

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

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

Tuesday, November 04, 2025

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 13 – Hon. Ashley Albertoni Sausser

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.

IMPORTANT: Court reporters will NOT be provided; parties must make their own arrangements. Electronic recording is available in certain courtrooms and may only be activated upon request.

The tentative rulings for specific calendars follow:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Civil Law and Motion Tentative Rulings
Hon. Stephanie L. Jamieson
Courtroom 8

627 W. 21st Street, Merced

Tuesday, November 04, 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) 725-4240 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 CourtCall (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

Case No.	Title / Description
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19CV-02017	Jesus Munoz, Junior et al. vs Merced County Office of Education et al.
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Order to Show Cause Re: Dismissal - Notice of Settlement

Appearance required.

23CV-04678	Dessa Wylie vs Noel Espinoza, et al.
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Motion for Leave of Court to Conduct Second Physical Examination of Plaintiff, Pursuant to Code of Civil Procedure § 2032.310

Defendant's motion for leave of court to conduct a second physical examination of Plaintiff is GRANTED.

Defendant has demonstrated good cause for the second physical examination. Plaintiff's knee surgery had not yet occurred at the time of the first physical examination, and the outcome is subject to examination. (*Shapira v. Superior Court* (1990) 224 Cal.App.3d 1249, 1256 [good cause is a factual question which the trial court should resolve in the first instance]; Code Civ. Proc. § 2032.320, subd. (a).)

As Defendant's proposed order lodged with the court on October 9, 2025, is deficient, Defendant is ordered to submit a proposed written order to the court consistent with this ruling and in compliance with Code of Civil Procedure § 2032.320, subd. (d) and California Rules of Court, rule 3.1312 subds. (a) & (b).

24CV-06356 Gerardo Arroyo vs Manuel Villalobos, et al.

Motion for Complete Consolidation of Cases 24CV-06356 & 25CV-01392

The motion to consolidate 24CV-06356 and 25CV-01392 is GRANTED. The case will proceed under lead case number 24CV-06356 as to all causes of action. The Court will sign the order lodged with the court on September 17, 2025.

25CV-01392 Selena Burguette vs Manuel Villalobos, et al.

Motion for Complete Consolidation of Cases 24CV-06356 & 25CV-01392

The motion to consolidate 24CV-06356 and 25CV-01392 is GRANTED. The case will proceed under lead case number 24CV-06356 as to all causes of action. The Court will sign the order lodged with the court on September 17, 2025.

24CV-06520 Gabriel Mascorro vs General Motors, LLC.

Demurrer

DROPPED FROM CALENDAR. Plaintiff filed a first amended complaint on October 22, 2025, rendering Defendant's demurrer moot.

Motion to Strike Punitive Damages from Plaintiff's Complaint

DROPPED FROM CALENDAR. Plaintiff filed a first amended complaint on October 22, 2025, rendering Defendant's motion moot.

25CV-03105 Alexis Chavez vs Madison Bandy

Order to Show Cause: Dismissal

Appearance required. If there are no appearances, the petition will be dismissed.

25CV-04611 Sheryle Kamins vs Jereth Woodcock

Order to Show Cause: Dismissal

Appearance required. If there are no appearances, the petition will be dismissed.

25CV-05047 Petition of: Amalia Marquez, et al.

Order to Show Cause Re: Name Change

Appearance required. Proof of publication having been filed, appear to address status of service of the petition on the non-petitioning parent.

25CV-05582 Russell Wetmore vs Andrew Ryan

Order to Show Cause Re: Restraining Order

Appearance required. There is no proof of service on Respondent on file.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Civil Law and Motion Tentative Rulings
Hon. Mark Bacciarini
Courtroom 10

627 W. 21st Street, Merced

Tuesday, November 04, 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:

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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 CourtCall (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

Case No.	Title / Description
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25CV-00574	David Chavez vs Dole Packaged Foods, et al.
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Demurrer by Defendant Dole Packaged Foods to Plaintiff David Chavez's Second Amended Complaint

Defendant Dole's demurrers to the first through thirteenth Causes of Action are SUSTAINED WITHOUT LEAVE TO AMEND, on the basis of failure to state facts sufficient to constitute a cause of action.

The Request for Judicial Notice is GRANTED pursuant to California Evidence Code § 452 subds. (c), (d); Evidence Code § 452.5 subds. (b)(1), (c); and Evidence Code § 1280 subd. (b)(1).

The court finds Plaintiff's first cause of action for disability discrimination (Gov. Code § 12940 subd. (a)) fails to state sufficient facts to constitute a cause of action against Dole because Plaintiff fails to allege sufficient facts to support a finding that he was terminated because of his alleged disability.

