

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

2260 N Street, Merced  
627 W. 21<sup>st</sup> Street, Merced  
1159 G Street, Los Banos

Friday, September 15, 2023

**NOTE: Merced Superior Court will no longer be consolidating Courtroom 8 and Courtroom 10.**

**Tentative Rulings are provided for the following Courtrooms and assigned Judicial Officers with scheduled civil matters:**

**Courtroom 8 – Hon. Susan Matcham, Assigned**

**Courtroom 9 – Hon. David Hood**

**Courtroom 12 – Hon. Jennifer O. Trimble**

**Courtroom 10 will continue to post separate Probate Notes that are not included in these tentative rulings.**

**IMPORTANT: Court Reporters will NOT be provided; parties must make their own arrangements. Electronic recording is available in certain courtrooms and will only be activated upon request.**

**The specific tentative rulings for specific calendars follow:**

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Civil Law and Motion  
Hon. Susan Matcham, Assigned  
Courtroom 8  
627 W. 21<sup>st</sup> Street, Merced

Friday, September 15, 2023  
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. **Parties who contest the tentative ruling or wish to appear at a hearing must contact the clerk of the court at (209) 725-4111 to provide their contact information for the remote hearing.**

**IMPORTANT: Court Reporters will NOT be provided; parties wanting a hearing transcript must make their own arrangements.**

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Case No.	Title / Description
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19CV-02197	U.S. Bank Trust, N.A. v. Eduardo Agueda, et al.
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Status Conference

**Appearance required. Remote appearances are encouraged. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4111 to provide their contact information for the remote hearing. Appear to update the Court on the status of case.**

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19CV-03829	Maria Zaragoza v. Walmart Inc., et al.
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Order to Show Cause Re Dismissal

**Appearance required. Remote appearances are strongly encouraged. To arrange a remote appearance, contact the clerk of the court at (209) 725-4111 to provide their contact information for the remote hearing. Appear to address status of settlement. Absent an appearance by plaintiff, the matter will be DISMISSED WITHOUT PRUEJUDICE.**

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20CV-01604

Joseph Santos v. Nicholas Toti, et al.

Order to Show Cause Re: Dismissal – Status of Settlement

**Appearance required. Remote appearances are strongly encouraged. To arrange a remote appearance, contact the clerk of the court at (209) 725-4111 to provide their contact information for the remote hearing. Appear to address status of settlement.**

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20CV-03387

The People of the State of California v. \$1,108,400.00 U.S. Currency

Status Conference

**Appearance required. Remote appearances are strongly encouraged. To arrange a remote appearance, contact the clerk of the court at (209) 725-4111 to provide their contact information for the remote hearing. Appear to address status of the case.**

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21CV-02299

Eliseo Ochoa v. Vieira Agricultural Enterprises, LLC

Motion for Final Approval of Class Action Settlement, Class Representative's Enhancement Payment, and Attorney's Fees and Costs

**The unopposed motion for final approval of class action settlement, class representative's enhancement payment, and attorney's fees and costs is GRANTED. The Court will sign the proposed order/judgment lodged with the Court on August 23, 2023.**

Case Management Conference

**DROPPED FROM CALENDAR.**

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21CV-03987

Edwin Chuc, et al. v. Michael Harris, et al.

Motion for Summary Judgment

**On February 14, 2022, this Court Granted two parallel unopposed motions to deem matters admitted filed by Defendant Santa Paula Freewill Baptist Church in this matter, one with respect to Plaintiff Edwin Chuc and one with respect to Plaintiff Angelica Chuc because no response to Requests for Admissions had been served as of the February 14, 2022 hearing date. As a result of that order, the following matters are deemed conclusively admitted by Plaintiff Edwin Chuc and Plaintiff Angelica Chuc: (1) Admit you have no evidence that indicates Michael Wayne Harris was acting within the course and scope of any employment with Defendant Santa Paula Freewill Baptist Church at the time of the accident upon which this lawsuit is based. (2) Admit you have no evidence that indicates Michael Wayne Harris was acting within the course and scope of any service for Santa Paula Freewill Baptist Church at the time of the accident upon which the lawsuit is based. (3) Admit you have no evidence that indicates Michael Wayne Harris was acting within the course and scope of any agency for Santa Paula Freewill Baptist Church at the time of the accident upon which this lawsuit is based. (4) Admit that you**

have no evidence that indicates Michael Wayne Harris was acting within the course and scope of any relationship for Santa Paula Freewill Baptist Church at the time of the accident upon which this lawsuit is based. A Notice of Ruling Re Defendant Santa Paula Freewill Baptist Church's Motion for Order Deeming Admitted Truth of Facts Requested and For Monetary Sanctions against Plaintiff Edwin Chuc and Angelica Chuc was February 14, 2023 along with a proof of service showing service of the Notice of Ruling on Plaintiff Edwin Chuc and Angelica Chuc. Once a matter is admitted or deemed admitted, leave of court is required before the admission can be amended or withdrawn. (*Jahn v. Brickey* (1985) 168 Cal.App.3d 388, 404; *Wilcox v. Birtwhistle* (1999) 21 Cal.4th 973, 979.) Unless withdrawn or modified, any matter admitted or deemed admitted is preclusively established against the party making the admission. (CCP § 2033.410(a); *Murillo v. Superior Court* (2006) 143 Cal.App.4th 730-736. As of the date of this hearing, no motion has been filed seeking to amend or withdraw the matters deemed admitted, so such deemed admitted matters preclusively establish such matters for purposes of this motion for summary judgment.

