Tentative Rulings for September 17, 2026
Department 503

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) ***The above rule also applies to cases listed in this "must appear" section.***

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

24CECG01939	***A. Torrez v. FCA US LLC*** **is continued to Thursday, October 22, 2026, at 3:30 p.m. in Department 503.**
25CECG00049	***Stovall v. Land-Garzon, Inc.*** **is continued to Thursday, October 22, 2026, at 3:30 p.m. in Department 503.**
25CECG05903	***Rodriguez v. Rodriguez*** **is continued to Thursday, October 22, 2026, at 3:30 p.m. in Department 503.**
26CU01184	***Chooljian Brothers Packing Company, Inc. v. The McClatchy Company, LLC*** **is continued to Thursday, October 29, 2026, at 3:30 p.m. in Department 503.**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

Begin at the next page

(34)

<u>Tentative Ruling</u>

Re: ***Aguilar v. Saint Agnes Medical Center, et al.***
Superior Court Case No. 23CECG02274

Hearing Date: September 17, 2026 (Dept. 503)

Motion: by Plaintiff to Reopen Discovery

Tentative Ruling:

To deny Plaintiff Sophia Aguilar's motion to reopen discovery in its entirety.

Explanation:

Plaintiff Sophia Aguilar moves to reopen discovery to obtain additional depositions of Persons Most Knowledgeable for defendant Saint Agnes Medical Center, depositions of percipient witnesses who treated decedent Noe Aguilar while admitted to Saint Agnes Medical Center, Persons Most Qualified for UCLA Ronald Reagan Medical Center ("UCLA"), and percipient witnesses who treated decedent Noe Aguilar while admitted to UCLA.

Per Code Civil Procedure section 2024.020, subdivision (a), the discovery cutoff is 30 days before the initial trial date. The court can extend the discovery cutoff, taking into consideration the following:

> (1) The necessity and the reasons for the discovery.
>
> (2) The diligence or lack of diligence of the party seeking the discovery or the hearing of a discovery motion, and the reasons that the discovery was not completed or that the discovery motion was not heard earlier.
>
> (3) Any likelihood that permitting the discovery or hearing the discovery motion will prevent the case from going to trial on the date set, or otherwise interfere with the trial calendar, or result in prejudice to any other party.
>
> (4) The length of time that has elapsed between any date previously set, and the date presently set, for the trial of the action.

(Code Civ. Proc. § 2024.050, subd. (b).)

The necessity of the Saint Agnes Medical Center-related discovery in particular is tied to Dr. Charles Bailey's declaration that there are gaps in the records. The declarations attached as Exhibit B to the declaration in support of the motion at bench are those submitted in support of plaintiff's oppositions to the motions for summary judgment of Drs. Bharati, Roshan, and Yankey, and Saint Agnes Medical Center. The declaration submitted for the Yankey motion refers directly to records Dr. Bailey asserts are missing from the Saint Agnes medical records he reviewed or depositions he believes are missing form evidence. (Ex. B, June 9, 2026 Declaration ISO Yankey, ¶ 5a-h, aa-ff.) The fourth declaration in Exhibit B is not labelled as in response to a specific motion but was submitted in support of plaintiff's opposition to the motion for summary judgment filed by Saint Agnes Medical Center. This declaration is similar to the Yankey declaration in its commentary on the absence of medical records included in the Saint Agnes chart.

When questioned in deposition regarding the need for additional records and depositions, Dr. Bailey's testimony undermined plaintiff's position. Dr. Bailey testified that he did not receive the entire medical chart produced in discovery and that he would be surprised if additional depositions of Saint Agnes persons most knowledgeable would be necessary if he had access to the entire chart. (Penner Decl., ¶ 15(a)-(b); Mish Decl., ¶4; Casheros Decl., ¶ 11.)

In light of the testimony of Dr. Bailey undermining the need for further discovery from Saint Agnes Medical Center based primarily on his declarations, the court finds plaintiff has not demonstrated there is a necessity for further discovery from Saint Agnes Medical Center persons most knowledgeable or percipient witnesses.

