Tentative Rulings for November 5, 2026
Department 501

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, the remote appearance will be conducted through Zoom. 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.

25CECG00846 ***Rozanne Hernandez v. State Center Community College District*** **is continued to Tuesday, November 10, 2026, at 3:30 p.m. in Department 501.**

25CECG05954 ***James Healy v. Danny Golden, JR*** **is continued to Tuesday, December 8, 2026, at 3:30 p.m. in Department 501.**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

Begin at the next page

(37)

Tentative Ruling

Re: ***Eugenia Phillips v. Hyundai Motor America***
Superior Court Case No. 26CU00613

Hearing Date: November 5, 2026 (Dept. 501)

Motion: By Defendant to Compel Arbitration

Tentative Ruling:

To deny.

Explanation:

In moving to compel arbitration, defendant must prove by a preponderance of evidence the existence of the arbitration agreement and that the dispute is covered by the agreement. The party opposing the motion must then prove by a preponderance of evidence that a ground for denial of the motion exists (e.g., fraud, unconscionability, etc.) (*Rosenthal v. Great Western Fin'l Securities Corp.* (1996) 14 Cal.4th 394, 413-414; *Hotels Nevada v. L.A. Pacific Ctr., Inc.* (2006) 144 Cal.App.4th 754, 758; *Villacreses v. Molinari* (2005) 132 Cal.App.4th 1223, 1230.)

A trial court is required to grant a motion to compel arbitration "if it determines that an agreement to arbitrate the controversy exists." (Code Civ. Proc. § 1281.2) However, there is "no public policy in favor of forcing arbitration of issues the parties have not agreed to arbitrate." (*Garlach v. Sports Club Co.* (2012) 209 Ca1.App.4th 1497, 1505) Thus, in ruling on a motion to compel arbitration, the court must first determine whether the parties actually agreed to arbitrate the dispute. (*Mendez v. Mid-Wilshire Health Care Center* (2013) 220 Cal.App.4th 534, 541.)

Defendant submits that there is an arbitration provision housed in the Manual. A copy of a document titled "Owner's Handbook and Warranty Information" is attached as Exhibit 2 to the declaration of Ali Ameripour, counsel for defendant.

Strong public policy in favor of arbitration does not extend to those who are not parties to an arbitration agreement, and a party cannot be compelled to arbitrate a dispute that she has not agreed to resolve by arbitration. (*Buckner v. Tamarin* (2002) 98 Cal.App.4th 140, 142.)

Terms of a contract are ordinarily to be determined by an external, not an internal standard; the outward manifestation or expression of assent is the controlling factor. (*Norcia v. Samsung Telecommunications America, LLC* (9th Cir. 2017) 845 F.3d 1279, 1284.) Where an offeree does not know that a proposal has been made to him, this objective standard does not apply. (*Id.* at p. 1285, citing *Windsor Mills, Inc. v. Collins & Aikman Corp*. (1972) 25 Cal.App.3d 987, 993.) An offeree, regardless of apparent manifestation of his consent, is not bound by inconspicuous contractual provisions of which he was unaware, contained in a document whose contractual nature is not

obvious. (*Ibid.*) This principle of knowing consent applies with particular force to provisions for arbitration; if a party wishes to bind in writing another to an agreement to arbitrate future disputes, such purpose should be accomplished in a way that each party to the arrangement will fully and clearly comprehend that the agreement to arbitrate exists and binds the parties thereto. (*Windsor Mills, Inc. v. Collins & Aikman Corp*, *supra*, 25 Cal.App. 3d. at 993-994.)

Plaintiff declared that she had no notice from either the non-party dealership or defendant that there was any agreement to arbitrate in the Handbook, and that her failure to opt out constituted an agreement. (Phillips Decl., ¶¶ 3-7.) Plaintiff did not expressly assent to any agreement in the Handbook or act in a manner in which her failure to opt out was intended to accept the arbitration agreement.

Based on the above, the court finds that the Handbook is not an enforceable written agreement to arbitrate. (*Norcia v. Samsung Telecommunications America, LLC*, *supra*, 845 F.3d at p. 1286 [finding no contract formed by silence of consumer as alleged assent to arbitration agreement within Product Safety & Warranty Information brochure]; *Windsor Mills, Inc. v. Collins & Aikman Corp.*, *supra*, 25 Cal.App.3d at pp. 993-994 [finding that where a plaintiff was not advised of the arbitration provision and had no knowledge of the provision until after the demand for arbitration, there is no agreement to arbitrate, regardless of outward manifestations of apparent assent by acceptance of the object of the contract].)

Defendant argues that the court should follow *Kostandian v. American Honda Motor Co., Inc*. (2026) 120 Cal.App.5th 872. In *Kostandian*, the appellate court found that defendants had met their burden of showing an arbitration agreement where an agreement was similarly contained in a warranty booklet. (*Id*. at p. 882.) However, there, defendants also presented a final inspection at delivery sheet which contained a signature and initials confirming plaintiff's receipt of the owner's manual and warranty information. (*Ibid*.) Further, the plaintiff there never presented any evidence or argument disputing the existence of an arbitration agreement in the warranty booklet. (*Id*. at p. 883.)

