

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

2260 N Street, Merced
627 W. 21st Street, Merced
1159 G Street, Los Banos

Monday, July 8, 2024

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 – Judge Pro Tem Peter MacLaren

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 wanting a hearing transcript 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 civil calendars follow:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Monday, July 8, 2024
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) 725-4111 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. *Note:* Notifying Court Call (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

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

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

18CV-04187	Ramon Romero Castillo v. Landmark Irrigation, Inc. et al.
------------	-----------------------------------------------------------

Readiness Conference

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance. Appear to confirm readiness for July 23, 2024, Jury Trial and to set a briefing schedule for Motions in Limine and any anticipated dispositive trial motions.

19CV-03540	Moises Cruz Ortiz v. Juan Carreno Venegas, et al.
------------	---------------------------------------------------

Order to Show Cause re Sanctions

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance. Appear to address whether sanctions should issue for Plaintiff's failure to appear at the May 6, 2024, Case Management Conference.

Case Management Conference

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance. Appear to address the status of the case and whether this matter should be set for trial.

21CV-00413 Bartola Santiago v. Green Valley Labor Inc., et al.

Case Management Conference

Continued on the Court's own Motion to Monday, October 7, 2024, at 8:15 A.M. in Courtroom 8 pursuant to the Joint Case Management Statement filed by the parties requesting a 60 to 90 day continuance so that a motion for approval of class action settlement could be filed and heard.

22CV-00117 Miranda Gray, et al. v. Dominick Rufo, et al.

Motion to Be Relieved as Counsel for Plaintiff

The unopposed Motion to Be Relieved as Counsel for Plaintiff Tanya Gray is GRANTED, effective upon service of notice of entry of order on Plaintiff Tanya Gray.

22CV-04123 Joseph Doe 806 v. Doe 1

Case Management Conference

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance. Appear to address the status of the Case.

22CV-04124 Joseph Doe 802 v. Doe 1

Case Management Conference

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance. Appear to address the status of the Case.

22CV-04126 Joseph Doe 804 v. Doe 1

Case Management Conference

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance. Appear to address the status of the Case.

22CV-04178 Joseph Doe 805 v. Doe 1, et al.

Case Management Conference

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance. Appear to address the status of the Case.

23CV-00529 Barbara Parker-Darragh, et al. v. 99 Olives LLC, et al.

Order to Show Cause re: Dismissal-Notice of Settlement

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance. Appear to address the status of the settlement of the Case.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Monday, July 8, 2024
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) 725-4111 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. *Note:* Notifying Court Call (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

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

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

There are no Mandatory Settlement Conferences Scheduled	
---------------------------------------------------------	--

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Civil Case Management Conferences
Hon. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced

Monday, July 8, 2024
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) 725-4111 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. *Note:* Notifying Court Call (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

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

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

Appearance required on all matters. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance.	
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced
Monday, July 8, 2024
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) 725-4111 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. *Note:* Notifying Court Call (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

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

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

There are no Ex Parte Matters Scheduled	
-----------------------------------------	--

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Judge Pro Tem Peter MacLaren
Courtroom 9
627 W. 21st Street, Merced

Monday, July 8, 2024
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) 725-4111 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. *Note:* Notifying Court Call (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

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

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

There are no Ex Parte Matters Scheduled	
-----------------------------------------	--

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Jennifer O. Trimble
Courtroom 12
1159 G Street, Merced
Monday, July 8, 2024
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) 725-4111 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. *Note:* Notifying Court Call (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

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

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

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

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Short Cause Court Trials
Hon. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced

Monday, July 8, 2024
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) 725-4111 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. *Note:* Notifying Court Call (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

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

Case No.	Title / Description
16CV-03050	Jaime Vega Damien and Alicia Reyes Barajas, Successors in Interest to Alejandro Alex Vega, deceased

Motion for Protective Order Prohibiting the Deposition of Sheriff Vern Warnke pursuant to the Apex Doctrine.

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance.

This Motion for Motion for Protective Order Prohibiting the Deposition of Sheriff Vern Warnke pursuant to the Apex Doctrine is being heard on shortening time pursuant to an order of this Court issued on July 3, 2024.