Plaintiff also requests discovery be reopened for additional depositions of persons most knowledgeable and percipient witnesses from UCLA where decedent was transferred for liver transplant. Plaintiff had previously noticed these depositions to go forward between June 15 and 19 in Los Angeles and the motion at bench provides no reasoned explanation as to why they were taken off calendar or could not go forward. Plaintiff's prior counsel's desire to sequence these depositions after the desired Saint Agnes Medical Center depositions is not a reasonable explanation to take these depositions off calendar with the discovery deadlines looming if they were as necessary to the trial as counsel argues. Neither is the other proffered explanation that counsel was busy opposing the four summary judgment motions as all motions as noticed required the opposition to be filed prior to the week of the noticed depositions.

The court is not satisfied that plaintiff diligently pursued the UCLA-related depositions such that discovery should be reopened.

The motion to reopen discovery is denied in its entirety.

Opposition Requests for Second Motions for Summary Judgment

The testimony of Dr. Bailey raises additional questions as to what he was provided to review and the basis of the opinions expressed in the declarations submitted in opposition to the motions for summary judgment. (Penner Decl., ¶15(b), Ex. M, 69:5-7, 92:2-93:13, 102:10-16, 114:14-115:12 ; Mish Decl., ¶ 4; Casheros Decl., ¶ 11, Ex. D.) Dr. Bailey also recanted many opinions expressed in those declarations forming the basis for plaintiff's opposition to the multiple motions for summary judgment. (Penner Decl., ¶ 15(d)-(e), (g); Mish Decl., ¶ 6-7; Casheros Decl., ¶ 11.)

Defendants Saint Agnes Medical Center, Dr. Yankey, and Dr. Roshan, with joinder filed by Dr. Bharati, request the court find good cause to allow the filing of a second motion for summary judgment in light of Dr. Bailey's testimony undermining his own opinions expressed in opposition to their previously filed motions. (Code Civ. Proc., §437c, subd. (a)(5).)

Code of Civil Procedure section 437c, subdivision (a)(5) states in pertinent part, "*on motion or application* of any party and a showing of good cause, the court may grant leave for the moving party to bring an additional motion for summary judgment." (Code Civ. Proc., § 437c, subd. (a)(5), emphasis added.)

The statutory relief requested requires the filing of a noticed motion. Accordingly, the court is unable to grant the relief sought raised in the oppositions to plaintiff's motion to reopen discovery.

The court is aware Defendants have reserved the date of March 17, 2027 for a motion for leave to file a second motion for summary judgment. The court is also aware the matter is on calendar for a trial setting conference on September 22, 2027 at 3:30 p.m. in Dept. 503. At that hearing the court's tentative is to shorten time for the motion for leave to file a second motion for summary judgment to January 21, 2027 at 3:30 p.m. in Dept. 503 and to continue the trial setting conference to the same date and time.

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: JS on 9/15/2026 .
(Judge's initials) (Date)

(41)

Tentative Ruling

Re: ***Ivan Espino v. FCA US, LLC***
Superior Court Case No. 24CECG05504

Hearing Date: September 17, 2026 (Dept. 503)

Motion: By Defendant for Summary Adjudication

Tentative Ruling:

To deny defendant's motion for summary adjudication without prejudice. (Code Civ. Proc., § 437c.)

Explanation:

Defendant FCA US, LLC (Defendant) moves for summary adjudication in its favor and against plaintiff Ivan Espino (Plaintiff) on Plaintiff's third cause of action for fraudulent concealment and the related prayer for punitive damages on the ground that Plaintiff does not have and cannot obtain sufficient evidence of a concealed transmission defect known to Defendant.

Law Governing Summary Judgment and Summary Adjudication

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].)