This case is distinguishable from *Kostandian*. Here, defendant has presented no evidence that plaintiff ever received the warranty booklet. Plaintiff, on the other hand, has presented evidence disputing receipt. Plaintiff declares no one presented an Owner's Handbook and Warranty Information to her. (Phillips Decl., ¶ 3.) She did not sign, initial, or otherwise acknowledge receipt of the Handbook. (Ibid.) She does not recall being given the Handbook at the time of the sale. (Ibid.)

Plaintiff has sufficiently challenged an agreement exists. Defendant has not met its resulting burden following this challenge. Accordingly, 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 11/03/26.
(Judge's initials) (Date)

(49)

Tentative Ruling

Re: ***Daniel DeJesus v. Clovis Seventh-Day Adventist Church***
Superior Court Case No. 25CECG05065

Hearing Date: November 5, 2026 (Dept. 501)

Motion: 1) Defendant Central California Conference of Seventh-Day Adventist's Demurrer to Plaintiff's First Amended Complaint
2) Defendant Central California Conference of Seventh-Day Adventist's Motion to Strike

Tentative Ruling:

To overrule the demurrer as to the first cause of action and to sustain the demurrer as to the second cause of action with leave to amend. (Code Civ. Proc., § 430.10, subd. (e) and (f).) Plaintiff is granted 10 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.

To deny the motion to strike. (Code Civ. Proc., § 436.)

Explanation:

Defendant Central California Conference of Seventh-Day Adventists dba Clovis Seventh-Day Adventist Church ("Defendant") demurs to the first and second causes of action of plaintiff Daniel DeJesus's ("Plaintiff") first amended complaint ("FAC"). Defendant additionally moves to strike portions of the FAC.

Meet and Confer

The demurring party must meet with the opposing party, in person, by telephone, or by video conference prior to filing a demurrer and file and serve with the motion a declaration detailing the meet-and-confer efforts. (Code Civ. Proc., § 430.41, subd. (a).) On February 17, 2026, Defendant called and discussed Plaintiff's FAC with Plaintiff. (Daggett Decl., ¶ 6.) Defendant has met the meet and confer requirement.

Legal Standard for Demurrer

The function of a demurrer is to test the sufficiency of a plaintiff's pleading by raising questions of law. (*Plumlee v Poag* (1984) 150 Cal.App.3d 541, 545) The truth of the facts alleged in the complaint are assumed true as well as the reasonable inferences that may be drawn from those facts. (*Miklosy v. Regents of University of California* (2008) 2 Cal.4th 876, 883; see also *Daniels v. Select Portfolio Servicing, Inc.* (2016) 246 Cal.App.4th 1150, 1168 [actual reliance in support of a fraud claim reasonably inferable from the plaintiff's complaint]; Code Civ. Proc., 452 ["In the construction of a pleading, for the purpose of determining its effect, its allegations must be liberally construed, with a view to substantial justice between the parties."].)

A general demurrer, "admits the truth of all material factual allegations in the complaint;" the plaintiff's "ability to prove these allegations, or the possible difficulty in making such proof does not concern the reviewing court …." (*Alcorn v. Anbro Engineering, Inc.* (1970) 2 Cal.3d 493, 496; *Stella v. Asset Management Consultants, Inc.* (2017) 8 Cal.App.5th 181, 190 ["We assume the truth of the properly pleaded factual allegations, facts that reasonably can be inferred from those expressly pleaded and matters of which judicial notice has been taken."].)

Analysis of Demurrer to the First Cause of Action

Plaintiff's first cause of action is a survivor action brought as the successor in interest to Daniel DeJesus, Sr., the deceased. The basis for the underlying action is premises liability. Defendant does not contest the underlying premises liability claim but that Plaintiff has failed to meet the requirements for a survivorship action. Defendant argues that Plaintiff mixes the causes of action, and that Plaintiff have not met the requirements under Code of Civil Procedure sections 377.30 and 377.32.

Although the first cause of action is not entitled specifically as a survivor action, Plaintiff is entitled to reasonable inferences from the facts presented. The first cause of action lists Plaintiff as "a minor, as Successor in Interest to the Estate of Daniel DeJesus, Sr." Further, page five of the FAC specifically states the first cause of action is a survival action "brought to recover the damages that decedent…sustained before his death". Even if the court were to ignore the fact the first cause of action self-identifies as a survival action, a reasonable inference from both the fact the action is brought by a successor in interest and that damages are only sought to the extent they occurred before decedent's death, is that the first cause of action is a survivor action. Therefore, the first cause of action is not unclear about either what it is or what the survivor cause of action is seeking.

