

Tentative Rulings for October 2, 2025
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.

24CECG00363 *Lihua Chu Sun v. Vishnu Bezwada, M.D.* is continued to Thursday, October 30, 2025, at 3:30 p.m. in Department 503.

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Tentative Rulings for Department 503

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Tentative Ruling

Re: **Yang v. Lyons Magnus, LLC**
Superior Court Case No. 23CECG04739

Hearing Date: October 2, 2025 (Dept. 503)

Motion: By Plaintiff Nhiashoua Yang for Leave to File an Amended Complaint

Tentative Ruling:

To grant. Plaintiff Nhiashoua Yang may file the proposed amended complaint within 10 days of service of the order by the clerk. New allegations/language must be set in **boldface** type.

Explanation:

Motions for leave to amend the pleadings are directed to the sound discretion of the court. "The court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading" (Code Civ. Proc. § 473, subd. (a)(1); see also Code Civ. Proc. § 576.) Judicial policy favors resolution of cases on the merits, and thus the court's discretion as to allowing amendments will usually be exercised in favor of permitting amendments. This policy is so strong, that denial of a request to amend is rarely justified, particularly where, as here, "the motion to amend is timely made and the granting of the motion will not prejudice the opposing party." (*Morgan v. Superior Court* (1959) 172 Cal.App.2d 527, 530.) The validity of the proposed amended pleading is not considered in deciding whether to grant leave to amend. (*Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1048.) Absent prejudice, it is an abuse of discretion to deny leave to amend. (*Higgins v. DelFaro* (1981) 123 Cal.App.3d 558, 564-65.) Here, plaintiff Nhiashoua Yang ("Plaintiff") has met the formalities required of a motion to amend the Complaint.

Defendant Lyons Magnus, LLC ("Defendant") opposes. Defendant submits that Plaintiff failed to timely seek amendment once he became aware of the need for amendment. Plaintiff addresses this issue, stating that communications between counsel regarding the need to amend the pleadings arose as early as March, 2025, ahead of the taking of deposition of Plaintiff. The evidence suggests as Defendant notes. The parties did not come to any sort of arrangement as to the proposed amendments at that point in time. However, it does appear that Plaintiff acted in good faith to avoid unnecessary costs while pursuing resolution through mediation. Immediately after the August 7, 2025, mediation, when it became clear that the matter would not resolve, Plaintiff filed the present motion seeking leave to amend. The court finds that there was no undue delay in seeking leave.

The court further notes that the parties recently submitted a stipulation for an order, which on September 22, 2025, became the order of the court, to withdraw

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Tentative Ruling

Re: ***Peterson v. King, et al.***
Superior Court Case No. 25CECG01000

Hearing Date: October 2, 2025 (Dept. 503)

Motion: Defendants Demurrer to the First Amended Complaint

Tentative Ruling:

To sustain the general demurrer of Defendants Talmadge King and the Regents of the University of California to the first, second and third causes of action of the First Amended Complaint, with leave to amend. (Code Civ. Proc. §430.10, subd. (e).) Plaintiff is granted 15 days leave to file the Second Amended Complaint, which will run from service by the clerk of the minute order. New allegations/language must be set in **boldface** type.

Explanation:

Plaintiff Michael Peterson filed his First Amended Complaint seeking damages alleging false accusations of improper invoicing to Community Regional Medical Center of Fresno resulted in an investigation and subsequent termination of Dr. Peterson in his position as Associate Dean of Undergraduate Medical Education and Research for the University of California San Francisco in Fresno. Defendants Talmadge King, Jr., M.D. and the Regents of the University of California (collectively "Defendants") demur generally to the first, second and third causes of action of plaintiff Michael Peterson's First Amended Complaint.

First Cause of Action: Defamation – Libel

"Libel is a false and unprivileged publication by writing, printing, picture, effigy, or other fixed representation to the eye, which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation." (Civ. Code §45.)

In the case at bench, plaintiff alleges defendants published, by writing, defamatory statements about plaintiff, a private individual which include, "but are not limited to" statements that plaintiff issued invoices to Community Medical Centers that included potentially inappropriate charges. (FAC, ¶¶ 59-60.) Defendants argue the allegations of the types of statements plaintiff alleges are libelous is not specific enough to state a cause of action for libel. The court agrees.

