

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Consolidation of Civil Courtrooms
Hon. Brian L. McCabe
Courtroom 8
Courtroom 10
627 W. 21st Street, Merced
Thursday, March 17, 2022

To limit the spread of the COVID-19 virus, all civil matters normally heard in Courtroom 8, Hon. Brian L. McCabe, and Courtroom 10, Hon. Donald J. Proietti, are being consolidated and heard by a single judge, Hon. Brian L. McCabe, in Courtroom 10.

Note: Separate Tentative Rulings are provided for Courtroom 9, Hon. Stephanie L. Jamieson. Those matters will be heard either in-person or via remote hearing in Courtroom 9.

Note: Separate Tentative Rulings are provided for Courtroom 12, the Hon. David W. Moranda. Those matters will be heard via remote hearing in Courtroom 12.

IMPORTANT: To limit the spread of the COVID-19 virus, the court will only conduct remote hearings on the combined Courtroom 8/10 calendars. Parties who contest the tentative ruling or wish to appear at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.

The specific tentative rulings for specific calendars follow:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Civil Law and Motion Tentative Rulings
Hon. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced

Thursday, March 17, 2022
8:15 a.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

1. You must call (209) 725-4240 to notify the court of your intent to appear.
2. You must give notice to all other parties before 4:00 p.m. of your intent to appear.

Per California Rules of Court, rule 3.1308(a)(1), failure to do both items 1 and 2 will result in no oral argument. **To limit the spread of the COVID-19 virus, the court will only conduct remote hearings. Parties who contest the tentative ruling or wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.**

Case No.	Title / Description
20CV-00535	Curtis Riggs, et al. v. Steven Margaretic
	Motion to Fix Amount of Attorney's Fees Awardable as Item of Costs and Costs
	Plaintiffs' Motion to Fix Amount of Attorneys' Fees To Which They Are Entitled Pursuant to Cal. Corp. Code § 17704.10 at \$27,525.00; Fix Attorneys' For Enforcement of the Settlement Agreement Pursuant to Civil Code § 1717(a) at \$12,995.00; and Award Costs in the Amount of \$1,700.30 is GRANTED. Defendant does not dispute Plaintiffs' entitlement to each category of attorneys' fees and costs, but asserts that the amounts are excessive for various reasons or are not adequately documented. This Court finds all amounts to be reasonable given the scope and quality of the work performed, and finds that all requests are adequately documented in either the moving or reply papers filed with the Court. Plaintiffs' Counsel shall circulate a proposed order.

21CV-03934

Petition of (N.A.) Gurbax Kaur

Order to Show Cause Re: Name Change

This Petition by an adult to change his/her own name is GRANTED. The Court notes that an Affidavit of Publication was filed on February 25, 2022, reflecting publication for four consecutive weeks. The Court will sign the Decree Changing Name lodged on January 25, 2022.

22CV-00090

Kristina Backer v. Wilber Abreo

Order to Show Cause Re: Restraining Order

The Court notes proof of personal service was filed on February 24, 2022, indicating respondent was personally served with notice of hearing on February 14, 2022; however, there is no proof of service on file reflecting service to petitioner of the Order on Request to Continue Hearing issued at respondent's request. Appearance required. Remote appearances are encouraged. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.

22CV-00278

Petition of Andrew Hernandez

Order to Show Cause Re: Name Change

This petition by an adult to change his/her own last name will be GRANTED upon filing of Proof of Publication. When Proof of Publication is filed, the Court will sign the Decree Changing Name lodged on January 24, 2022. If Publication has not occurred, the Petitioner is ordered to contact the clerk of the court to set a new hearing date so that publication can occur.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Special Set Matter
Hon. Mark V. Bacciarini
Courtroom 11
2840 W. Sandy Mush Road, Merced

Thursday, March 17, 2022
8:15 a.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

1. You must call (209) 725-4240 to notify the court of your intent to appear.
2. You must give notice to all other parties before 4:00 p.m. of your intent to appear.

Per California Rules of Court, rule 3.1308(a)(1), failure to do both items 1 and 2 will result in no oral argument. **To limit the spread of the COVID-19 virus, the court strongly encourages remote hearings. Parties who contest the tentative ruling or wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.**

Case No.	Title / Description
17CV-04288	Merced Gastroenterology Medical Office, Inc., et al. v. Kirandeep Chima, et al.