Plaintiff's second cause of action for discrimination under the Family and Medical Leave Act ("FMLA")/California Family Rights Act ("CFRA") (Gov. Code § 12945.1) fails to state sufficient facts to constitute a cause of action against Dole as this cause of action,

as alleged, is duplicative of the seventh cause of action. (*Richey v. AutoNation, Inc* (2015) 60 Cal.4th 909, 920; *Palm Springs Villa II Homeowners Ass'n v. Parth* (2016) 248 Cal.App.4th 268, 290.)

Plaintiff's third cause of action for discrimination on the basis of criminal history (Gov. Code. § 12952) fails to state sufficient facts to constitute a cause of action against Dole as (1) Government Code section 12952 applies only to applicants, not current employees, and (2) Plaintiff does not allege he was an applicant at the time he purportedly suffered an adverse employment action. (Cal. Gov't Code § 12952.)

Plaintiff's fourth cause of action for discrimination on the basis of criminal history (Lab. Code § 432.7 subd. (a)) fails to state sufficient facts to constitute a cause of action against Dole because Plaintiff's arrest resulted in a conviction, as shown by his judicially noticed plea agreement. (*Evans v. City of Berkeley* (2006) 38 Cal.4th 1, 20; *Pitman v. City of Oakland* (1988) 197 Cal.App.3d 1037, 1044 (sustaining demurrer to section 432.7 claim because "[a]t the time he filed his complaint plaintiff was unable to frame his allegation in the language of the statute, since his arrest had resulted in the conviction which was judicially noticed by the court").)

Plaintiff's fifth cause of action for workplace harassment (Gov. Code § 12940 subd. (j)) fails to state sufficient facts to constitute a cause of action against Dole because Plaintiff fails to identify any verbal statements made by Dole employees (1) that would constitute harassment, (2) that would be sufficiently severe to create a hostile work environment, or (3) that were made to him based on a protected characteristic.

Plaintiff's sixth cause of action for retaliation (Gov. Code § 12940 subd. (h)) fails to state sufficient facts to constitute a cause of action against Dole because Plaintiff (1) fails to identify any actions he took that would constitute protected activity as a matter of law or (2) allege any facts if taken as true that establish any causal connection between said actions and his termination.

Plaintiff's seventh cause of action for retaliation (Gov. Code § 12945.2 subd. (k)) fails to state sufficient facts to constitute a cause of action against Dole because Plaintiff fails to show that he was terminated because of taking CFRA leave.

Plaintiff's eighth cause of action for failure to prevent harassment, discrimination, and retaliation (Gov. Code § 12940(k)) fails to state sufficient facts to constitute a cause of action against Dole because he has not made an adequate prima facie showing on his underlying FEHA causes of action. (*Featherstone v. S. Cal. Permanente Med. Grp.* (2017) 10 Cal.App.5th 1150, 1166.)

Plaintiff's ninth cause of action for retaliation (Lab. Code §§ 98.6, 1102.5, 6310) fails to state sufficient facts to constitute a cause of action against Dole because Plaintiff fails (1) to show that he filed a complaint or claim asserting his rights under the Labor Code while he was an employee (see Lab. Code 98.6 subd. (a).), (2) fails to identify under section 1102.5 "what specific activity he . . . refused to participate in and what specific statute, rule, or regulation would be violated by that activity," (*Nejadian v. County of Los Angeles* (2019) 40 Cal.App.5th 703, 719), and (3) fails to show how section 6310, which relates to statutes and regulations governing occupational safety is applicable. (Lab. Code § 6310.)

Plaintiff's tenth cause of action for failure to provide reasonable accommodation (Gov. Code § 12940 subd. (m)) fails to state sufficient facts to constitute a cause of action against Dole because Plaintiff has not pled sufficient facts showing that (1) Dole did not accommodate him or (2) that he was entitled to accommodation. (*Hodges v. Cedars-Sinai Med. Ctr.* (2023) 91 Cal.App.5th 894, 913.)

Plaintiff's eleventh cause of action for failure to engage in good faith interactive process (Gov. Code § 12940 subd. (n)) fails to state sufficient facts to constitute a cause of action against Dole because (1) he has not pled sufficient facts showing that Dole failed to engage in an interactive process, or that (2) he provided the necessary paperwork to trigger the interactive process.

Plaintiff's twelfth cause of action for unfair and unlawful business practices (Bus. & Prof. Code §§ 17200 et seq.) fails to state sufficient facts to constitute a cause of action against Dole because (1) this cause of action is entirely derivative (*Aleksick v. 7-Eleven, Inc.* (2012) 205 Cal.App.4th 1176, 1185), and (2) Plaintiff has not alleged or proven that he lacks an adequate remedy of law. (*Prudential Home Mortg. Co. v. Super. Ct.* (1998) 66 Cal.App.4th 1236, 1249–50.)

Plaintiff's thirteenth cause of action for wrongful termination in violation of public policy fails to state sufficient facts to constitute a cause of action against Dole because his causes of action alleging statutory violations of public policy also fail. (*Green v. Ralee Eng'g Co.* (1998) 19 Cal.4th 66, 90.)