"The general rule is that the words constituting an alleged libel *must be specifically identified, if not pleaded verbatim*, in the complaint.'" (*Medical Marijuana, Inc. v. ProjectCBD.com* (2020) 46 Cal.App.5th 869, 888, quoting *Kahn v. Bower* (1991) 232 Cal.App.3d 1599, 1612, fn 5, emphasis original.)

In his opposition plaintiff identifies statements from the investigation in paragraph 40 as those he alleges are libelous, however, the absence of specific statements within the cause of action itself and the open-ended definition of what plaintiff alleges is libelous leaves the cause of action unclear. Accordingly, the demurrer is sustained with leave to amend.

Second Cause of Action: Intentional Inflection of Emotional Distress

Under the Government Claims Act, "[a] public entity is not liable for an injury... [e]xcept as otherwise provided by statute..." (Gov't Code § 815; *State ex rel. Department of California Highway Patrol v. Superior Court* (2015) 60 Cal.4th 1002, 1009.) To state a tort cause of action against a governmental entity, "every fact essential to the existence of statutory liability must be pleaded with particularity, including the existence of a statutory duty." (*Searcy v. Hemet Unified School Dist.* (1986) 177 Cal.App.3d 792, 802.)

Under California law, if a plaintiff bases her or her claim against a government entity on a direct theory of liability (as opposed to a theory of vicarious liability), plaintiff must "identify a specific statute declaring [the entity] to be liable, or at least creating some specific duty of care by the agency in favor of the injured party." (*de Villers v. County of San Diego* (2007) 156 Cal.App.4th 238, 247 (internal quotation marks omitted).)

Here, plaintiff's complaint alleges a cause of action for intentional infliction of emotional distress against all defendants alleging their conduct was extreme and outrageous and caused plaintiff severe emotional distress. (FAC, ¶¶ 69-70.) The allegations do not include the statutory basis for holding the Regents of the University of California liable. Additionally, the actions of the defendants, as plead, describe the investigation and subsequent dismissal of plaintiff and do not include actions that would rise to the level of outrageous conduct to support the cause of action. "Outrageous conduct" denotes conduct which is so extreme as to exceed all bounds of decency and which is to be regarded as "atrocious and utterly intolerable in a civilized community." (*Bartling v. Glendale Adventist Medical Center* (1986) 184 Cal.App.3d 961, 969.) As a result, the demurrer is sustained with leave to amend.

Third Cause of Action: Reimbursement of Necessary Business Expenditures – Labor Code § 2802

Plaintiff alleged he incurred attorney fees as a result of his participation in the University's investigation and that the University's policy allows him to seek reimbursement of those fees. (FAC, ¶¶ 38, 74-77.) Plaintiff asserts the reimbursement of these fees as the basis for the violation of Labor Code section 2802 against the University.

Defendant University demurs to the cause of action on the basis that as a public entity it is not liable for reimbursement of expenses under Labor Code section 2802. (*Krug v. Board of Trustees of California State University* (2025) 110 Cal.App.5th 234, 258 [holding the silence of the language of section 2802 with respect to public entities indicates the legislative intent to exclude public employers from the statute's reimbursement obligations].)

Plaintiff argues the holding in *Krug v. Board of Trustees of California State University* defendant relies upon should be limited to the California State University system and does not extend to the Regents of the University of California. This interpretation to limit the holding is not consistent with the language of the case itself discussing in broad terms the application of Labor Code section 2802 to private employers versus public employers. (*Krug v. Board of Trustees of California State University, supra*, 110 Cal.App.5th at pp. 242-244, 258.)

Accordingly, the demurrer to the third cause of action is sustained. Leave to amend is granted to allow plaintiff to allege an alternative basis for recovery of the attorney fees incurred.

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** 9/29/2025.
(Judge's initials) (Date)

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Tentative Ruling

Re: ***Thornton Law Group, P.C. v. Kenneth Patterson***
Superior Court Case No. 18CECG01584

Hearing Date: October 2, 2025 (Dept. 503)

Motion: Expunge Lis Pendens

Tentative Ruling:

This motion is taken off calendar as it does not appear from the court's record that moving papers were filed.

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** 10/1/2025.
(Judge's initials) (Date)