

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

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

Wednesday, September 13, 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. Brian L. McCabe**

**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

Unlimited Civil Law and Motion  
Hon. Brian L. McCabe  
Courtroom 8  
627 W. 21<sup>st</sup> Street, Merced

Wednesday, September 13, 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 remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.**

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

**Case No. Title / Description**

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22CV-00810 Iraj Safapour, et al. v. Tarlochan Sohal, et al.

Case Management Conference / Trial Setting 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. Please be prepared to set dates for a mandatory settlement conference, and potential trial dates.**

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22CV-03537 Carlos Avila v. Ocwen Loan Servicing, LLC, et al.

Demurrer to Plaintiff Carlos Avila's Complaint

**The Demurrer by Defendant PHH Mortgage to the Complaint's First Cause of Action for Breach of Contract is SUSTAINED WITH LEAVE TO AMEND to plead around the statute of limitations.**

**The Demurrer by Defendant PHH Mortgage to the Complaint's Second Cause of Action for Violation of Civil Code § 2923.6 is SUSTAINED WITH LEAVE TO AMEND to allege specific facts establishing that complete loan modification applications and all**

documents requested were submitted in a timely fashion and that there was any acknowledgement that the application was complete.

The Demurrer by Defendant PHH Mortgage to the Complaint's Third Cause of Action Civil Code § 2923.7 is **SUSTAINED WITH LEAVE TO AMEND** to allege a material violation that is not barred by the three year statute of limitations.

The Demurrer by Defendant PHH Mortgage to the Complaint's Fourt Cause of Action for unfair business practices is **SUSTAINED WITH LEAVE TO AMEND** to allege a specific unlawful, unfair or fraudulent business practice that is not barred by the three year statute of limitations.

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22CV-03839

Stephen Cox v. Los Banos Unified School District, et al.

Demurrer to Plaintiffs Second Amended Complaint

**Continued on the Court's own motion to September 26, 2023 at 8:15 A.M. in Courtroom 8 to be heard concurrently with the pending Petition for leave to present a late Government Claim.**

Motion to Strike Portions of Plaintiffs Second Amended Complaint

**Continued on the Court's own motion to September 26, 2023 at 8:15 A.M. in Courtroom 8 to be heard concurrently with the pending Petition for leave to present a late Government Claim.**

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22CV-01373

Bhupinder Sahota v. Fortis General Construction, Inc., et al.

Motion for Attorney's Fees and Costs

**The Motion for Attorney's Fees of \$12,918.75 and Costs of \$180 is GRANTED. The Court finds that the amount of attorney's fees is reasonable given the quality and quantity of work performed and that the fees and costs were necessarily incurred by the filing and defense of multiple inappropriate lis pendens.**

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23CV-02812

Latisha Todd v. Kimeca Johnson

Order to Show Cause Re: Restraining Order

**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 that no proof of service has been filed showing that respondent was served with the Notice of Hearing, the Request for Restraining Order, or the Temporary Restraining Order issued in this action.**

Order to Show Cause Re: Restraining Order – Cross-Request

**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 proof of service was filed on August 24, 2023, indicating Petitioner was served by mail on August 24, 2023, with a response (though no response is on file with the court), the cross-request, temporary restraining order, and notice of hearing filed by Respondent.**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Mandatory Settlement Conference  
Hon. Brian L. McCabe  
Courtroom 8  
627 W. 21<sup>st</sup> Street, Merced

Wednesday, September 13, 2023  
9:00 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. **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.**

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

<b>Case No.</b>	<b>Title / Description</b>
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There are no Mandatory Settlement Conferences scheduled.

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

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

Wednesday, September 13, 2023  
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. **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.**

<b>Case No.</b>	<b>Title / Description</b>
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21CV-02238	Discover Bank v. Fabio Martins
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Order to Show Cause Re: Dismissal – Notice 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. The Court notes a Notice of Settlement of Entire Case was filed on September 29, 2021, indicating a request for dismissal would be filed no later than August 28, 2023. To date, a request for dismissal of entire action has not been filed. Appear to address status of settlement. Absent an appearance by plaintiff, the matter will be DISMISSED WITHOUT PRUEJUDICE.**

23CV-00049	Merchants Acceptance Corp. v. Sarah Ross
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Court Trial

**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.**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

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

Wednesday, September 13, 2023  
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. **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.**

<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

Wednesday, September 13, 2023  
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. **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.**

<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. Jennifer O. Trimble  
Courtroom 12  
1159 G Street, Los Banos

Wednesday, September 13, 2023  
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. **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.**

<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

Limited Civil Long Cause Court Trials  
Hon. David Hood  
Courtroom 9  
627 W. 21<sup>st</sup> Street, Merced

Wednesday, September 13, 2023  
1:30 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. **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.**

<b>Case No.</b>	<b>Title / Description</b>
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22CV-03136	Francisco Barajas v. Sargiz Yousef
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Order of Examination

**Personal appearance required. The Court notes that a proof of service was filed on June 23, 2023, reflecting that the order to appear for examination was personally served on Judgment Debtor on June 20, 2023.**

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