Motion to Compel Further Interrogatory Responses and Compliance with Requests for Production

This is the Third Hearing concerning this discovery dispute. This matter was last on Calendar March 7, 2022, and continued to this date so that the parties could engage in further meet and confer. The following Tentative Ruling was posted prior to the March 7, 2022 hearing:

“The instant discovery propounded by Plaintiff to Defendant Citibank, N.A. is sought in connection with the Second Amended Complaint’s Fifth Cause of Action for Negligence against Defendant Citibank, N.A., and Sixth Cause of Action for Conversion against Defendant Citibank N.A., brought in connection with alleged actions by Plaintiff that Defendant Citibank N.A. failed to comply with its own internal procedures in connection with an alleged embezzlement by Defendant Chima. Defendant Citibank N.A. has filed an answer containing a general denial and eleven affirmative defenses and a Cross-Complaint for Equitable Indemnity and Declaratory Relief against Defendant Chima. A Stipulated Protective Order was issued by the Court on March 15, 2021.

The subject Interrogatories sought:

- (1) the identities and contact information of Citibank employees located at the Atwater Branch during January 1, 2014 through December 31, 2017;**
- (2) the identities and contact information of Citibank employees located at the Merced Branch during January 1, 2014 through December 31, 2017; and**
- (3) Explain procedures employed by Citibank to oversee customer compliance with Citibank procedures.**

The subject requests for production of documents include the following:

3,4,5 Requests all correspondence, agreements and terms and conditions to which Account 964403718 was subject during period January 1, 2014 through December 31, 2017

6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 Requests documents and correspondence relating to privacy policies, customer identification programs, customer due diligence policies, deposit limits, and customer account monitoring systems conditions to which Account 964403718 was subject during period January 1, 2014 through December 31, 2017

19, 20 Requests documents and correspondence related to the suspension of Account 964403718 was subject during period January 1, 2014 through December 31, 2017

23, 24, 25, 26, 27, 28, 29, 30, 31, 31 Requests documents and correspondence relating to formal or informal audits and quality assurance checks on the implementation of policies procedures and internal controls, customer complaints, and training materials regarding Atwater and Merced Branches

33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 Requests all non-privileged documents and correspondence related to the accountholders which Defendant will base its affirmative defenses.”

On December 20, 2021, this Court posted the following tentative rulings with regard to this matter:

“Plaintiff’s motion to compel further interrogatory responses and compliance with requests for production is GRANTED. Defendant CITIBANK, N.A. is ORDERED to provide a supplemental responses to plaintiffs Merced Gastroenterology Medical Office, Inc. and Advanced Endoscopy Center, Inc.’s propounded Special Interrogatories (Set One), Nos. 1, 2, and 3. Defendant Citibank, N.A is ordered to conduct a reasonably diligent search for responsive documents, and then to supplement its document production under Plaintiffs’ propounded Request for Production (Set One), Nos. 3-44, or in the alternative, after that search to amend its supplemental responses to Plaintiffs’ propounded Request for Production (Set One), Nos. 3-44 to represent in writing, where applicable, that it has no such documents in its possession, custody, or control consistent with Sections 2031.210(a)(2) and 2031.220 of the California Code of Civil Procedure. The Court will sign the order lodged with the court on November 8, 2021.”

At the December 20, 2021 hearing, the Court continued the matter to this date and ordered that supplemental briefs be filed. The Court has now considered the additional briefing and rules as follows:

Plaintiff’s motion to compel further interrogatory responses and compliance with requests for production is GRANTED. The objections by Defendant Citibank N.A. as to

(a) neither relevant nor reasonably calculated to lead to discovery, (b) overbroad, (c) burdensome, (d) oppressive, (e) statutory and constitutional privacy rights of third persons, and (f) vague and ambiguous objections are OVERRULED. Defendant's objection that a federal privilege exists with regard to SAR reporting is OVERRULED because "[w]hile the regulation prohibits disclosure of [suspicious activity reports] and their contents, courts have uniformly held that 'supporting documentation' underlying a SAR that is generated or received in the ordinary course of business is discoverable." (*Union Bank of California v. Superior Court* (2005) 130 Cal.App.4th 378, 390.) Defendant CITIBANK, N.A. is ORDERED to provide a supplemental responses to plaintiffs Merced Gastroenterology Medical Office, Inc. and Advanced Endoscopy Center, Inc.'s propounded Special Interrogatories (Set One), Nos. 1, 2, and 3 without objections. Defendant Citibank, N.A is ordered to conduct a reasonably diligent search for responsive documents, and then to supplement its document production under Plaintiffs' propounded Request for Production (Set One), Nos. 3-44, or in the alternative, after that search to amend its supplemental responses to Plaintiffs' propounded Request for Production (Set One), Nos. 3-44 to represent in writing, where applicable, that it has no such documents in its possession, custody, or control consistent with Sections 2031.210(a)(2) and 2031.220 of the California Code of Civil Procedure. Since no amount of monetary sanctions were requested by Plaintiff, no monetary sanctions are ordered at this time. The Court will sign the order lodged with the court on November 8, 2021."

