

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED**

2260 N Street, Merced  
627 W. 21<sup>st</sup> Street, Merced  
2840 West Sandy Mush Road, Merced  
1159 G Street, Los Banos

Thursday, November 14, 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. Mark V. Bacciarini**

**Courtroom 9 – Hon. Mason Brawley**

**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. Mark V. Bacciarini  
Courtroom 8  
627 W. 21<sup>st</sup> Street, Merced

Thursday, November 14, 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
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21CV-01365	Arnoldo Padilla v. Ivan Saucedo
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Motion to Continue Trial

**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 the existing trial should be vacated and a new trial date set.**

21CV-04082	DS Orchards LLC, et al. v. Cardella Merced LLC, et al.
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Motion by Plaintiffs/Cross-Defendants DS Orchards LLC and Satya Chillara for Summary Adjudication that (1) Defendant/Cross-Complainant Dilbag Khera committed trespass on property leased by Plaintiff DS Orchards LLC between March 2021 to March 2023; and (2) California Law prescribes the rental value of a property where trespass occurred to be appropriate damages against a trespasser.

The First Amended Complaint filed by Plaintiffs DS Orchards LLC, Satya Chillara, and 1100 Acre Almond Orchard LLC contains eight causes of action including a Second Cause of Action for Trespass which alleges (1) Plaintiff is to oversee monetary, budgetary, and fiscal control of farming operations; (2) In January and March of 2021, Dilbag Khera resigned as a member of Plaintiff; (3) In March 2021, Plaintiff demanded Defendants immediately leave the Farming Operations and vacate the Property; (4) In March 2021, Defendants refused to immediately leave the Farming Operations and vacate the Property; (5) Between March 2021 and March 2023, Defendants refused to allow Plaintiff to enter the Property, which denied Plaintiff its right to inspect the almond trees, the Crops, and the condition of the Farming Operations; (6) Between March 2021 and March 2023 Defendants were in sole possession and control of the Farming Operations; (7) Plaintiff did not give permission for Defendant to exceed its permission in disallowing Plaintiff to enter the Property, which denied Plaintiff its right to inspect the Crops, and the condition of the Farming Operation; (8) Plaintiff did not give permission for Defendant to exceed its permission to do anything other than manage the day to day, hands on, operation of the almond farm of the property; (9) Plaintiff has been harmed because of Defendants' actions; and (10) Defendant's conduct was a substantial factor in causing Plaintiff's harm. (First Amended Complaint filed November 16, 2023 Paragraphs 48-57, Pages 7:9-8:1.)

The instant Motion for Summary Adjudication states in the Notice of Motion and Motion that Plaintiffs/Cross-Defendants DS Orchards LLC and Satya Chillara [seek] Summary Adjudication that (1) Defendant/Cross-Complainant Dilbag Khera committed trespass on property leased by Plaintiff DS Orchards LLC between March 2021 to March 2023; and (2) California Law prescribes the rental value of a property where trespass occurred to be appropriate damages against a trespasser.

The Motion for Summary Adjudication is Supported by a Separate Statement of Undisputed Fact which addresses three issues: (1) Whether Dilbag "Bob" Khera disassociated himself from DS Orchards; (2) How long did Defendants have possession of the property; (3) How Much was paid to the Landlords to rent the Property in 2021, 2022, and 2023.

Issue 1 is supported by a single undisputed fact: Dilbag "Bob" Khera disassociated himself from DS Orchards on March 14, 2021 supported by the Declaration of Satya Chillara and a Request for Judicial Notice and which Defendant purports to dispute with the Declarations by Gilmore and Khera.

Issue 2 is supported by two undisputed facts: (1) That Dilbag "Bob" Khera had sole possession of the Property between March 14, 2021 and March 22, 2023, and (2) Dilbar "Bob" Khera sole possession of the Property between March 14, 2021 and March 22, 2023 was hostile to DS Orchards. Fact 1 is supported by the Declaration of Satya Chillara and a Request for Judicial Notice and Defendant purports to dispute Fact 1 on the grounds that the premises were in the possession of DS Orchard of which Khera owns 50%. There is no evidence that Plaintiff Chillara was ever excluded. The evidence cited by Defendant to dispute the fact is the Declaration by Khera. Fact 2 is also disputed and the evidence cited is the Declaration of Khera.

Issue 3 is supported by three facts, Facts 1, and 2, which Defendant does not dispute, and Fact 3, that Two years of Khera's wrongful occupation of the Property equates to

damages in the sum of \$154,400 which Defendant disputes, citing to the Declaration of Khera.

