

## Tentative Rulings for June 30, 2026 Department M205

**To request oral argument, you must notify  
Judicial Secretary Kari Gates at (760) 904-5722  
and inform all other counsel no later than 4:30 p.m.**

This court follows California Rules of Court, Rule 3.1308 (a) (1) for tentative rulings (see Riverside Superior Court Local Rule 3316). Tentative Rulings for each law & motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at [Riverside Superior Court-Tentative Rulings](#). If you do not have Internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

To request oral argument, no later than 4:30 p.m. on the court day before the hearing you must (1) notify the judicial secretary for Department M205 at (760) 904-5722 and (2) inform all other parties of the request and of their need to appear remotely, as stated below. If no request for oral argument is made by 4:30 p.m., the tentative ruling **will become the final ruling** on the matter effective the date of the hearing. **UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.**

For information and instructions on remote appearances via **ZOOM**, visit the court's website at [Riverside Superior Court-Remote Appearances](#)

You may also make a Telephonic Appearance: On the day of the hearing, call into one of the below listed phone numbers, and input the meeting number (followed by #):

- Call-in Numbers: 1-833-568-8864 (Toll Free), 1-669-254-5252,  
1-669-216-1590, 1-551-285-1373 or 1-646-828-7666
- Meeting Number: **160 571 6184**

Please **MUTE** your phone until your case is called and it is your turn to speak. It is important to note that you must call fifteen (15) minutes prior to the scheduled hearing time to check in or there may be a delay in your case being heard.

**Riverside Superior Court provides official court reporters for hearings on law and motion matters only for litigants who have been granted fee waivers and only upon their timely request. (See General Administrative Order No. 2021-19-1) Other parties desiring a record of the hearing must retain a reporter pro tempore.**

1.

CASE #	CASE NAME	HEARING NAME
CVME2402754	CITIBANK N.A. VS MARTINEZ	MOTION TO VACATE DISMISSAL 664.6 AND ENTRY OF JUDGMENT

**Tentative Ruling:** Motion unopposed.

IT IS ORDERED that the dismissal as to Dario Martinez entered on January 23, 2025 is set aside and vacated, and judgment entered in favor of Plaintiff CITIBANK, N.A., and against Defendant Dario Martinez, in the principal sum of \$1,350.00, and court costs in the sum of \$643.61 for a total judgment of \$1,993.61. Court to sign the proposed order and judgment.

2.

CASE #	CASE NAME	HEARING NAME
CVME2513284	HIGHTOWER VS CONCENTRA HEALTH SERVICES INC	DEMURRER

**Tentative Ruling:**

Moving Party: Defendants Concentra Health services, Inc., Flene Folsom, and Dylan Herrera

Responding Party: Plaintiff James Hightower (in pro per)

Motions Filed: 3/20/2026

Opposition Filed: 4/9/2026

Reply Filed: No reply on eCourt as of 6/25/2026

**A. General Demurrer – Merits**

A general demurrer lies where the pleading does not state facts sufficient to constitute a cause of action. (CCP § 430.10(e).) In evaluating a demurrer, the court gives the pleading a reasonable interpretation by reading it as a whole and all of its parts in their context. (*Moore v. Regents of University of California* (1990) 51 Cal.3d 120, 125.) The court assumes the truth of all material facts which have been properly pleaded, of facts which may be inferred from those expressly pleaded, and of any material facts of which judicial notice has been requested and may be taken. (*Crowley v. Kattelman* (1994) 8 Cal.4th 666, 672.) However, a demurrer does not admit contentions, deductions or conclusions of fact or law. (*Daar v. Yellow Cab Company* (1967) 67 Cal.2d 695, 713.) Facts appearing in exhibits attached to the complaint will also be accepted as true and, if contrary allegations appear in the complaint, will be given precedence. (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 606.) If the complaint fails to state a cause of action, the court must grant the plaintiff leave to amend if there is a reasonable possibility that the defect can be cured by amendment. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

