

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

XBN v. Kaweah Health

XBN · No. 1:23-cv-01453 JLT HBK (consolidated with No. 1:24-cv-00431-JLT-HBK) · Decided March 3, 2025

SUMMARY

This document is a proposed order in a consolidated Eastern District of California action arising from alleged birth-related injuries and negligence claims under the Federal Tort Claims Act. It grants the United States’ motion for summary judgment based on Plaintiffs’ notice of non-opposition and orders Plaintiffs to show cause within 21 days why the Court should exercise supplemental jurisdiction over the remaining state-law claims.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
DECIDED	March 3, 2025
DOCKET	1:23-cv-01453 JLT HBK (consolidated with No. 1:24-cv-00431-JLT-HBK)
DISPOSITION	other
PROCEDURAL POSTURE	The United States moved for summary judgment on Plaintiffs' Federal Tort Claims Act negligence claim. Plaintiffs filed a notice of non-opposition. The court granted the motion and ordered Plaintiffs to show cause why the court should exercise supplemental jurisdiction over the remaining state-law claims.
STANDARD OF REVIEW	Summary judgment is proper when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. Once a defendant identifies an absence of evidence supporting the plaintiff's claim, the plaintiff must produce evidence sufficient to support a verdict on every element for which the plaintiff bears the burden of proof.
PRECEDENTIAL VALUE	Unknown

TOPICS

- summary judgment
- negligence
- medical malpractice
- civil procedure
- health law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the United States was entitled to summary judgment on Plaintiffs' Federal Tort Claims Act negligence claim based on the absence of evidence supporting the claim.
2. Whether the court should exercise supplemental jurisdiction over the remaining state-law claims.

HOLDINGS

1. The United States was entitled to summary judgment because Plaintiffs failed to adduce evidence supporting their negligence claim and did not oppose the motion.
2. The court did not decide whether to exercise supplemental jurisdiction; instead, it ordered Plaintiffs to show cause within 21 days why supplemental jurisdiction should be exercised.

KEY QUOTATIONS

“Summary judgment is proper where “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.”” (at 1)

“To survive summary judgment, a plaintiff must then submit evidence “sufficient to support a verdict... on every element of [a] claim for which [he or she] will carry the burden of proof.”” (at 1)

FACTUAL BACKGROUND

Alondra Nunez and her son, XBN, alleged that they sustained injuries during XBN's birth on September 1, 2021. They asserted a negligence claim against the United States under the Federal Tort Claims Act, but did not adduce evidence supporting the claim and filed a notice of non-opposition to the United States' motion for summary judgment.

PROCEDURAL HISTORY

The action against Kaweah Health and others was originally filed in Tulare County Superior Court and removed to the Eastern District of California. A related action against the United States was filed in federal court, and the matters were consolidated. The United States moved for summary judgment, which the Plaintiffs did not oppose.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. Plaintiffs were ordered to show cause in writing within 21 days of the order why the court should exercise supplemental jurisdiction over the remaining state-law claims; any other party may respond within 14 days after Plaintiffs' filing, and no replies were authorized at that time.

CASES CITED

- *Devereaux v. Abbey*, 263 F.3d 1070, 1076 (9th Cir. 2001) (en banc)
- *Fairbank v. Wunderman Cato Johnson*, 212 F.3d 528, 532 (9th Cir. 2000)
- *In re Apple Computer Securities Litigation*, 886 F.2d 1109, 1113 (9th Cir. 1989)
- *River City Markets, Inc. v. Fleming Foods West, Inc.*, 960 F.2d 1458, 1462 (9th Cir. 1992)

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