The Issues Framed by the Pleadings

"The pleadings delimit the issues to be considered on a motion for summary judgment." (*Turner v. State of California* (1991) 232 Cal.App.3d 883, 891.) Defendant acknowledges that Plaintiff asserts two causes of action against it for violations of the Song-Beverly Consumer Warranty Act, popularly known as the "lemon law," in connection with Plaintiff's purchase of a 2019 Ram 2500 (Vehicle). Plaintiff's operative first amended complaint also has a third cause of action for fraudulent concealment, and a fourth for violation of Civil Code section 1750 et seq. Defendant's motion for summary adjudication is directed to Plaintiffs' third cause of action for fraudulent concealment. Defendant summarizes the relevant allegations as follows:

> Plaintiff asserts . . . a third cause of action for fraudulent inducement – concealment based on allegations that his vehicle was manufactured with a defective transmission . . . . In his fraudulent concealment cause of action, Plaintiff contends that [Defendant] knew of a defect in the transmission in his vehicle and that [Defendant] intentionally concealed the defect with the intent to harm him. Thus, he contends, [Defendant] fraudulently induced him to purchase his truck.

(Memo., p. 1:5-11.) Defendant contends "Plaintiff has not and cannot produce sufficient evidence to support his cause of action for fraudulent inducement – concealment and related prayer for punitive damages against [Defendant]." (*Id.* at p. 1:12-13.)

Defendant Fails to Satisfy Its Initial Burden

The parties agree that Plaintiff must prove the following elements to establish his cause of action for fraud and deceit based on concealment:

> (1) the defendant must have concealed or suppressed a material fact, (2) the defendant must have been under a duty to disclose the fact to the plaintiff, (3) the defendant must have intentionally concealed or suppressed the fact with the intent to defraud the plaintiff, (4) the plaintiff must have been unaware of the fact and would not have acted as he did if he had known of the concealed or suppressed fact, and (5) as a result of the concealment or suppression of the fact, the plaintiff must have sustained damage.

(*Moncada v. West Coast Quartz Corp.* (2013) 221 Cal.App.4th 768, 775, citations and internal quotation marks omitted.)

Defendant contends Plaintiff cannot prove the elements of concealment or intent to conceal and defraud because his discovery responses reveal that he has no evidence to support his claims. Defendant argues:

> Plaintiff responded to [Defendant's] discovery requests with objections only. Plaintiff has not identified anyone at [Defendant] who had prior knowledge of a known defect in any vehicle designed or manufactured utilizing a "68RFE" transmission prior to the date that Plaintiff purchased his vehicle. Accordingly, [Defendant] requests that this Court grant summary adjudication as to Plaintiff's third cause of action for fraudulent inducement – concealment and his claim for punitive damages on the grounds that the claims have no merit and Plaintiff cannot prove the necessary elements of these claims.

(Memo., p. 1:21-27.)

The FAC has detailed allegations to support Plaintiff's claim that when he purchased the Vehicle, Defendant knew it had a "Defective Transmission" that posed a safety hazard to Plaintiff and others. Paragraphs 16, 17, and 18 summarize the nature of the Defective Transmission as follows:

> 16. This action arises from Defendants' failure, despite their longstanding knowledge of a material defect, to disclose to their consumers, including Plaintiff, that certain 2019 Ram 2500 vehicles, including the Vehicle, are predisposed to defects in the automatic six-speed "68RFE" transmission (the "Defective Transmission") that result in dangerous functional failures and impairment of use including, but not limited to, delayed, rough, or extremely harsh shifting and/or failure to shift; loud, grinding noises while sifting; harsh, sudden jerking while accelerating and/or decelerating; unpredictable and sudden loss of power; and premature transmission wear and/or complete transmission failure.
>
> 17. The Defective Transmission presents a safety hazard because Plaintiff's ability to control the Vehicle's speed and acceleration is severely impaired when the transmission improperly delays, abruptly shifts, abruptly accelerates, and/or harshly jerks / surges / lurches. For example, when Plaintiff is changing lanes, turning at an intersection in front of oncoming traffic, merging into traffic and/or accelerating onto a highway or freeway the Defective Transmission can unpredictably and improperly hesitate, surge, lurch or slip creating a dangerous and potentially fatal scenario for Plaintiff, Plaintiff's passengers as well as other nearby drivers. As set forth in depth *infra*, the lack of being able to control acceleration and deceleration has created myriad dangerous situations for consumers who have shared "near misses" through complaints to the National Highway Traffic Safety Administration ("NHTSA"). The sudden loss of power, surging, slipping, lurching / acceleration and delays in downshifting expose Plaintiff and occupants of the Vehicle, as well as other drivers on the road, to an increased risk of accident, injury, or death.
>
> 18. Defendants continue to actively conceal the Defective Transmission and also continue to refuse to reveal that the existence of the Defective Transmission diminishes the intrinsic and resale value of the Vehicle and exposes Plaintiff to safety concerns, as described herein.