**a. First Cause of Action – Professional Negligence**

The elements of a cause of action for negligence are: (1) a legal duty to use due care; (2) breach of such duty; (3) the breach was the proximate or legal cause of resulting injuries. (*Ladd v. County of San Mateo* (1996) 12 Cal.4th 913, 917.) Medical negligence is measured by the standard of care in the medical community. (*Scott v. C. R. Bard* (2014) 231 Cal.App.4th 763, 785.) The elements of medical malpractice are:

“(1) the duty of the professional to use such skill, prudence and diligence as other members of his profession commonly possess and exercise; (2) a breach of that duty; (3) a proximate causal connection between the negligent conduct and the resulting injury; and (4) actual loss or damage resulting from the professional's negligence.” (*Burgess v. Superior Court* (1992) 2 Cal.4th 1064, 1077.)

As to Folsom, the complaint alleges Folsom is a physician assistant and breached her duty to Plaintiff by providing medically inaccurate information and failing to conduct an appropriate evaluation, among other issues. (FAC, ¶¶ 29-30.) The FAC alleges damage and proximate cause generally, which is sufficient for a negligence claim. (*Id.* at ¶ 33.)

As to Herrera however, it is alleged that he was an office manager “responsible for oversight” of the clinic. (*Id.* at ¶ 25.) There are no allegations that Herrera is a medical professional. Nor are there any other allegations that identify an independent duty Herrera owed to Plaintiff.

As to Concentra, “[u]nder the doctrine of respondeat superior, an employer is vicariously liable for his employee's torts committed within the scope of the employment.” (*Perez v. Van Groningen & Sons, Inc.* (1986) 41 Cal.3d 962, 967.) The FAC alleges respondeat superior. (*Id.* at ¶ 32.)

Thus, **the court SUSTAINS the demurrer to the first cause of action as to Herrera and OVERRULES the demurrer to the first cause of action as to Folsom and Concentra.**

**b. Second Cause of Action – NIED**

Negligent infliction of emotional distress (“NIED”) is a form of negligence, which includes the elements of duty, breach, causation and damages. (*Huggins v. Longs Drug Store* (1993) 6 Cal.4th 124, 129.) There are two theories of NIED recovery: the “bystander” theory and the “direct victim” theory. (*Burgess v. Superior Court* (1992) 2 Cal.4th 1064, 1071.)

The Supreme Court has held that damages for emotional distress are only recoverable when the defendant assumes a duty in which the emotional condition of the plaintiff is an object. (See, *Friedman v. Merck & Co.* (2003) 107 Cal.App.4th 454, 470.) Here, the complaint only generally alleges that “Defendants owed Plaintiff a duty to avoid causing foreseeable emotional harm during the provision of medical services.” (FAC, ¶ 35.) It adds that Defendants’ conduct “foreseeably” caused damage. (*Id.* at ¶ 37.) Mere foreseeability that serious emotional distress might result, without more, is not enough. (*Huggins v. Longs Drug Stores California, Inc.* (1993) 6 Cal.4th 124, 130; *Burgess, supra*, 2 Cal.4th at 1074; *Thing v. La Chusa* (1989) 48 Cal.3d 644, 663-664.)

The court **SUSTAINS** the demurrer to the second cause of action as to all three Defendants.

**c. Third Cause of Action – Negligent Misrepresentation and Fourth Cause of Action – Intentional Misrepresentation**

The elements of fraud are: (1) misrepresentation or concealment, (2) knowledge of falsity, (3) intent to defraud, (4) justifiable reliance, and (5) resulting damage. (*Lovejoy v. AT&T Corp.* (2004) 119 Cal.App.4th 151, 157-158.) The elements of a negligent misrepresentation cause of action are (1) a representation as to past or existing material facts; (2) falsity of the representation; (3) defendant lacks reasonable grounds to believe the truth of the representation; (4) intent to induce reliance; (5) justifiable reliance by plaintiff; and (6) injury. (*B.L.M v. Sabo & Deitsch* (1997) 55 Cal.App.4th 823, 834.) Negligent misrepresentation is a form of deceit. (*Bily v. Arthur Young & Co.* (1992) 3 Cal.4th 370, 407.) Every element of these causes of action must be pled factually and specifically and the policy of liberal pleading does not apply. (*Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 47.) This particularity requirement necessitates pleading facts which show how, when, where, to whom, and by what means the representations were tendered.” (*Lazar v. Superior Court* (1996) 12 Cal.4th 631, 645.)

