Tentative Rulings for November 10, 2026
Department 403

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.***

24CECG02717 ***Crozier v. Doe***

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

25CECG01170 ***Lawrence White-Zarate v. Fresno Unified School*** **is continued to Tuesday, December 8, 2026, at 3:30 p.m. in Department 403.**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 403

Begin at the next page

(20)

Tentative Ruling

Re:	***Butler v. Lee M.D.*** Superior Court Case No. 25CECG03398
Hearing Date:	November 10, 2026 (Dept. 403)
Motion:	By Defendant Julia Lee, M.D., for Summary Judgment/Adjudication

Tentative Ruling:

To grant summary judgment. (Code Civ. Proc., § 437c, subd. (c).) Within seven days of service of the order by the clerk, defendant shall submit a proposed judgment dismissing the action.

If oral argument is timely requested, it will be entertained on Friday, November 13, 2026, at 9:00 a.m. in Department 403.

Explanation:

In this medical malpractice action, plaintiffs allege negligence on the part of defendant Julia Lee, M.D., in relation to a shoulder surgery performed on plaintiff William Butler.

Defendant now moves for summary judgment. As the moving party, a defendant bears the initial burden of proof to show that plaintiff cannot establish one or more elements of their causes of action or to show that there is a complete defense. (Code Civ. Proc., § 437c, subd. (p)(2).) Only after the moving party has carried this burden of proof does the burden of proof shift to the other party to show that a triable issue of one or more material facts exists – and this must be shown via specific facts and not mere allegations. (*Id*.)

> "California courts have incorporated the expert evidence requirement into their standard for summary judgment in medical malpractice cases. When a defendant moves for summary judgment and supports his motion with expert declarations that his conduct fell within the community standard of care, he is entitled to summary judgment unless the plaintiff comes forward with conflicting expert evidence."

(*Munro v. Regents of Univ. of Calif*. (1989) 215 Cal.App.3d 977, 984-85.)

Where the moving party produces competent expert opinion declarations showing that there is no triable issue of fact on an essential element of the opposing party's claim (e.g. that a medical defendant's treatment fell within the applicable standard of care), the opposing party's burden is to produce competent expert opinion declarations to the contrary. (Weil & Brown, *Cal. Practice Guide: Civil Procedure Before Trial* (TRG 2024) ¶ 10:205.5, citing *Ochoa v. Pacific Gas & Elec. Co.* (1998) 61 Cal.App.4th 1480, 1487.)

To establish that a physician's care was negligent, a plaintiff must provide expert testimony establishing that the treatment fell below the applicable standard, unless the medical process at issue is matter of common knowledge and thus susceptible to comprehension by a lay juror. (*Flowers v. Torrance Memorial Hospital Medical Center* (1994) 8 Cal.4th 992, 1001.)

Defendant's motion is supported by a declaration from Geoffrey Abrams, M.D., a board-certified orthopedic experienced in the care and treatment of patients who undergo shoulder surgery and related care. Based on his knowledge, education, training, and review of Mr. Butler's medical records, Dr. Abrams opines that the care and treatment by Dr. Lee was at all times within the standard of care and that no negligent act or omission on the part of Dr. Lee or her office caused or contributed to any alleged injury sustained by Mr. Butler in this case." (Abrams Decl., ¶¶ 10, 12.) This is sufficient to shift the burden to plaintiffs to raise a triable issue of fact.

Plaintiffs submit no responsive admissible evidence. Critically, an expert declaration is required, but none is submitted. Instead plaintiffs submit a document titled "separate statement,"[1] which is actually a seven-page narrative description of their claims and contentions. Though the "separate statement" reads more like a declaration, and attaches two exhibits, it is not signed under penalty of perjury and does not authenticate anything. Plaintiffs fail to present any admissible evidence in response to the motion. Defendant's evidentiary objections are all sustained. Because plaintiffs fail to raise a triable issue of fact as to defendant's negligence, the motion must be 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 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: SMC on November 9, 2026.
(Judge's initials) (Date)

[1] Plaintiffs purported "Separate Statement" fails to comply with the requirements of Code of Civil Procedure section 437c, subd. (b)(3) and California Rules of Court, rule 3.1350.