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

Thursday, May 23, 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 – 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:

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

Thursday, May 23, 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.

22CV-03712 Miguel Campos v. Osvaldo Ibarra, Junior, 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 monetary sanctions should be ordered because Plaintiff failed to appear at the April 22, 2024 Case Management Conference.

22CV-00475 Manuel Hernandez Perez, et al. v. Tan Preet Singh, et al.

Motion by Plaintiff Desiree Montes, GAL to Compel Further Responses By Defendant Morton Salt, Inc. to Plaintiff's Request for Production of Documents (Set Two) and Production of Responsive Documents

The Motion by Plaintiff Desiree Montes, GAL to Compel Further Responses By Defendant Morton Salt, Inc. to Plaintiff's Request for Production of Documents (Set Two) and Production of Responsive Documents is GRANTED IN PART AND DENIED IN PART.

Request 56 [Procedures for Release of Salt to Motor Carriers]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, and not reasonably particularized are OVERRULED. The objections by Defendant Morton Salt,

Inc. on the grounds of confidential business information and/or confidential information of a third party are OVERRULED providing that an appropriate protective order is in place limiting the dissemination of documents identified as confidential. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 56 without objections along with copies of all responsive documents.

Request 57 [Protocol with Geodis Logistics to confirm identity of motor carriers]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, and not reasonably particularized are OVERRULED. The objections by Defendant Morton Salt, Inc. on the grounds of confidential business information and/or confidential information of a third party are OVERRULED providing that an appropriate protective order is in place limiting the dissemination of documents identified as confidential. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 57 without objections along with copies of all responsive documents.

Request 58 [Instructions by Morton Salt to Geodis Logistics re: loading and securing of trailers]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, and not reasonably particularized are OVERRULED. The objections by Defendant Morton Salt, Inc. on the grounds of confidential business information and/or confidential information of a third party are OVERRULED providing that an appropriate protective order is in place limiting the dissemination of documents identified as confidential. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 58 without objections along with copies of all responsive documents.

Request 59 [Blank Form Transportation Brokerage Agreements]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, and not reasonably particularized are OVERRULED. The objections by Defendant Morton Salt, Inc. on the grounds of confidential business information and/or confidential information of a third party are OVERRULED providing that an appropriate protective order is in place limiting the dissemination of documents identified as confidential. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 59 without objections along with copies of all responsive documents.

Request 61 [Documents Memorializing or Describing relationship between Morton Salt, Inc. and Geodis Logistics]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, and not reasonably particularized are OVERRULED. The objections by Defendant Morton Salt, Inc. on the grounds of confidential business information and/or confidential information of a third party are OVERRULED providing that an appropriate protective order is in place limiting the dissemination of documents identified as confidential. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 61 without objections along with copies of all responsive documents.

Request 62 [Documents Relating to Subject Load being released to Geodis Logistics]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, vague and ambiguous are OVERRULED. Defendant Morton Salt, Inc. is ordered to serve by, by July 1, 2024, a codecomplaint verified supplemental response to Request 62 without objections along with copies of all responsive documents.

Request 63 [Documents Showing how carrier who picked up Subject Load was identified to Defendant Morton Salt, Inc. by Geodis Logistics, LLC]: Defendant Morton Salt, Inc. did not raise any objections to this request and made a code-compliant statement of inability to comply. The Request for a Supplemental Response to Request 63 is DENIED.

Request 64 [Documents Showing investigation, instructions or training provided to Geodis Logistics, LLC concerning work or services to be performed]: Defendant Morton Salt, Inc. did not raise any objections to this request and made a code-compliant statement of inability to comply. The Request for a Supplemental Response to Request 64 is DENIED.

Request 65 [Documents Showing investigation, instructions or training provided to Geodis Logistics, LLC concerning work or services to be performed with regard to storage, release and/or transportation]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, compound, and not reasonably particularized are OVERRULED. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 65 without objections along with copies of all responsive documents.

Request 66 [Alleged Duplication of Request 57- Protocol to confirm identity of motor carriers not specific to Geodis Logistics, LLC] The Court determines that Request 66 is not an exact duplication of Request 57 but is broader as to scope. The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, and not reasonably particularized are OVERRULED. The objections by Defendant Morton Salt, Inc. on the grounds of confidential business information and/or confidential information of a third party are OVERRULED providing that an appropriate protective order is in place limiting the dissemination of documents identified as confidential. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 66 without objections along with copies of all responsive documents.