The FAC lacks the specificity required to bring either of these claims. The FAC does not identify any statements made by Herrera. It also only generally refers to statements made by Folsom, “...regarding her authority, Plaintiff’s condition, symptoms, and treatment...” (FAC, ¶ 40.) There is no specificity as to what those statements are, only this general allegations regarding the subject of said statements. The only generally pleads reasonable grounds, intent, and justifiable reliance, all of which are insufficiently stated.

The court **SUSTAINS** the demurrer to the third and fourth causes of action as to all three Defendants.

**d. Fifth Cause of Action – IIED**

To recover for IIED, the conduct at issue must be outrageous. (*Cervantez v. J.C. Penney Co.* (1979) 24 Cal.3d 579, 593.) Defendant also must have intended to cause or acted with reckless disregard of the possibility of causing, severe or extreme emotional distress, and plaintiff must have suffered this distress. There must also be a causal nexus. (*Fletcher v. Western National Life Ins.* (1970) 10 Cal.App.3d 376, 394.) Outrageous conduct is conduct that is so extreme as to exceed all bounds of that usually tolerated in a civilized community. (*Ross v. Creel Printing & Publishing Co. Inc.* (2002) 100 Cal.App.4th 736, 745.) “Behavior may be considered outrageous if a defendant (1) abuses a relation or position which gives him power to damage the plaintiff’s interest; (2) knows the plaintiff is susceptible to injury through mental distress; or (3) acts intentionally or unreasonably with the recognition that the acts are likely to result in illness through mental distress.” (*Hernandez v. General Adjustment Bureau* (1988) 199 Cal.App.3d 999, 1007.) This cause of action must be pleaded with specificity. (*Schlauch v. Hartford Accident Ins.* (1983) 146 Cal.App.3d 926, 936.) This requires that the pleading allege “facts demonstrating the nature, extent or duration of [plaintiff’s] alleged emotional distress.” (*Angie M. v. Superior Court* (1995) 37 Cal.App.4th 1217, 1227.)

The FAC fails to plead this cause of action with specificity. There are no allegations identifying any extreme or outrageous conduct by Herrera or Folsom. There are no allegations that demonstrate the nature, extent, or duration of the alleged emotional

damage. The cause of action only generally identifies the elements of the claim without any supporting facts, even when consideration the incorporation of the general allegations. (FAC, ¶¶ 51-55.)

**The court SUSTAINS the demurrer to the fifth cause of action as to all three Defendants.**

**e. Sixth Cause of Action – Defamation**

“Defamation constitutes an injury to reputation ... by means of libel,” if in writing, or by slander. (*Shively v. Bozanich* (2003) 31 Cal.4th 1230, 1242.) The recognized elements of a defamation claim include: “(1) a publication that is (2) false, (3) defamatory, (4) unprivileged, and (5) has a natural tendency to injure or causes special damage.” (*Sanders v. Walsh* (2013) 219 Cal.App.4th 855, 862.)

There is no defamatory conduct alleged to have been taken by Herrera. As to Folsom, the FAC states she, “...authored medical record entries that contained false statements about Plaintiff, misrepresented the nature of the encounter, and inaccurately described Plaintiff’s symptoms and behavior.” (FAC, ¶ 57.) In California, defamation claims must specifically identify the words constituting the alleged defamation, if not pleaded verbatim, in the complaint. (*ZL Technologies, Inc. v. Does 1-7* (2017) 13 Cal.App.5th 603, 616.) There is also no allegation that the statements have a natural tendency to injury or cause special damage. The FAC is thus insufficient.

**The court SUSTAINS the demurrer to the sixth cause of action as to all three Defendants.**

**f. Seventh Cause of Action – Disability Discrimination**

The seventh cause of action is for “Disability Discrimination.” As this is not an employment case, presumably Plaintiff brings this cause of action under Civil Code section 51.5, which prohibits discriminating in business dealings. Specifically, it prohibits a business establishment from discriminating against, boycotting, blacklisting, refusing to buy from, refusing to contract with, refusing to sell to or refusing to trade with a plaintiff due to their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status.

