

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

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

Thursday, August 22, 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 – Hon. Mason Brawley

Courtroom 10 – Hon. Donald J. Proietti

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. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced

Thursday, August 22, 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-03516 | Cynthia Reyes v. Adrian Aguilar |
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Order to Show Cause re Sanctions for Failure to Appear at July 17, 2024 Hearing

Appearance optional. 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 failure to appear at July 17, 2024 hearing.

Order to Show Cause re: Dismissal-Notice of Settlement

Appearance optional. 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.

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| 21CV-04009 | Northern California Collection Service, Inc. v. Juan Lopez |
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Order to Show Cause re Sanctions for Failure to Appear at July 17, 2024 Hearing

Appearance optional. 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 failure to appear at July 17, 2024 hearing.

Order to Show Cause re: Dismissal-Notice of Settlement

Appearance optional. 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.

22CV-03431

Kendall and Davis LLC, et al. v. Le-Nguyen Dental Corporation, et al.

Demurrer to Plaintiff's Second Amended Complaint for failure to state a cause of action for fraud with the requisite particularity, and is uncertain and ambiguous, or in the alternative, to Strike Plaintiff's Second Amended Complaint.

The Second Amended Complaint alleges an unspecified number of fraudulent involving the submission of claims for work allegedly performed by other dentists using general terms concerning that class of fraudulent acts. (See Second Amended Complaint Paragraphs 17-24.) In Paragraph 25 of the Second Amended Complaint identifies nine specific claims which the Second Amended Complaint labels as "representative," of false claims submitted to Delta Dental which infers that there are other false claims of this category that are not identified with particularity. Similarly, Paragraphs 26-29 allege an unspecified number of fraudulent claims submitted to other Dental Insurers, while Paragraph 30 identifies seven specific claims as "representative" which infers that there are other claims not identified with particularity. Paragraphs 31-36 contain general allegations concerning bills in which the amount charged is alleged to be fraudulent because co-pays were waived without regard to ability to pay. Paragraph 37 alleges six specific claims of this type as "representative" which infers that there are other claims of this type not identified with particularity. Finally, the Second Amended Complaint makes only general allegations concerning the intent to defraud. The Complaint should state facts as to why each fraudulent claim was made with *fraudulent* intent, as opposed to accident, inadvertence, or clerical error. The Court notes that each alleged fraudulent claim is a separate act of fraud which must be alleged with particularity.

Accordingly, the Demurrer to the Second Amended Complaint for failure to state a claim with sufficient particularity is SUSTAINED WITH LEAVE TO AMEND to identify with particularity each claim alleged to be fraudulent and to allege facts establishing why the act of filing each such claims was a result of fraudulent intent, as opposed to negligence or inadvertence.

23CV-00248

Tony Areolla, et al. v. Julio Perezparra, et al.

Motion by Defendants Julio Cesar Perezparra, Lilia Perez, and Ramiro O. Luna to Compel Plaintiff Toney Areolla to Serve Responses to Requests for Production Set One, and for Monetary Sanctions of \$1,060 pursuant to Code of Civil Procedure § 2023.030.

The unopposed Motion by Defendants Julio Cesar Perezparra, Lilia Perez, and Ramiro O. Luna to Compel Plaintiff Toney Areolla to Serve Responses to Requests for Production Set One, and for Monetary Sanctions of \$1,060 pursuant to Code of Civil Procedure § 2023.030 is GRANTED. Plaintiff Toney Areolla is ordered to serve, by September 26, 2024, verified Code Compliant Responses to Requests for Production Set One, without objections, all responsive documents, and sanctions in the amount of \$1,060.

Motion by Defendants Julio Cesar Perezparra, Lilia Perez, and Ramiro O. Luna to Compel Plaintiff Toney Areolla to Serve Responses to Form Interrogatories, Set One, Special

Interrogatories, Set One, and for Monetary Sanctions of \$1,060 pursuant to Code of Civil Procedure § 2023.030.

The unopposed Motion by Defendants Julio Cesar Perezparra, Lilia Perez, and Ramiro O. Luna to Compel Plaintiff Toney Areolla to Serve Responses to Form Interrogatories, Set One, Special Interrogatories, Set One, and for Monetary Sanctions of \$1,060 pursuant to Code of Civil Procedure § 2023.030 is GRANTED. Plaintiff Toney Areolla is ordered to serve, by September 26, 2024, verified Code Compliant Responses to Form Interrogatories, Set One and Special Interrogatories, Set One without objections, and sanctions in the amount of \$1,060.

23CV-01760 Adriana Munoz, et al. v. State Farm General Insurance Company

Case Management Conference

Continued on the Court's own motion to September 20, 2024 at 8:15 A.M. in Courtroom 8 to be heard concurrently with the pending Motion by Plaintiff's counsel to be relieved as counsel.

23CV-01829 Darrell Monroe, et al. v. Jesusa Fortich

Case Management Conference

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 case.

24CV-00800 Jeremiah Castillo, et al. v. Socorro Luevano

Motion to be relieved as counsel for Plaintiff Jeremiah Castillo

The unopposed Motion to be Relieved as Counsel for Plaintiff Jeremiah Castillo is GRANTED effective upon service of notice of entry of this order on Plaintiff Jeremiah Castillo.

Motion to be relieved as counsel for Plaintiff Antonio Soto

The unopposed Motion to be Relieved as Counsel for Plaintiff Antonio Soto is GRANTED effective upon service of notice of entry of this order on Plaintiff Jeremiah Castillo.

24CV-01712 Petition of Maria Flores

Order to Show Cause re: Name Change

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 any objections to this petition to change the last name of a minor child brought by one parent and served on the other.

24CV-03760

Ka Her v. Anusorn Punpituk

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.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Thursday, August 22, 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:

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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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| 24CV-01728 | Ronald Dalforno v. Ed Koelher |
| Mandatory Settlement Conference | |
| 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

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

Thursday, August 22, 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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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.

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| Case No. | Title / Description |
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| 24CV-03568 | [Parties' names withheld pursuant to CCP § 1161.2(a)(1)] |
| | Demurrer to UD 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. | |

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Thursday, August 22, 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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| 24CV-03004 | Rave Phillips v. Alexandra Kashakji |
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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 no proof of service was filed showing service of the papers filed in this action on Respondent.

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| 24CV-01913 | Jenea Steen v. Vida Lopez |
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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 no proof of service is on file showing service of the papers filed in this action on respondent.

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 both Petitioner and Respondent have appeared in this matter, each filing a Request for Restraining Order against the other, but while there is a proof of service showing that William Souza was served with the papers filed by Matthew Souza, there is no proof of service showing that Matthew Souza was served with papers filed by William Souza.

Order to Show Cause re: Cross Petition 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. The Court notes that both Petitioner and Respondent have appeared in this matter, each filing a Request for Restraining Order against the other, but while there is a proof of service showing that William Souza was served with the papers filed by Matthew Souza, there is no proof of service showing that Matthew Souza was served with papers filed by William Souza.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Thursday, August 22, 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:

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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. 21st Street, Merced

Thursday, August 22, 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.
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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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| 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, August 22, 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.
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IMPORTANT: Court Reporters will NOT be provided; parties wanting a hearing transcript must make their own arrangements.

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| There are no Ex Parte matters scheduled. | |
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