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Limited Civil Calendar
Hon. Stephanie L. Jamieson
Courtroom 9
627 W. 21st Street, Merced

Thursday, March 17, 2022
10:00 a.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

1. You must call (209) 725-4240 to notify the court of your intent to appear.
2. You must give notice to all other parties before 4:00 p.m. of your intent to appear.

Per California Rules of Court, rule 3.1308(a)(1), failure to do both items 1 and 2 will result in no oral argument. **To limit the spread of the COVID-19 virus, the court strongly encourages remote hearings. Parties who contest the tentative ruling or wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.**

Case No.	Title / Description
----------	---------------------

17CV-00682	Fawas Eltareb vs Ben Penfiled
------------	-------------------------------

Review of Case Status

This appears to be the eighteenth post-judgment hearing on this matter. The Code of Civil Procedure provides a number of judgment collection procedures that do not require active supervision by the court. Absent a showing of good cause, no further hearing shall be set in this matter other than by noticed motion.

22CV-00292	[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]
------------	--

Unlawful Detainer Court Trial

Appearance required. Remote appearances are encouraged. Parties wishing to appear remotely must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Restraining Order Calendar
Hon. David W. Moranda
Courtroom 12
1159 G Street, Los Banos

Thursday, March 17, 2022
11:00 a.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

1. You must call (209) 725-4240 to notify the court of your intent to appear.
2. You must give notice to all other parties before 4:00 p.m. of your intent to appear.

Per California Rules of Court, rule 3.1308(a)(1), failure to do both items 1 and 2 will result in no oral argument. **To limit the spread of the COVID-19 virus, the court strongly encourages remote hearings. Parties who contest the tentative ruling or wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.**

Case No.	Title / Description
----------	---------------------

There are no Restraining Order matters scheduled for hearing.	
---	--

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced

Thursday, March 17, 2022
1:15 p.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

1. You must call (209) 725-4240 to notify the court of your intent to appear.
2. You must give notice to all other parties before 4:00 p.m. of your intent to appear.

Per California Rules of Court, rule 3.1308(a)(1), failure to do both items 1 and 2 will result in no oral argument. **To limit the spread of the COVID-19 virus, the court will only conduct remote hearings. Parties who contest the tentative ruling or wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.**

Case No.	Title / Description
----------	---------------------

There are no Ex Parte matters scheduled.	
--	--

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Stephanie L. Jamieson
Courtroom 9
627 W. 21st Street, Merced

Thursday, March 17, 2022
1:15 p.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

1. You must call (209) 725-4240 to notify the court of your intent to appear.
2. You must give notice to all other parties before 4:00 p.m. of your intent to appear.

Per California Rules of Court, rule 3.1308(a)(1), failure to do both items 1 and 2 will result in no oral argument. **To limit the spread of the COVID-19 virus, the court strongly encourages remote hearings. Parties who contest the tentative ruling or wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.**

Case No.	Title / Description
----------	---------------------

There are no Ex Parte matters scheduled.	
--	--

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Donald J. Proietti
Courtroom 10
627 W. 21st Street, Merced

Thursday, March 17, 2022
1:15 p.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

1. You must call (209) 725-4240 to notify the court of your intent to appear.
2. You must give notice to all other parties before 4:00 p.m. of your intent to appear.

Per California Rules of Court, rule 3.1308(a)(1), failure to do both items 1 and 2 will result in no oral argument. **To limit the spread of the COVID-19 virus, the court strongly encourages remote hearings. Parties who contest the tentative ruling or wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.**

Case No.	Title / Description
----------	---------------------

There are no Ex Parte matters scheduled.	
--	--

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. David W. Moranda
Courtroom 12
1159 G Street, Los Banos

Thursday, March 17, 2022
1:15 p.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

1. You must call (209) 725-4240 to notify the court of your intent to appear.
2. You must give notice to all other parties before 4:00 p.m. of your intent to appear.

Per California Rules of Court, rule 3.1308(a)(1), failure to do both items 1 and 2 will result in no oral argument. **To limit the spread of the COVID-19 virus, the court strongly encourages remote hearings. Parties who contest the tentative ruling or wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.**

Case No.	Title / Description
----------	---------------------

There are no Ex Parte matters scheduled.	
--	--