Plaintiff alleges Defendant has been aware of the Defective Transmission since at least 2014. (FAC, ¶ 19.) Plaintiff explains the nature of the Defective Transmission in detail in paragraphs 28 through 32 and describes Plaintiff's personal experience in paragraphs 33 through 43. For problems related to the Defective Transmission, Plaintiff alleges that beginning in December 2023 the Vehicle spent 43 days in an authorized repair facility (FAC, ¶ 37), then returned 4 days later for another 4 days in the shop (FAC, ¶ 38), and again in February 2024 for 33 days (FAC, ¶ 39), and again in September 2024 for 14 days, when the Vehicle would not go faster than 80 miles per hour (FAC, ¶ 40). "Notwithstanding Defendants' numerous attempts to repair the Vehicle, Plaintiff, unsurprisingly, continues to experience the same dangerous and persistent issues caused by the Defective Transmission." (FAC, ¶ 41.)

In paragraphs 44 through 63, Plaintiff alleges in detail the facts upon which he bases his claim that Defendant had exclusive knowledge and knew of "the Defective Transmission as early as 2014, and certainly well before Plaintiff purchased the Vehicle." (FAC, p. 12:19-20.)

To support its motions for summary adjudication, Defendant fails to submit expert testimony to assist the trier of fact about the technical nature of the alleged Defective Transmission. Instead, Defendant relies primarily on *Santana v. FCA US, LLC* (2020) 56 Cal.App.5th 334 (*Santana*), another lemon law case against Defendant (Chrysler). In *Santana*, after a full trial, the jury found Chrysler liable on three causes of action arising from the plaintiff's 2011 purchase of a defective Dodge Durango, including a claim for fraudulent concealment. On the fraud claim, the jury awarded the plaintiff economic damages exceeding $33,000, plus noneconomic damages of $100,000, and punitive damages of $1 million. On appeal, the court agreed with Chrysler's contention that the record included no substantial evidence that Chrysler had fraudulently concealed the alleged electrical defect because there was no evidence that Chrysler was aware of the defect before the plaintiff purchased the Durango. Without prior knowledge, there could be no concealment. (*Id.* at p. 338.) The evidence introduced at trial included chains of internal Chrysler e-mails, expert testimony about the problems raised in various safety recalls, and a study completed by the NHTSA in 2015.

In *Santana*, the appellate court reversed the judgment on the fraud cause of action because the plaintiff failed to present evidence to establish Chrysler's knowledge of the defect before the plaintiff's 2011 purchase. The court summarized the evidence as follows:

> The sum total of the evidence on that front is the following: a publicly disclosed 2007 recall related to a software problem that apparently was fixed; an issue that cropped up in 2008 and 2009, with an unknown frequency, in a different vehicle, where a TIPM was drawing too much power when the vehicle was not in use; and a 2009 internal e-mail exchange regarding the heating and air conditioning front blower in some vehicle that occurred some amount of times that had something to do with a relay in a TIPM. All the other evidence postdates the critical time period, which is pre-November 2011.

> That is not enough. The very existence of a warranty presupposes that some defects may occur. Thus, the occurrence of a few defects that, so far as the record reveals, were all fixable, and mostly involved vehicles Santana did not own, is not enough to demonstrate an intent to conceal a defect in the TIPM. [the plaintiff] would need evidence that, prior to [the plaintiff's] purchase of the vehicle, Chrysler was aware of a defect in the TIPM that it was either unwilling or unable to fix. There was no such evidence. [Fn.]