However, there is a general rule statutory causes of action must be pleaded with particularity. (*Covenant Care v. Superior Court* (2004) 32 Cal.4th 771, 790.) The FAC fails to identify this statutory basis, nor is it clear what medical services any of the Defendants denied Plaintiff based on his disability.

**The court SUSTAINS the demurrer to the seventh cause of action as to all three Defendants.**

**g. Eighth Cause of Action – Unfair Business Practices**

California Business and Professions Code section 17200 states that “unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice.” The Unfair Competition Law’s (“UCL”) scope is broad and coverage is sweeping. (*Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co.* (1999) 20 Cal.4th 163, 180.) “[B]ecause the statute is framed in the disjunctive, a business practice need meet only one of the three criteria to be considered unfair competition.” (*Wiseman Park, LLC v. Southern Glazer’s Wine & Spirits, LLC* (2017) 16 Cal.App.5th 110, 129.) “An unfair business practice occurs when the practice offends an established public

policy or when the practice is immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers.” (*Podolsky v. First Healthcare Corp.* (1996) 50 Cal.App.4th, 632, 647.) The unfair standard is also intentionally broad, “thus allowing courts maximum discretion to prohibit new schemes to defraud.” (*Searle v. Wyndham Intl.* (2002) 102 Cal.App.4th 1327, 1334.)

This cause of action is only brought against Concentra. The FAC contains one paragraph with a bullet list of general allegations Plaintiff states are unlawful, unfair, and fraudulent. (FAC, ¶ 69.) This is far too general to meet the requirement that UCL claims be pled with reasonable particularity. (*Gutierrez v. Carmax Auto Superstores California* (2018) 19 Cal.App.5th 1234, 1261.)

**The court SUSTAINS the demurrer to the eighth cause of action**

***h. Ninth Cause of Action – Civil Conspiracy***

“Conspiracy is not a cause of action, but a legal doctrine that imposes liability on persons who, although not actually committing a tort themselves, share with the immediate tortfeasors a common plan or design in its perpetration.” (*Applied Equipment Corp. v. Litton Saudi Arabia Ltd.* (1994) 7 Cal.4th 503, 510-511.) Recovery for a conspiracy claim depends on the commission of a tort. (*Navarrete v. Meyer* (2015) 237 Cal.App.4th 1276, 1293.) “The major significance of a conspiracy cause of action lies in the fact that it renders each participant in the wrongful act responsible as a joint tortfeasor for all damages ensuing from the wrong regardless of the degree of his activity.” (*Stueve Bros. Farm v. Berger Kahn* (2013) 222 Cal.App.4th 303, 323-324).

The elements of a civil conspiracy are the formation and operation of the conspiracy agreement and damage resulting to plaintiff from an act done in furtherance of the common design. (*Saunders v. Superior Court* (1994) 27 Cal.App.4th 832, 845-846.) “General allegations of agreement have been held sufficient, and the conspiracy averment has even been held unnecessary, providing the unlawful acts or civil wrongs are otherwise sufficiently alleged.” (*Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 47-48).

Here, the conspiracy claim is based on “...the wrongful acts described herein, including misrepresentation, defamation, and negligent or reckless handling of Plaintiff’s medical care.” (FAC, ¶ 73.) When conspiracy to commit fraud is alleged, the fraud must be pled with specificity. (*Favila v. Katten Muchin Rosenman* (2010) 188 Cal.App.4th 189, 211-212.) Generally, the particularity requirement necessitates pleading facts which show how, when, where, to whom, and by what means the representations were tendered.” (*Lazar v. Superior Court* (1996) 12 Cal. 4th 631, 645.) As stated above, the fraud claim is insufficiently pled, so too is the civil conspiracy claim to the extent it is based on the fraud claims. The same is true for the defamation claim.