Defendant raises Code of Civil Procedure section 377.32 as a requirement that has not been met by Plaintiff. However, nowhere in the cited statute nor in any of the cited cases is Plaintiff required to reference the relevant affidavit/declaration in the complaint. Additionally, the court takes judicial notice of the document filed by Plaintiff on January 16, 2026, entitled "Declaration of Successor in Interest (CCP §377.32)". The declaration complies with the requirements of Code of Civil Procedure section 377.32. Therefore, Plaintiff has met the requirements of Code of Civil Procedure section 377.32. Accordingly, the demurrer to the first cause of action is overruled.

Analysis of Demurrer to the Second Cause of Action

Plaintiff's second cause of action is for wrongful death. Defendant argues that the second cause of action is confusing and not clear that it is a wrongful death claim. The court agrees. The only way to know the second cause of action is a wrongful death claim is by knowing a wrongful death claim exists and that the first cause of action is not a wrongful death claim. The FAC references wrongful death and damages based on wrongful death in the first pages of the complaint. (FAC at p. 1 & 3.) However, pages six and seven of the complaint, which are the main pages of the second cause of action, never mention wrongful death or that the specific damages sought are related to

wrongful death. Therefore, the second cause of action is unclear that it is a wrongful death claim.

Additionally, Defendant contends that Plaintiff has failed to meet the requirements of Code of Civil Procedure section 377.60. Code of Civil Procedure section 377.60 states in pertinent part, "A cause of action for the death of a person caused by the wrongful act or neglect of another may be asserted by any of the following persons or by the decedent's personal representative on their behalf…The decendent's…children". Plaintiff correctly identifies himself as "the biological son of Daniel DeJesus, Sr. (deceased)". (FAC at p. 3.) Defendant contends that Plaintiff simply listing himself as the son of the deceased is not enough. *Ruttenberg v. Ruttenberg* (1997) 53 Cal.App.4th 801, 807-808 holds that all of a decedent's heirs have one cause of action such that omitted heirs are necessary parties and a plaintiff must join all known omitted heirs as part of the wrongful death suit. The FAC is unclear if Plaintiff is the sole child of the deceased or if there are other heirs who should be joined to the case. Accordingly, the demurrer to the second cause of action is sustained with leave to amend.

Motion to Strike

Defendant moves to strike damages under multiple bases. To the extent the motion to strike seeks to affect damages related to the wrongful death cause of action, the motion is denied as moot. Defendant argues that the generalized pleading implicates that the first cause of action is seeking damages for damages that are only permitted for a wrongful death action. However, the complaint is explicit in that the first cause of action only seeks to cover damages sustained before decedent's death. (FAC at p. 5.) The damages sought in Items 11.a. through 11.f. are of the type covered by Code of Civil Procedure section 377.34, subdivision (a). Therefore, the damages mentioned within Items 11.a. through 11.f. are not struck. Separately, the damages for funeral and burial expenses and wrongful death damages specifically refer to a time after decedent's death. Therefore, those damages would fall under damages affected by the second cause of action.

Defendant raises a separate argument for pain and suffering that falls under Plaintiff's complaint which seeks "Damages under the Survivor Action pursuant to CCP 377.34". Defendant argues that the survivor action was not even potentially properly pled until the FAC was filed on February 20, 2026. Code of Civil Procedure section 377.34, subdivision (b) states in pertinent part, "in an action or proceeding by a decedent's… successor in interest on the decedent's cause of action, the damages recoverable may include damages for pain, suffering, or disfigurement if the action or proceeding was… was filed on or after January 1, 2022, and before January 1, 2026." On October 28, 2025, Plaintiff filed the original complaint in the case. The original complaint was for the survivor cause of action. The original complaint in Item 11.g. stated "Damages under the Survivor Action pursuant to CCP 377.34 and page five of the original complaint stated, "This survival action…" The original complaint was filed on the basis of a survival action. The original complaint was filed within the January 1, 2022 to January 1, 2026 time window. Therefore, Plaintiff may recover pain and suffering as part of the first cause of action. Accordingly, Defendant's motion to strike 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 11/03/26.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: ***Daniel Cano Leon v. Hinds Hospice***
Superior Court Case No. 24CECG04516

Hearing Date: November 5, 2026 (Dept. 501)

Motion: Petition to Approve Compromise of Disputed Claim of Minor

Tentative Ruling:

To grant the petitions to approve the compromise of claims of Jaylah Cano Leon and Dante Cano Leon, as the issues identified in the Intended Ruling issued October 15, 2026 have been addressed and resolved. The court intends to sign the proposed orders. No appearances are 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: KCK on 11/03/26.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Christopher Sanchez v. Carla Tapia***
Superior Court Case No. 26CECG00569

Hearing Date: November 5, 2026 (Dept. 501)

Motion: Motion to Extend Deadline for Demurrer

Tentative Ruling:

To take off calendar, as no moving papers have been 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: KCK on 11/04/26.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Jesus Suarez v. Jim Enterprises Auto Sales, Inc.***
Superior Court Case No. 26CU00311

Hearing Date: November 5, 2026 (Dept. 501)

Motion: Discovery x4

Tentative Ruling:

To take off calendar, as no moving papers have been 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: KCK on 11/04/26.
(Judge's initials) (Date)