(*Santana, supra,* 56 Cal.App.5th at pp. 345–346.)

Defendant asks the court to shift its initial summary judgment burden of proof due to Plaintiff's alleged "factually devoid" discovery responses. To prevail on summary judgment, a defendant must show not only that a plaintiff has no evidence on an essential element, but "the defendant must also show that the plaintiff *cannot reasonably obtain* needed evidence[.]" (*Gaggero v. Yura* (2003) 108 Cal.App.4th 884, 889, italics original [trial court erred in granting summary judgment in defendant's favor where defendant failed to present evidence to show plaintiff could not reasonably obtain the needed evidence].)

Plaintiff cites *Scheiding v. Dinwiddie Const. Co.* (1999) 69 Cal.App.4th 64 (*Scheiding*), where the appellate court reversed the trial court granting of summary judgment and noted the moving defendant's burden "should not shift without stringent review of the direct, circumstantial and inferential evidence." (*Id.* at p. 83.) Plaintiff also cites *Krantz v. BT Visual Images, L.L.C.* (2001) 89 Cal.App.4th 164, for the rule that:

> [T]he moving party's "simply pointing to" the absence of evidence supporting plaintiff's position is not in itself enough to obtain summary judgment in its favor. There must be some "affirmative showing" by the moving defendant that plaintiff could not obtain such evidence, before summary judgment would be proper.

(*Id.* at p. 173.)

Scheiding is cited with approval in *Ganoe v. Metalclad Insulation Corp.* (2014) 227 Cal.App.4th 1577, where the court summarized a defendant's burden to prevail on summary judgment based on factually-devoid discovery responses as follows:

> "[A] defendant moving for summary judgment [must] present evidence, and not simply point out that the plaintiff does not possess, and cannot reasonably obtain, needed evidence." ([*Aguilar, supra,* 25 Cal. 4th]at p. 854, fn. omitted.) Circumstantial evidence supporting a defendant's summary judgment motion "can consist of 'factually devoid' discovery responses from which an absence of evidence can be inferred," but "the burden should not shift without stringent review of the direct, circumstantial and inferential evidence." (*Scheiding, supra,* 69 Cal.App.4th at p. 83.) Once the defendant has met that burden, the burden shifts to the plaintiff

> to make a prima facie showing that a triable issue of material fact exists. ([*Aguilar*], *supra,* 25 Cal.4th at p. 850.)

(*Ganoe v. Metalclad Insulation Corp., supra,* 227 Cal.App.4th at p. 1582.)

Plaintiff correctly explains the distinction between the cases relying on factually-devoid discovery responses and this case:

> [Defendant] claims it "satisfied its burden" for summary adjudication [] because "Plaintiff failed to produce any evidence that demonstrates fraudulent concealment or that gives rise to punitive damages." (MSA, 5:6-13.) [Defendant] bases this argument on the *Union Bank* line of authority permitting an inference of no evidence from "factually devoid" discovery responses. (See MSA, 5:16-17, *Union Bank v. Superior Court* (1995) 31 Cal.App.4th 573, 590.) That doctrine has no application here, because Plaintiff did not give factually devoid answers. He gave objections.
>
> The distinction is dispositive. The *Union Bank* inference rests on the premise that a party who has answered a comprehensive "all facts" interrogatory has shown its hand, so that the paucity of the answer is circumstantial evidence of the paucity of the proof. (See *Andrews v. Foster Wheeler LLC* (2006) 138 Cal.App.4th 96, 107 [burden shifts where plaintiffs "respond to comprehensive interrogatories seeking all known facts with boilerplate answers that restate their allegations, or simply provide laundry lists of people and/or documents"].) An objection is a legal assertion that the question is improper. It is not a representation, express or implied, about what evidence a party possesses. Nothing about the state of the evidence can reasonably be inferred from it. In fact, Plaintiff was clear in all of the responses on which [Defendant] relies that the information or documents sought was "equally available to the propounding party." (See Plaintiff's Response and Supporting Evidence within Plaintiff's concurrently filed Separate Statement ("PRSE"), Nos. 7, 9, 15, 22, 24 and 26.)