Request 67 [Alleged Duplication of Request 64- Criteria to confirm identity of motor carriers not specific to Geodis Logistics, LLC] The Court determines that Request 67 is not an exact duplication of Request 64 but is broader as to scope. No other objections were provided to Request 64 or 67. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 67 without objections along with copies of all responsive documents.

Request 68 [Documents Memorializing Policies, Procedures, rules, guidelines, directives manuals, handbooks and instructions provided to Geodis Logistics, McLeod Express Logistics, S&S Freightway, Inc.]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, compound, and not reasonably particularized are OVERRULED. The objections by Defendant Morton Salt, Inc. on the grounds of confidential business information and/or confidential information of a third party are OVERRULED providing that an appropriate protective order is in place limiting the dissemination of documents identified as confidential. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 68 without objections along with copies of all responsive documents.

Request 69 [Documents Memorializing contracts and agreements with Defendants for the release, carrier selection, and transportation of product]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, and not reasonably particularized are OVERRULED. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 69 without objections along with copies of all responsive documents.

Request 70 [Documents in Files concerning services or work performed by McLeod Express Logistics, S&S Freightway, Inc.]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, compound, and not reasonably particularized are OVERRULED. The objections by Defendant Morton Salt, Inc. on the grounds of confidential business information and/or confidential information of a third party are OVERRULED providing that an appropriate protective order is in place limiting the dissemination of documents identified as confidential. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 70 without objections along with copies of all responsive documents.

Request 71 [Work performed by McLeod Express Logistics, S&S Freightway, Inc.]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, compound, and not reasonably particularized are OVERRULED. The objections by Defendant Morton Salt, Inc. on the grounds of confidential business information and/or confidential information of a third party are OVERRULED providing that an appropriate protective order is in place limiting the dissemination of documents identified as confidential. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 71 without objections along with copies of all responsive documents.

Request 73 [Business relationship with McLeod Express Logistics, S&S Freightway, Inc.]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, compound, and not reasonably particularized are OVERRULED. The objections by Defendant Morton Salt, Inc. on the grounds of confidential business information and/or confidential information of a third party are OVERRULED providing that an appropriate protective order is in place limiting the dissemination of documents identified as confidential. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 73 without objections along with copies of all responsive documents.

Request 76 [Communications between Morton Salt, Inc. and McLeod Express Logistics, S&S Freightway, Inc., Badwal Transport, Inc. regarding freight transportation jobs they were party to]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, compound, and not reasonably particularized are OVERRULED. The objections by Defendant Morton Salt, Inc. on the grounds of confidential business information and/or confidential information of a third party are OVERRULED providing that an appropriate protective order is in place limiting the dissemination of documents identified as confidential. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a code-complaint verified supplemental response to Request 76 without objections along with copies of all responsive documents. Request 82 [Agreements between Morton Salt, Inc. and any Defendant]: The objections by Defendant Morton Salt, Inc. on the grounds of not reasonably calculated to lead to the discovery of relevant evidence, overbroad, oppressive and unduly burdensome, compound, and not reasonably particularized are OVERRULED. The objections by Defendant Morton Salt, Inc. on the grounds of confidential business information and/or confidential information of a third party are OVERRULED providing that an appropriate protective order is in place limiting the dissemination of documents identified as confidential. Defendant Morton Salt, Inc. is ordered to serve, by July 1, 2024, a codecomplaint verified supplemental response to Request 82 without objections along with copies of all responsive documents.

23CV-01645 Eula Lumpkin, et al. v. Evan Doss, 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 monetary sanctions should be ordered because Plaintiff failed to appear at the April 22, 2024 Case Management Conference.

23CV-03658 Esther Ramos v. Kevin McGinty

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 monetary sanctions should be ordered because Plaintiff failed to appear at the April 22, 2024 Case Management Conference.

23CV-03678 Terrie Donadio v. State of California Department of Transportation

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 monetary sanctions should be ordered because Plaintiff failed to appear at the April 22, 2024 Case Management Conference.

24CV-00770 Janet Ruscoe v. Dignity Health, et al.