The Separate Statement of Undisputed Fact and evidence cited therein establishes a prima facie case that Defendant Santa Paula Freewill Baptist Church is entitled to Judgement as a matter of law. This shifts the burden to Plaintiffs to proffer admissible evidence establishing a triable issue of material fact. Plaintiffs concede that Undisputed Facts 1-6, 8-9, and 11 are undisputed but purport to dispute Fact 7 [Harris was not acting in the course and scope of his employment at the time he was driving in Merced County on July 12, 2021] and Fact 10 [The Church does not now and has not at any relevant time controlled a 2016 Buick Regal] with evidence that Harris was returning from house shopping for himself and that he would hold church functions such as bible study at his home and Harris testified that he was on standby 24 hours a day, 7 days per week to attend to needs of the members of his church and that he almost exclusively used his personal vehicle to attend to their needs. Plaintiffs also offer Additional Undisputed Facts 1-5 which affirmatively assert the Facts Disputing Defendant's Fact 7 and Fact 10 and in addition assert that Harris did not have a set schedule and that the hours he worked are based on the needs of the church and if Mr. Harris' personal vehicle were to break down he did not use the church van.

Plaintiff's proffered evidence fails to create a triable issue of material fact as to whether or not, at the moment the accident occurred, Mr. Harris was acting within the course and scope of his employment with Defendant Santa Paula Freewill Baptist Church. Evidence that the pastor used his home for church purposes does not make the search for a new home an act within the course and scope of employment. Evidence that a pastor believes himself to be available 24x7 to attend to the needs of the church does not mean that at the time of the accident he was attending to the needs of the church. Plaintiffs' citations to case law do not establish a legal basis for finding that a pastor's return from a personal home shopping trip in his personal vehicle, however frequently the vehicle is used for church activities, qualifies as acting within the course and scope of his authority as a pastor.

Even if this Court were to find that Plaintiffs' evidence establishes a triable issue of material fact as to whether Mr. Harris was acting within the course and scope of his employment at the time of the accident, absent a court order, Plaintiffs are precluded from controverting the facts they are deemed to have admitted, i.e. that they are deemed to have admitted Request 2 [Admit you have no evidence that indicates Michael Wayne

**Harris was acting within the course and scope of any service for Santa Paula Freewill Baptist Church at the time of the accident upon which the lawsuit is based].**

**Accordingly, the Motion for Summary Judgment by Defendant Santa Paula Freewill Baptist Church is GRANTED.**

Case Management Conference

**Appear to address the status of the case with respect to the remaining defendants and to either set a trial date or set a trial setting date.**

Trial Setting Conference

**Appear to address the status of the case with respect to the remaining defendants and to either set a trial date or set a trial setting date.**

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22CV-00173                      Augusto Solidum v. Ronnie Marshall, Sr.

Review of Case Status

**Appearance required. Remote appearances are encouraged. The parties are ordered to contact the clerk of the court at (209) 725-4111 to provide their contact information for the remote hearing. The Court notes this matter was scheduled to confirm the judgment was paid in full.**

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22CV-02604                      Luis Juarez v. Bimbo Bakeries USA, Inc., et al.

Case Management Conference

**Appearance required. Remote appearances are encouraged. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4111 to provide their contact information for the remote hearing. Appear to update the Court on the status of case.**

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22CV-03710                      Berenice Vargas-Martinez, et al. v. Raul Martinez

Order to Show Cause Re: Dismissal – Status of Settlement

**Appearance required. Remote appearances are strongly encouraged. To arrange a remote appearance, contact the clerk of the court at (209) 725-4111 to provide their contact information for the remote hearing. Appear to address status of settlement.**

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23CV-00199

The People of the State of California v. \$3,300.00 U.S. Currency

Case Management Conference

**Appearance required. Remote appearances are encouraged. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4111 to provide their contact information for the remote hearing. Appear to update the Court on the status of case.**

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23CV-01015

Ewing Irrigation Products, Inc. v. Guillermo Garcia, et al.

Order of Examination Re: Cesar G. Garcia

**Personal appearance required. The Court notes that a proof of service was filed on July 27, 2023, reflecting that the order to appear for examination was personally served on Judgment Debtor Cesar G. Garcia on July 8, 2023.**

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23CV-01840

Petition of Andrea Cooksey

Order to Show Cause Re: Name Change

**Appearance required. Remote appearances are encouraged. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4111 to provide their contact information for the remote hearing. The Court notes that proof of publication has not been filed, and that the matter was continued to allow Petitioner to obtain a copy of order regarding DNA testing results as to biological father.**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Limited Civil Dismissals  
Hon. David Hood  
Courtroom 9  
627 W. 21<sup>st</sup> Street, Merced

Friday, September 15, 2023  
8:30 a.m.

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<b>Case No.</b>	<b>Title / Description</b>
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There are no Limited Civil Dismissal matters scheduled.

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Ex Parte Matters  
Hon. Susan Matcham, Assigned  
Courtroom 8  
627 W. 21<sup>st</sup> Street, Merced

Friday, September 15, 2023  
1:15 p.m.

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<b>Case No.</b>	<b>Title / Description</b>
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There are no Ex Parte matters scheduled.

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Ex Parte Matters  
Hon. David Hood  
Courtroom 9  
627 W. 21<sup>st</sup> Street, Merced

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23CV-02205	[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]
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Ex Parte Application to Set Aside Default Judgment

**Appearance required. Remote appearances are encouraged. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4111 to provide their contact information for the remote hearing.**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Ex Parte Matters  
Hon. Jennifer O. Trimble  
Courtroom 12  
1159 G Street, Los Banos

Friday, September 15, 2023  
1:15 p.m.

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