(Opp., pp. 3:18-4:6.)

As the California Supreme Court has explained in detail in *Aguilar*, summary judgment law in California diverges from federal law in some respects. California law continues to require a moving defendant to present evidence, and not simply point out that the plaintiff does not possess, and cannot reasonably obtain, the needed evidence. A moving defendant "*must* support the motion with evidence including affidavits, declarations, admissions, answers to interrogatories, depositions, and matters of which judicial notice must or may be taken." (*Aguilar, supra,* 25 Cal.4th at pp. 854-855, citing Code Civ. Proc., § 437c, subd. (b), italics original, internal quotation marks omitted.) "Whereas, under federal law, 'pointing out through argument' [citation] may be sufficient [citations], under state law, it is not." (*Aguilar,* at p. 855.) Defendant fails to support its motion with the required evidence.

Here, unlike the jury trial in Santana, Defendant presents no evidence to address the merits of Plaintiff's detailed allegations in the FAC. As Plaintiff correctly points out:

> There is no fact concerning the 68RFE transmission, no fact concerning what [Defendant] knew or when, no declaration from an engineer, a records custodian, or any person with knowledge of [Defendant]'s internal defect data. [Defendant] has submitted only the declaration of its counsel authenticating discovery documents. The facts necessary to negate the elements of concealment are not before the Court because [Defendant] never placed them there.

(Opp., p. 3:10-15.)

Furthermore, to carry its initial burden, Defendant must show Plaintiff does not possess and cannot reasonably obtain the needed evidence. Plaintiff presents evidence that Defendant has produced more than a thousand pages of confidential documents, which include 42 customer complaints about the transmission on the 2019 Ram 2500 model submitted by other owners, with many owners requesting repurchase. (Barry decl., ¶ 2.) Despite Defendant's contention that Plaintiff cannot prove Defendant's prior knowledge of the Defective Transmission, Defendant fails to address its own internal knowledge and the documents it has produced in response to Plaintiff's discovery requests that inferentially address Defendant's prior knowledge. After carefully scrutinizing Defendant's papers and resolving all doubts about the existence of material, triable issues of fact in Plaintiff's favor, the court finds Defendant fails to present the required evidence and Plaintiff's discovery responses are not deficient to the degree required to shift the burden of proof.

<u>Conclusion</u>

If a defendant fails to address an issue in a motion for summary judgment that has been raised in the plaintiff's complaint, as occurred here, the defendant fails to meet the initial burden to show the plaintiff's action has no merit. (*Hedayati v. Interinsurance Exchange of the Automobile Club* (2021) 67 Cal.App.5th 833, 846.) When the defendant fails to make the initial showing, it is unnecessary to review the plaintiff's opposing evidence and the court must deny the motion. (*Aguilar, supra,* 25 Cal.4th at p. 849.) Here, the burden does not shift to Plaintiff and the court may stop its analysis without considering whether Plaintiff raises a triable issue of material fact. Therefore, the court denies Defendant's motion for summary adjudication on the third cause of action of the FAC and the related prayer for punitive damages, 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: JS on 9/15/2026 .
(Judge's initials) (Date)

(36)

<u>Tentative Ruling</u>

Re:	***Esquivel v. Fresno Unified School District*** Superior Court Case No. 26CU02046
Hearing Date:	September 17, 2026 (Dept. 503)
Motion:	Petition for Order from Relief from Claim Statute

Tentative Ruling:

To deny without prejudice.

Explanation:

Service of a petition for an order for relief from the government claim filing requirements pursuant to Government Code section 946.6 must be "effected in the same manner as service of summons in order to give the court jurisdiction to enter an order against the public entity." (*Thierfeldt v. Marin Hosp. Dist.* (1973) 35 Cal.App.3d 186, 200.) "A summons may be served on a public entity by delivering a copy of the summons and of the complaint to the clerk, secretary, president, presiding officer, or other head of its governing body." (Code Civ. Proc., § 416.50, subd. (a).)

