

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

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

Thursday, April 24, 2025

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. Stephanie L. Jamieson

Courtroom 9 – Commissioner David Foster

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. Stephanie L. Jamieson
Courtroom 8
627 W. 21st Street, Merced

Thursday, April 24, 2025
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 |
|------------|---|
| 23CV-01027 | Joseph Randolph v. City of Merced |
| | Order to Show Cause re: Sanctions |
| | 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 why Plaintiff's counsel should not be sanctioned for failing to appear at the trial setting conference on March 20, 2025. |
| | Trial Setting Conference |
| | Appearance required. |
| | Case Management Conference |
| | Appearance required. |

Motion for Relief from Default and Default Judgment

Defendant seeks to be relieved of the default and default judgment entered against him on July 31, 2024, and November 15, 2024, respectively. According to Defendant's own declaration, he willfully ignored the summons and complaint upon being served. He claims to have done so on the mistaken belief that he did not need to respond. However, on the face of the summons, every defendant is informed of the urgency of a response. Any person of ordinary prudence, and certainly a business owner, would read the summons and complaint upon receipt. And any person without legal education or experience would then exercise reasonable diligence and seek legal counsel before drawing conclusions about their duty to respond, particularly when those conclusions directly contradict the provided legal documents. (See, e.g. *Hearn v. Howard* (2009) 177 Cal.App.4th 1193, 1206.)

Defendant's declaration establishes more than his knowledge of the lawsuit pending against him. It also shows that he was familiar enough with the court process to be aware of the dismissal of one of the defendants, Manuel Souza, and to draw legal conclusions from the dismissal, however erroneous. Furthermore, knowledge of the dismissal would impute to Defendant knowledge of the default. Manuel Souza was dismissed from the case on August 6, 2024, one week after default was entered against Defendant. It was another two months before the judgment was requested, and another month after that before default judgment was entered against Defendant, on November 15, 2024. This afforded Defendant ample opportunity while the suit was still pending to assert his rights.

Every civil defendant has a duty under the law "to take timely and adequate steps to retain counsel or to act in his own person to avoid an undesirable judgment. Unless [. . .] he shows that he has exercised such reasonable diligence as a man of ordinary prudence usually bestows upon important business[,] his motion for relief under section 473 will be denied. Courts neither act as guardians for incompetent parties nor for those who are grossly careless of their own affairs." (*Hearn v. Howard, supra*, 177 Cal.App.4th 1193, 1206, citing *Elms v. Elms* (1946) 72 Cal.App.2d 508, 513.)

Defendant's failure to exercise reasonable diligence, despite being aware of the underlying collision, and properly served with notice of the pending lawsuit, is not excusable neglect, inadvertence, or mistake under Code of Civil Procedure section 473. Instead, the record here "shows only 'ignorance of the law coupled with negligence in ascertaining it.'" (*Hopkins & Carley v. Gens* (2011) 200 Cal.App.4th 1401, 1413, quoting *A & S Air Conditioning v. John J. Moore Co.* (1960) 184 Cal.App.2d 617, 620.) The motion for relief from default and default judgment is DENIED.

Demurrer to First Amended Complaint – Transit Joint Powers Authority for Merced County

The unopposed demurrer to the first amended complaint by defendant, Transit Joint Powers Authority for Merced County, for failure to allege compliance with the Government Claims Act and failure to state a cause of action is SUSTAINED WITH LEAVE TO AMEND. While Plaintiff has failed to provide any opposition, request leave to amend, or demonstrate any ability to state a claim, the demurrer concedes that the case involves a

person injured while riding a bus operated by the demurring defendant. Therefore, the Court exercises its discretion to grant leave to amend. Any amended Complaint must be filed no later than May 16, 2025.

Demurrer to First Amended Complaint - County of Merced

The request for judicial notice accompanying defendant's demurrer is GRANTED pursuant to Evidence Code § 453.

