cause of action, including allegations of emotional distress. (Complaint, ¶ 60.) The fourth cause of action for negligent infliction of emotional distress appears largely duplicative of the first cause of action. The court sustains the demurrer to this cause of action. Plaintiff is granted leave to amend to ensure any allegations not already contained in the first cause of action can be added to it from the fourth cause of action.

### *Intentional Infliction of Emotional Distress*

To plead intentional infliction of emotional distress, plaintiffs must allege 1) extreme and outrageous conduct by the defendant, 2) with the intent of causing, or reckless disregard of the probability of causing, 3) severe emotional distress, which 4) causes

emotional distress. (*Bock v. Hansen* (2014) 225 Cal.App.4th 215, 232-233.) Outrageous conduct is conduct which is so “extreme as to exceed all bounds of that usually tolerated in a civilized community.” (*Haberman v. Cengage Learning, Inc.* (2009) 180 Cal.App.4th 365, 389, citations omitted.) Conduct may be considered outrageous where a defendant knows a plaintiff is vulnerable to injuries through mental distress. (*McDaniel v. Gile* (1991) 230 Cal.App.3d 363, 372.)

Here, plaintiff has asserted that the bus driver knew of plaintiff's susceptibility due to her age and vulnerability. (Complaint, ¶¶ 91-92.) Plaintiff has also alleged the bus driver's conduct was with reckless disregard of the probability of causing plaintiff emotional distress. (Id. at ¶¶ 91-92.) Plaintiff has alleged plaintiff experienced severe emotional distress as a result. (Id. at ¶ 94.) To the extent that defendants challenge these assertions, this is a challenge to the merits, which is inappropriate on demurrer. The court overrules the demurrer as to the fifth cause of action.

### Strike

A motion to strike may be used to address defects in pleadings otherwise not challengeable by a demurrer. (See Code Civ. Proc., § 435.) Code of Civil Procedure section 436 provides that a court may strike irrelevant, false, or improper matters, or parts of pleadings not filed in conformity with the rules of court. A motion to strike can be used to attack either a portion or the entirety of a pleading. (*Baral v. Schnitt* (2016) 1 Cal.5th 376, 393.)

Plaintiff concedes that the treble damages in the prayer for relief are subject to striking. Thus, the only issue remaining is the reference to “assault” and “battery” in paragraph 48 of the complaint. Defendants assert that these terms are improper, inflammatory, and irrelevant. However, the underlying claims of assault and battery are relevant here as this is the conduct giving rise to plaintiff's claims. Defendants have not provided legal authority for striking inflammatory language. Courts have acknowledged that inflammatory language can often be found in litigation. (*In re Marriage of DeRoque* (1999) 74 Cal.App.4th 1090, 1094.) The court will not strike the challenged language in paragraph 48.

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:** Img **on** 7-29-26.  
(Judge's initials) (Date)

(35)

### Tentative Ruling

Re: ***In re 1433 East Richert Avenue, Fresno, CA 93704***  
Superior Court Case No. 25CECG05242

Hearing Date: July 30, 2026 (Dept. 502)

Motion: By Claimant David Hulen to Distribute Surplus Funds

### Tentative Ruling:

To grant. Order signed. No appearances necessary.

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: img on 7-29-26  
(Judge's initials) (Date)