As a general rule, heads of agencies and other top officials are not subjected to depositions absent compelling reasons. (*Westly v. Superior Court* (2004) 125 Cal.App.4th 907, 911.) The doctrine applies to both named defendants as well as third parties. (*Id.* at 910.) Courts have applied the doctrine to many types of positions including constitutional officers, board members, and agency heads. (*Contractors' State License Bd. v. Superior Court* (2018) 23 Cal.App.5th 125, 131.) Only when an agency head or other official has direct personal factual information pertaining to the material issues in the case and the deposing party shows that the information is unavailable through any other

source, can their depositions be taken. (*Westly v. Superior Court* (2004) 125 Cal.App.4th 907, 910.) Absent a showing that an apex deponent has unique or superior personal knowledge. An apex deponent may not be deposed before less intrusive discovery methods have been exhausted. (*Liberty Mutual Ins. Co. V. Superior Court* (1992) 10 Cal.App.4th 1282, 1288.) When a Motion for Protective Order has been filed, the party seeking to depose a high government official, the burden is on the deposing party to show that compelling reasons exist for permitting the deposition. (*Liberty Mutual Ins. Co. v. Superior Court* (1992) 10 Cal.App.4th 1282, 1289.) An exception will be made only when the deposing party makes two showings: (1) The deposing party must show that the government official “has direct personal factual information pertaining to material issues in the action...” (*Westly v. Superior Court* (2004) 125 Cal.App.4th 907, 911); and (2) the deposing party must also show “the information to be gained from the deposition is not available through any other source. (*Ibid.*)

This Court finds, as a matter of law, that Sheriff Vern Warnke has been sued in his official capacity as Sheriff of the County of Merced. (Second Amended Complaint Paragraph 11,12), that he is the “agency head” for the Merced County Sheriff’s Office, and that in accordance with. (*Contractors’ State License Bd. V. Superior Court* (2018) 23 Cal.App.5th 125, 131, the apex doctrine applies to the Notice of his Deposition and this instant Motion for Protective Order properly raises his objection to the taking of his deposition.

Since this matter is being heard on shortened time, the court has not as yet received briefing from the Plaintiff on whether: (1) The deposing party must show that the government official “has direct personal factual information pertaining to material issues in the action...” (*Westly v. Superior Court* (2004) 125 Cal.App.4th 907, 911); and (2) the deposing party must also show “the information to be gained from the deposition is not available through any other source. (*Ibid.*) Absent the briefing showing satisfaction of these two burdens, the motion for protective order will be denied.

23CV-02212 In the Matter of Inspection of APN 045-190-075 and 045-190-076 (23570 Geer Ave., Hilmar CA 95324)

Status Conference

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance.

23CV-04427-APP Lynda Gates v. Closet By Design

Trial De Novo

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to arrange for a remote appearance.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Limited Civil
Judge Pro Tem Peter MacLaren
Courtroom 9
627 W. 21st Street, Merced

Monday, July 8, 2024
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) 725-4111 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. *Note:* Notifying Court Call (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

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

Case No.	Title / Description
15CV-01462	Kelstin Group, Inc. v. Mathew Martinez
Order of Examination	
Appearance required. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to seek permission and arrange for a remote appearance. The court notes that there is no proof of service on file showing service of the OEX on the Judgment Debtor.	
22CV-01367	[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]
Status Review of Settlement	
Appearance required. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to seek permission and arrange for a remote appearance. Appear to address the status of the settlement entered at the June 27, 2022, trial.	

23CV-02879

Shawna Walsh v. Jorge Colmenero, Jr.

Order of Examination

Appearance required. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to seek permission and arrange for a remote appearance. The court notes that there is no proof of service on file showing service of the OEX on the Judgment Debtor.

24CV-01964

[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Court Trial: Unlawful Detainer

Appearance required. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to seek permission and arrange for a remote appearance.

24CV-02320

[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Court Trial: Unlawful Detainer

Appearance required. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to seek permission and arrange for a remote appearance.

24CV-02405

[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Court Trial: Unlawful Detainer

Appearance required. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 to seek permission and arrange for a remote appearance.