The unopposed demurrer to the first amended complaint by defendant, County of Merced, for failure to state a cause of action is SUSTAINED WITHOUT LEAVE TO AMEND. Plaintiff has not opposed the demurrer or requested leave to amend, and has therefore not demonstrated the ability to allege facts sufficient to cure the defects of the complaint or allege a valid cause of action against defendant, County of Merced.

25CV-01722

Eliyanah Barrera v. Michael Mata

Order to Show Cause re: Restraining Order

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.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Mandatory Settlement Conferences
Hon. Stephanie Jamieson
Courtroom 8
627 W. 21st Street, Merced

Thursday, April 24, 2025
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:

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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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| There are no Mandatory Settlement Conferences Matters Scheduled | |
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Limited Civil Calendar
Commissioner David Foster
Courtroom 9
627 W. 21st Street, Merced

Thursday, April 24, 2025
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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| 24CV-03234 | Jefferson Capital Systems LLC vs. Patrik White |
| | Plaintiff's Motion for Judgment on the Pleadings |

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 unopposed motion for judgment on the pleadings by plaintiff Jefferson Capital Systems LLC is **GRANTED** without leave to amend the answer. (Code Civ. Proc., § 438(c)(1)(A), (d).) The Court takes judicial notice of its order filed on January 23, 2025, granting plaintiff's motion that the truth of any matters specified in requests for admission propounded on defendant Patrik White be deemed true. The Court also grants plaintiff's request to take judicial notice of "Exhibit 1," a copy of the requests for admissions served on defendant that were attached as an exhibit to a declaration filed on October 22, 2024. The Court finds that the complaint states facts sufficient to constitute causes of action for the common counts of open book account, account stated, and money lent against defendant Patrik White and that defendant's admissions negate the

denials and defenses asserted in defendant's General Denial filed on July 19, 2024. (See *Evans v. California Trailer Court, Inc.* (1994) 28 Cal.App.4th 540, 549.)

Judgment shall be entered in favor of plaintiff and against defendant.

The Court will sign the proposed order and proposed judgment submitted with the moving papers.

25CV-01419 [Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Demurrer to Unlawful Detainer Complaint

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 on April 11, 2025, plaintiff filed a written statement indicating that defendant had vacated the premises and plaintiff did not intend to continue with the case. Appearance is required for plaintiff to confirm that her intent is to dismiss the action, which would make the demurrer moot. No appearance is required if plaintiff files a request for dismissal (see Judicial Council form CIV-110) prior to the hearing.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Thursday, April 24, 2025
11:00 a.m.

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| 25CV-01341 | Jeanette Ortiz v. Fernando Alvarado |
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Order to Show Cause re: Restraining Order

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.

Order to Show Cause re: Respondent's Cross-Petition for Restraining Order

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.

25CV-01785 Delaina Warden v. Miguel Campa

Order to Show Cause re: Restraining Order

Continued on the Court's own motion to May 1, 2025 at 11:00 Courtroom 12 to be heard concurrently with the cross-petition filed by Respondent.

25CV-01721 Mishele Richards v. Carol Fisher

Order to Show Cause re: Restraining Order

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 papers filed in this action on respondent.

25CV-01730 Lacey Recinos v. Jeanette Ortiz

Order to Show Cause re: Restraining Order

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 proof of service was filed on April 17, 2025, showing service of the papers filed in this action on respondent.

25CV-01736 Mabel Alonso v. Jeanette Ortiz

Order to Show Cause re: Restraining Order

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 proof of service was filed on April 17, 2025, showing service of the papers filed in this action on respondent.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Stephanie Jamieson
Courtroom 8
627 W. 21st Street, Merced

Thursday, April 24, 2025
1:15 p.m.

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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
Commissioner David Foster
Courtroom 9
627 W. 21st Street, Merced

Thursday, April 24, 2025
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:

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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, April 24, 2025

1:15 p.m.

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| There are no Ex Parte matters scheduled. | |
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