**The court SUSTAINS the demurrer to the ninth cause of action.**

**B. Special Demurrer for Uncertainty – Merits**

Demurrers for uncertainty are generally disfavored. (*Chen v. Berenjian* (2019) 245 Cal.App.5th 811.) To that end, demurrers for uncertainty will only be sustained where the defendant cannot reasonably determine what issues must be admitted or denied, or what claims are directed against him; or where the pleading is so incomprehensible that a defendant cannot reasonably respond. (*Khoury v. Maly’s of California, Inc.* (1993) 14 Cal.App.4th 612, 616; *Mahan v. Charles W. Chan Ins. Agency, Inc.* (2017) 14 Cal.App.5th 841, 848, fn. 3.) Demurrers for uncertainty are to be overruled when addressed to

inconsequential matters, the facts are within the knowledge of the defendant or ascertainable in discovery, or not dispositive of one or more causes of action. (*Khoury, supra*, at p. 616.)

As alleged, Defendants can reasonably determine the general crux of the allegations in the complaint. None of the causes of action at issue are so incomprehensible that any response is precluded.

**The court OVERRULES the special demurrer for uncertainty under CCP § 430.10(f).**

3.

CASE #	CASE NAME	HEARING NAME
CVME2513284	HIGHTOWER VS CONCENTRA HEALTH SERVICES INC	MOTION TO STRIKE

**Tentative Ruling:**

**C. Motion to Strike – Merits**

Defendants also move to strike Plaintiff’s request for punitive damages, UCL restitution, and injunctive relief. The court may, upon a motion made pursuant to CCP § 435:

- (a) Strike out any irrelevant, false, or improper matter inserted in any pleading.
- (b) Strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court.

Motions to strike can be used to attack the entire pleading, or any part thereof, i.e., even single words or phrases. (CCP § 435; *Baral v. Schnitt* (2016) 1 Cal.5th 376, 393-394; *Warren v. Atchison, T. & S.F. Ry. Co.* (1971) 19 Cal.App.3d 24, 40.) As with demurrers, the grounds for a motion to strike must appear on the face of the pleading under attack, or from matter which the court may judicially notice. (CCP § 437(a).) “[T]he court treats as true the material facts alleged in the complaint, as well as any facts which may be implied or inferred from those expressly alleged.” (*Washington Int’l Ins. Co. v. Superior Court* (1998) 62 Cal.App.4th 981, 984, fn. 2.)

**Given the fraud and UCL causes of action are subject to demurrer, the motion to strike is moot.**

4.

CASE #	CASE NAME	HEARING NAME
CVME2513284	HIGHTOWER VS CONCENTRA HEALTH SERVICES INC	MOTION FOR SANCTIONS

**Tentative Ruling:**

The court is requiring a hearing. The court will address this at the hearing after it addresses the motion to deem matters admitted.

5.

<b>CASE #</b>	<b>CASE NAME</b>	<b>HEARING NAME</b>
CVME2513284	HIGHTOWER VS CONCENTRA HEALTH SERVICES INC	MOTION TO DEEM MATTERS ADMITTED

**Tentative Ruling:**

Moving Party: Plaintiff James Hightower (in pro per)

Responding Party: Defendants Flene Folsom and Dylan Herrera

Motion Filed: 5/26/2026

Opposition Filed: 6/5/2026

Reply Filed: 6/10/2026

The court is requiring a hearing regarding Defendant's responses or lack of.

**6.**

<b>CASE #</b>	<b>CASE NAME</b>	<b>HEARING NAME</b>
CVSW2208375	CAVALRY SPV I, LLC VS CASTILLO	MOTION TO AMEND JUDGMENT

**Tentative Ruling:** Motion unopposed.

IT IS ORDERED that the Judgment is amended and entered in favor of Plaintiff CAVALRY SPV I, LLC, and against Defendant VICTORIA CASTILLO reflect principal in the amount of \$1,387.43 plus costs in the amount of \$369.50, for a Total Judgment of \$1,756.93. Judgment shall be corrected and, therefore, shall be effective as though it were entered on June 10, 2024. Court to sign the proposed order and the Amended Judgment.