The elements of Trespass are (1) the Plaintiff's ownership or control of the property, (2) the defendant's intentional, reckless, or negligent entry onto the property, (3) lack of permission for the entry or acts in excess of permission, (4) harm, and (5) defendant's conduct was a substantial factor in causing harm. (*Ralph's Grocery Co. v. Victory Consultant's Inc.* (2017) 17 Cal.App.5<sup>th</sup> 245, 258.)

The pleadings serve as the outer measure of materiality in a summary judgment motion and the motion may not be granted or denied on issues not raised in the pleadings. (*Laabs v. City of Victorville* (2008) 163 Cal.App.4<sup>th</sup> 1242, 1258.) On the one hand, the Second Cause of Action of the First Amended Complaint states: "In March 2021, Plaintiff demanded Defendants leave the Farming Operations and vacate the Property" (§50) and "In March 2021 Defendants refused to immediately leave the Farming Operations and vacate the property" (§51) and, on the other hand, alleges Plaintiff did not give permission for Defendants to exceed its permission to do anything other than manage the day to day, hands on, operation of the almond farm at the property." These allegations appear to allege that while Defendants were asked to vacate the premises, they were given permission to manage the day to day, hands on, operation of the almond farm at the property. The Trespass alleged in the pleadings is that the permission to manage day to day hands on farm operations was exceeded by interference with the right to inspect. The issue, then, for purposes of summary adjudication, is whether whatever the Defendant did to interfere with the right of inspection constitutes a trespass. However, the Memorandum of Points and Authorities appears to argue that the Trespass was not the interference with inspection alleged in the Second Cause of Action, but the failure to discontinue managing farm operations after being ordered to leave the premises making Plaintiff liable for the full rental value of the property. The Separate Statement does not address either of those issues.

Accordingly, the Motion for Summary Adjudication is DENIED because Plaintiff's Separate Statement and the Evidence Supporting it fails to state a prima facie case that Plaintiff is entitled to judgment as a matter of law for a trespass that interfered with the right of inspection as alleged in the Third Amended Complaint.

Case Management Conference

Appear to address the status of the Case and whether this matters is ready to be set for trial.

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22CV-02223

Jane Doe 1, et al. v. Los Banos Unified School District

Trial Setting 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 trial should be set at this time.

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22CV-02964

Luis Navarro v. Richwood Meat Company, Inc.

Motion for Preliminary Approval of class and Representative Action Settlement

**The unopposed Motion for Preliminary Approval of class and Representative Action Settlement is GRANTED. The Court will sign the proposed order lodged with the court on September 19, 2024.**

Case Management Conference

**CONTINUED ON THE COURT'S OWN MOTION TO JUNE 9, 2025 AT 10:00 A.M. IN COURTROOM 8. The matter will be dropped from calendar if a dismissal has been filed by that date pursuant to the above settlement.**

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23CV-02982

Cristobal Moreno v. Lisbon Serrano, et al.

Case Management Conference

**CONTINUED ON THE COURT'S OWN MOTION TO JUNE 9, 2025 AT 10:00 A.M. IN COURTROOM 8.**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Mandatory Settlement Conferences  
Hon. Mark V. Bacciarini  
Courtroom 8  
627 W. 21<sup>st</sup> Street, Merced

Thursday, November 14, 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.**

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Case No.	Title / Description
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20CV-01721	EthosEnergy Field Services LLC v, Merced Power LLC
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Mandatory Settlement 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.**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

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

Thursday, November 14, 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:

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Case No.	Title / Description
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There are no Limited Civil Matterse Scheduled	
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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Restraining Orders  
Hon. Jennifer O. Trimble  
Courtroom 12  
1159 G Street, Los Banos

Thursday, November 14, 2024  
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:

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Case No.	Title / Description
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24CV-04482	Thomas Kaljian v. Raul Jimenez
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Order to Show Cause re: Restraining Order

**Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4124 to arrange for a remote appearance. The court notes that proof of service was filed September 20, 2024 and continued at the request to this date at the request of respondent.**

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24CV-05240          Alexsys Becolla v. Jazmine Sanchez

Order to Show Cause re: Restraining Order

**Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4124 to arrange for a remote appearance.**

Order to Show Cause re: Cross-Request for Restraining Order

**Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4124 to arrange for a remote appearance.**

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24CV-05184          Maria Robles v. Rebecca Valencia Lugo

Order to Show Cause re: Restraining Order

**Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4124 to arrange for a remote appearance. The court notes that proof of service was filed October 31, 2024 showing that Respondent was served with the papers filed in this action.**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Ex Parte Matters  
Hon. Mark V. Bacciarini  
Courtroom 8  
627 W. 21<sup>st</sup> Street, Merced

Thursday, November 14, 2024  
1:15 p.m.

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

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

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

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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

Thursday, November 14, 2024

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