

**Tentative Rulings for September 23, 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.*

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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**

Begin at the next page

(41)

### **Tentative Ruling**

Re: **Felipe Escobar vs. McDonald's Corporation**  
Superior Court Case No. 25CECG02612

Hearing Date: September 23, 2026 (Dept. 502)

Motions: By Defendant J&K Restaurants, Inc. to Strike Plaintiffs' First Amended Complaint and to Dismiss Plaintiffs' Action

### **Tentative Ruling:**

To grant defendant's motions to strike plaintiffs' first amended complaint and to dismiss plaintiffs' action, with prejudice. Defendant is directed to submit to this court, within 10 days of service of the minute order, a proposed judgment dismissing this action.

### **Explanation:**

Plaintiffs Felipe Escobar and Monica Escobar (Plaintiffs) initiated this action on June 11, 2025, by filing a form complaint against defendant McDonalds Corporation. J&K Restaurants, Inc. (Defendant) demurred to the complaint, which has no facts to support Plaintiffs' claim for compensatory damages of \$60,000. In its supporting meet-and-confer declaration, Defendant stated it had informed Plaintiffs that the form complaint lacked the required statement of facts, and the only named defendant, McDonalds Corporation, did not own the restaurant located at 3110 East Jensen Ave, Fresno, California, nor did it employ any person there.<sup>1</sup>

The court sustained Defendant's demurrer with leave to amend. The court gave Plaintiffs 10 days from its January 7, 2026 order to file a first amended complaint, and directed that "[n]ew language must be set in **boldface** type." Plaintiffs failed to file a first amended complaint by the January 17, 2026 deadline. Instead, Plaintiffs filed their first amended complaint (FAC) on January 21, 2026. Plaintiffs did not seek leave of court to file an amended complaint, nor did they request an extension of time. In addition, Plaintiffs failed to serve the FAC on Defendant, which discovered the filing by independently reviewing the court's docket. On April 16, 2026, Defendant filed the subject motions to strike the FAC and to dismiss Plaintiffs' action, with prejudice.

Defendant cites *Leader v. Health Industries of America, Inc.* (2001) 89 Cal.App.4th 603 (*Leader*), where the court explained the effect of a plaintiff's failure to file an amended complaint within the time specified after a court sustains a demurrer as follows:

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<sup>1</sup> The form complaint makes no mention of a restaurant at any location.

[P]laintiffs' failure to file an amended complaint within the time allowed by the court had a number of immediate statutory ramifications . . . .

First, plaintiffs no longer had an unfettered right to file an amended complaint. A litigant does not have a positive right to amend his pleading after a demurrer thereto has been sustained. His leave to amend afterward is always of grace, not of right. Under [Code of Civil Procedure] section 472, a plaintiff may only amend as a matter of course before an answer or demurrer is filed or before trial of the issue of law raised in the demurrer. At that point the plaintiff's right to amend as a matter of course is gone. After expiration of the time in which a pleading can be amended as a matter of course, the pleading can only be amended by obtaining the permission of the court.

Second, to obtain the court's permission, plaintiffs were required to file a noticed motion for leave. . . . [¶] Third, plaintiffs' failure to file an amended complaint within the time allowed by the court subjected any subsequently filed pleading to a motion to strike, either by defendants or on the court's own motion. We have expressly recognized a trial court's authority to strike pleadings not filed in conformity with its prior ruling. . . . Indeed, by virtue of its *inherent* power to prevent abuse of its processes a trial court may strike an amended complaint filed in disregard of established procedural processes, and may strike an amended pleading because no request for permission to amend was sought.

Finally, plaintiffs' failure to file an amended complaint within the time specified subjected their entire action to dismissal in the court's discretion under [Code of Civil Procedure] section 581, subdivision (f)(2). Under that statute, the court may dismiss the complaint when: "after a demurrer to the complaint is sustained with leave to amend, the plaintiff fails to amend it within the time allowed by the court and either party moves for dismissal." (§ 581, subd. (f)(2).)

(*Leader, supra*, 89 Cal.App.4th at pp. 612–614, italics original, case citations and internal quotation marks omitted.)

Here, Plaintiffs did not amend the complaint within the time allowed by the court, nor did they request an extension or obtain leave of court for their late filing. Furthermore, Plaintiffs failed to correct any of the pleading deficiencies noted in the court's ruling on Defendant's demurrer. In the FAC, Plaintiffs merely delete the second page of the original complaint, but add no facts whatsoever—not even the nature of Plaintiffs' injuries or the date, time, place, or cause of the injuries. Nor do Plaintiffs file any opposition to Defendant's motions.

The court empathizes with the difficulties Plaintiffs, as self-represented litigants, may face in navigating the rules of civil procedure. However, "[t]he same burdens are imposed uniformly and equally on all appellants, and self-represented parties are ' "held to the same restrictive procedural rules as an attorney." ' " (*Burkes v. Robertson* (2018) 26 Cal.App.5th 334, 344–345; see *Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984–985 ["the

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: img on 9-21-26  
(Judge's initials) (Date)

(48)

### Tentative Ruling

Re: **Ramirez v. Creative Alternatives School et al.**  
Superior Court Case No. 25CECG05129

Hearing Date: September 23, 2026 (Dept. 502)

Motion: Defendants' Demurrer to the First Amended Complaint and Defendants' Motion to Strike

### Tentative Ruling:

To grant defendants Creative Alternatives School and Justin Cuaya-Beltrans' motion to strike the First Amended Complaint without leave to amend.