Demurrer by Dignity Health and Commonspirit Health to the First Amended Complaint's First Cause of Action for Violation of Labor Code § 1102.5, Fourth Cause of Action for Violation of Labor Code § 6310, and Seventh Cause of Action for Adverse Action in Violation of Public Policy

The Demurrer to the First Amended Complaint's First Cause of Action for Violation of Labor Code § 1102.5 is SUSTAINED WITH LEAVE TO AMEND to allege a protected activity. The Demurrer to the First Amended Complaint's Fourth Cause of Action for Violation of Labor Code § 6310 is SUSTAINED WITH LEAVE TO AMEND to allege a protected activity. The Demurrer to the First Amended Complaint's Seventh Cause of

Action for Adverse Action in Violation of Public Policy is SUSTAINED WITH LEAVE TO AMEND to allege a protected activity.

24CV-01362 Leonel Padilla v. Alex Stackeland

Order to Show Cause re: Restraining Order

Appearance Required. Individuals who wish to appear remotely may call (209) 725-4111 for permission to make a remote appearance. The Court notes that Respondent has made a personal appearance by filing a cross-petition for restraining order.

Cross Petition-Order to Show Cause re: Restraining Order

Appearance Required. Individuals who wish to appear remotely may call (209) 725-4111 for permission to make a remote appearance.

24CV-01744 Anissa Navarro v. Sun Ann Delmuro

Order to Show Cause re: Restraining Order

Appearance Required. Individuals who wish to appear remotely may call (209) 725-4111 for permission to make a remote appearance. The Court notes that proof of service is on file showing service on Respondent.

24CV-01745 Anissa Navarro v. Sun Delmuro

Order to Show Cause re: Restraining Order

Appearance Required. Individuals who wish to appear remotely may call (209) 725-4111 for permission to make a remote appearance. The Court notes that proof of service is on file showing service on Respondent.

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

> Thursday, May 23, 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.

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

Thursday, May 23, 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.

22CV-01560 OneMain Financial Group LLC v. Guillermo Martinez

Court Trial

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-01634 [Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Demurrer to Unlawful Detainer Complaint

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 the demurrer to the complaint is brought by three of the four named defendants in this action.

Defendants' general demurrer to the complaint on the ground the complaint fails to allege proper notice is OVERRULED. A demurrer challenges only defects appearing on the face of the pleading or from matters outside the pleading that are judicially noticeable. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318; Code Civ. Proc., § 430.30.) In this case, the complaint alleges the service of a three day notice to quit for breach of covenants (Compl., Exs. 2, 3) after the expiration of a three day notice to perform conditions and/or covenants (Compl., Exs. 4, 5). The allegations of the complaint are sufficient to state a cause of action for unlawful detainer pursuant to Code of Civil Procedure section 1161(3).

Defendants' general demurrer to the complaint on the ground the alleged notice to quit is defective under Civil Code section 1946.2, subdivision (c) because no prior notice to perform is alleged is OVERRULED. The second cause of action and Exhibits 4 and 5 allege service of a prior notice to perform. Further, the complaint alleges that the tenancy is not subject to the Tenant Protection Act of 2019 (Civil Code section 1946.2).

Defendants' general demurrer to the complaint on the ground that the complaint fails to allege facts sufficient to constitute a cause of action is OVERRULED. The complaint alleges all the necessary facts to constitute a cause of action for unlawful detainer against the demurring defendants. (See Code Civ. Proc., §§ 1161(3), 1166.)

Defendant's special demurrer to the complaint for uncertainty is OVERRULED. The complaint alleges all the necessary facts to constitute a cause of action for unlawful detainer against defendants and is not so vague and ambiguous that the responding party "cannot reasonably determine what issues must be admitted or denied, or what counts or claims are directed at [them]." (*Khoury v. Mally's of Calif., Inc.* (1993) 14 Cal.App.4th 612, 616.)

The demurring defendants shall file their answer within five days of notice of entry of order. (Cal. Rules of Court, rule 3.1320(g); Code Civ. Proc., § 472b.)

Plaintiff is directed to prepare a written order consistent with the Court's ruling for the Court's signature as required by law and the California Rules of Court. The order is to be submitted by electronic filing to Commissioner David Foster.

24CV-01641 [Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Unlawful Detainer Court Trial

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.

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

Thursday, May 23, 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:

- 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

24CV-00188 Esmeralda Garcia v. Gabriela Arias

Motion to Modify Temporary 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.

Motion to Terminate Temporary 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.

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

Thursday, May 23, 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.

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

Thursday, May 23, 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

24CV-00884 [Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Ex Parte Application to Set Aside Default, Vacate Default Judgment or Stay of Execution

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.

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

Thursday, May 23, 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.