"The affidavit shall recite or in other manner show the name of the person to whom a copy of the summons and of the complaint were delivered, and, if appropriate, the person's title or the capacity in which the person is served. . ." (Code Civ. Proc., § 417.10, subd. (a).) While it is an accepted practice to name a person as 'John Doe' or similar fictitious name, or by description in the case of a proof of substitute service, the court knows of no authority allowing the same for proof of personal service, especially for service to a public entity. (See *Trackman v. Kenney* (2010) 187 Cal.App.4th 175, 183 [enumerating a list of cases involving substitute service where it was not essential that the recipient's name be shown on the proof of service].)

Here, Petitioner filed a Proof of Service of Summons on July 30, 2026, purporting to have served the petition upon Fresno Unified School District by personal service on July 23, 2026. However, the form is defective, since it fails to specify the name and relationship of the person who was served on behalf of the public entity.

Service of notice of the hearing on the petition was also attempted by mail. This service was defective, since Petitioner failed to comply with the statutory requirements in Code of Civil Procedure section 416.50, subdivision (a). Government Code subdivision (d) allowing for service prescribed by subdivision (b) of Section 1005 of the Code of Civil Procedure is only applicable where the Petitioner has previously effected service in the same manner as the service of summons.

Lastly, although Petitioner indicates that he served a Notice of Petition to the public entity, no such notice was filed with the court. Therefore, it is not known whether Petitioner has actually informed the public entity of the hearing date for the petition.

"Notices must be in writing, and . . . must state when, and the grounds upon which it will be made, and the papers, if any, upon which it is to be based." (Code Civ. Proc., § 1010; Cal. Rules of Ct., Rule 3.1110.)

Accordingly, the matter 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: JS on 9/15/2026 .
(Judge's initials) (Date)

(48)

Tentative Ruling

Re: ***Martinez v. Farm Labor Service of Central Cal, Inc.***
Superior Court Case No. 24CECG01231

Hearing Date: September 17, 2026 (Dept. 503)

Motion: By Plaintiff to Set Aside Dismissal

Tentative Ruling:

To grant plaintiff Marcos Galvan Martinez's motion to set aside dismissal. (Code Civ. Proc., § 473, subd. (b).)

To set a Case Management Conference for October 21, 2026, at 3:30 p.m. in Department 503.

Explanation:

Plaintiff Marcos Galvan Martinez ("Plaintiff") requests that the dismissal of the case be set aside pursuant to discretionary relief afforded under Code of Civil Procedure section 473, subdivision (b).

Pursuant to section 473, subdivision (b), relief is either mandatory or discretionary. Relief is mandatory where it is based on an attorney's affidavit of fault and the motion expressly states that mandatory relief is sought. (Code Civ. Proc., § 473, subd. (b); *Luri v. Greenwald* (2003) 107 Cal.App.4th 1119, 1125.) Relief is discretionary where it is based on mistake, inadvertence, surprise, or excusable neglect. (Code Civ. Proc., § 473, subd. (b).)

The court is empowered to relieve a party "upon any terms as may be just … from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect." (Code Civ. Proc., § 473, subd. (b).) "Public policy dictates that disposition on the merits be favored over judicial efficiency." (*Bahl v. Bank of America* (2001) 89 Cal.App.4th 389, 392.)

Plaintiff's counsel submits that the dismissal of the action was caused by excusable neglect. Excusable neglect has been defined as neglect that might have been the act or omission of a reasonably prudent person under the same or similar circumstances. (*Barragan v. County of Los Angeles* (2010) 184 Cal.App.4th 1373, 1382–1383.) Counsel filed an affidavit taking responsibility for the failure to appear at the trial readiness conference on May 8, 2026, due to her excusable neglect. An opposition has not been filed. Thus, the court grants Plaintiff's motion to set aside dismissal.

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: JS on 9/15/2026 .
(Judge's initials) (Date)