To find the demurrer to the First Amended Complaint moot.

Defendants are directed to file a motion to dismiss.

**Explanation:**

Meriah Ramirez has filed a complaint in propria persona on behalf of herself and minor S.A. While the Court did sign orders appointing her as the Guardian Ad Litem for the minor on December 4, 2025, a non-attorney cannot act in propria persona to represent minors, even where that person has been appointed as their Guardian Ad Litem. (Bus. & Prof. Code, § 6125; *J.W. v. Superior Court* (1993) 17 Cal.App.4th 958, 965-968.) As such, while Meriah Ramirez may represent herself, counsel must be obtained for the minor child.

The causes of action in the First Amended Complaint are only on behalf of minor S.A. Thus, the court strikes the First Amended Complaint in its entirety.

The demurrer to the First Amended Complaint is thus rendered moot.

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 9-22-26  
(Judge's initials) (Date)

(49)

**Tentative Ruling**

Re: ***Williams v. Welbe Health Sequoia Pace et al.***  
Superior Court Case No. 25CECG01900

Hearing Date: September 23, 2026 (Dept. 502)

Motion: By Defendant Hongshik Han, M.D. for Summary Judgment

**Tentative Ruling:**

To grant Defendant Hongshik Han, M.D.'s motion for summary judgment. Defendant Hongshik Han, M.D. is directed to submit to this court, within 10 days of service of the minute order, a proposed judgment consistent with the court's summary judgment order.

**Explanation:**

On March 20, 2026, defendant Hongshik Han, M.D. ("Defendant") filed a motion for summary judgment ("MSJ"). Plaintiff Tia Williams' ("Plaintiff") sole cause of action within the complaint is for medical malpractice.

*Law Governing Summary Judgment*

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.)

*Objections*

Plaintiff's objections one through seven are overruled. Defendant's objection to Plaintiff's declaration is overruled. Defendant's objection to Plaintiff's sur-reply is sustained and will not be considered by the court. (Code Civ. Proc., § 437c, sub. (b).)

*Analysis of Defendant's Initial Burden*

Defendant has the burden of showing that Plaintiff cannot prove one of the elements of medical malpractice. The elements to prove medical malpractice are "(1) a duty to use such skill, prudence, and diligence as other members of the profession commonly possess and exercise; (2) a breach of the duty; (3) a proximate causal connection between the negligent conduct and the injury; and (4) resulting loss or

damage." (*Johnson v. Superior Court* (2006) 143 Cal.App.4th 297, 305.) Unless falling within the limited common knowledge exception, expert testimony is required to determine whether a defendant doctor breached the standard of care. (*Flowers v. Torrance Memorial Hospital Medical Center* (1994) 8 Cal.4th 992, 1001.) The common knowledge exception is limited to situations where the issue is obvious on its face, such as an X-ray revealing a scalpel left in a patient following surgery. (*Ibid.*) "Otherwise, 'expert evidence is conclusive and cannot be disregarded. [Citations.]'" (*Ibid.*, quoting *Starr v. Mooslin* (1971) 14 Cal.App.3d 988, 999.)

Defendant presents that Defendant is a competent expert that, based on his knowledge, education, training, professional experience, and review of the materials in this case, can give a qualified expert opinion on the standard of care and the proximate cause of Plaintiff's injury. (UMF Nos. 2 & 4.) Defendant, as an expert, determined that Defendant complied with the standard of care in his treatment and care of Plaintiff. (UMF No. 3.) Defendant also determined, as an expert, that Defendant was not the proximate cause of the injuries claimed by Plaintiff. (UMF No. 5.) Defendant has met their initial burden. The burden now shifts to Plaintiff to prove a triable issue of material fact exists.

#### *Analysis of Plaintiff's Response*

Plaintiff attempts to dispute Defendant by pointing to the injury Plaintiff suffered after surgery by Defendant and that the surgery was done without Plaintiff's consent. (Williams Decl., ¶¶ 2-3.) However, Plaintiff provides no expert evidence to dispute Defendant's expert evidence. Without expert evidence, Plaintiff cannot demonstrate there is a triable issue of material fact.

In the alternative, Plaintiff requests a continuance under Code of Civil Procedure section 437c, subdivision (h). Plaintiff cites three reasons for a potential continuance: a ruling on a then pending motion to compel, completion of discovery, and acquisition of expert testimony. On April 29, 2026, the motion to compel was denied. Therefore, the motion to compel cannot be the basis for a continuance.

In order for a motion for continuance under Code of Civil Procedure section 437c, subdivision (h) to be granted, a party must show "(1) the facts to be obtained are essential to opposing the motion; (2) there is reason to believe such facts may exist; and (3) the reasons why additional time is needed to obtain these facts." (*Frazee v. Seely* (2002) 95 Cal.App.4th 627, 633.) For Plaintiff's argument about incomplete discovery, she fails to state what specific facts are to be obtained from further discovery that are essential to opposing the motion, why there is reason to believe such facts may exist, and why additional time is needed to obtain these specific facts. Plaintiff's request for an expert fails to state why additional time is needed to obtain one. Plaintiff filed the complaint on April 28, 2025. Plaintiff has had over a year since the filing of the case to retain and consult with an expert. No explanation is provided why Plaintiff failed to do so. Plaintiff has failed to provide a valid basis for continuance under Code of Civil Procedure section 437, subdivision (h). Accordingly, Defendant's motion for summary judgment is granted.

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