Motion to Strike Portions of Plaintiff's Second Amended Complaint by Defendant Dole
Packaged Foods

The Motion to Strike is DENIED AS MOOT, given the above order SUSTAINING WITHOUT LEAVE TO AMEND the demurer to the first through thirteenth causes of action.

Demurrer by Defendant Raposo to the Fifth Cause of Action for Work Environment Harassment

Defendant Raposo's demurrer to the fifth cause of action for work environment harassment is SUSTAINED WITHOUT LEAVE TO AMEND, on the basis of failure to state facts sufficient to constitute a cause of action.

To establish a prima facie case of hostile workplace harassment under FEHA, Plaintiff must show that: (1) he is a member of a protected class; (2) he was harassed; (3) the harassment was sufficiently severe or pervasive to alter the conditions of his employment and create an abusive working environment; and (4) the harassment was based on his protected class. (*Jones v. Dept. of Corr. & Rehab.* (2007) 152 Cal.App.4th 1367, 1377.) Plaintiff has failed to allege facts to support he was harassed; the harassment was sufficiently severe or pervasive to alter the conditions of his employment and create an abusive working environment; and the harassment was based on his protected class.

Further, a claim for workplace harassment cannot be based on personnel management decisions. Requests for medical certification and termination for dishonesty are personnel management decisions. (*Reno v. Baird* (1998) 18 Cal.4th 640, 646-647.)

Motion to Strike Portions of Plaintiff's Second Amended Complaint by Defendant by Vasco Raposo

The Motion to Strike is DENIED AS MOOT, given the above order SUSTAINING WITHOUT LEAVE TO AMEND the demurer to the fifth and only causes of action against Defendant Raposo.

Demurrer by Defendant Eduardo Gomez to the Fifth Cause of Action for Work Environment Harassment

Defendant Gomez's demurrer to the fifth cause of action for work environment harassment is SUSTAINED WITHOUT LEAVE TO AMEND, on the basis that the court deems the claim abandoned.

Defendant Gomez's demurrer to Plaintiff's second amended complaint is unopposed. The court deems the non-opposition as an abandonment of claims. (*Herzberg v. Cnty. Of Plumas* (2005) 133 Cal.App.4th 1, 20.)

Motion to Strike Portions of Plaintiff's Second Amended Complaint by Defendant Eduardo Gomez

The motion to strike is DENIED AS MOOT, given the above order SUSTAINING WITHOUT LEAVE TO AMEND the demurer to the fifth and only causes of action against Defendant Gomez.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Law and Motion
Hon. Jennifer O Trimble
Courtroom 12

1159 G Street, Los Banos

Tuesday, November 04, 2025
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) 725-4240 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 CourtCall (the court's telephonic appearance provider) of your intent to appear does not satisfy the requirement of notifying the court.

Case No.	Title / Description
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22CV-03034	Water Audit California vs The Merced Irrigation District
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Motion Attorney Fees

Plaintiff's motion for attorney's fees is DENIED.

Plaintiff has failed to make an initial showing they are entitled to attorneys' fees under CCP section 1021.5.

Code of Civil Procedure section 1021.5 states that "a court may award attorneys' fees to a successful party against one or more opposing parties in any action which has resulted in the enforcement of an important right affecting the public interest . . ." (Code of Civil Procedure section 1021.5.)

While Plaintiff may have been "successful" in that the Court of Appeal remanded the case for further action on Plaintiff's action for a writ of mandate, they were not "successful" in that it resulted in the enforcement of an important right affecting the public interest.

Even if the court was to accept the remanding of the case as being successful for purposes of the statute, "interim fees are available under Code of Civil Procedure section

1021.5 only when a benefit is ‘secure.’ ” (*Chen v. Valstock Ventures, LLC* (2022) 81 Cal.App.5th 957, 979, as modified (Aug. 24, 2022).)

This is clearly not the case here as litigation is still ongoing and any benefit is not “secure.”

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Restraining Orders
Hon. Ashely Albertoni Sausser
Courtroom 13

1159 G Street, Los Banos

Tuesday, November 04, 2025
11:00 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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Case No.	Title / Description
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25CV-04213	Lorenzo Limon Astello vs. Ricardo Figueroa Salcido, Junior
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Order to Show Cause Re: Restraining Order

Appearance required.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Limited Law and Motion
Hon. Ashely Albertoni Sausser
Courtroom 13

1159 G Street, Los Banos

Tuesday, November 04, 2025
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:

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Case No.	Title / Description
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24CV-00453	Sherri Ann Watkins vs American Honda Motor Co., Inc.
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Order to Show Cause Re: Dismissal - Notice of Settlement

Appearance required.

25CV-00397	Randall Orozco vs. Teixeira and Sons, LLC, et al.
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Motion on Defendant/Cross-Defendant John Santos Motion to Compel

Defendant's motion to compel is moot. Plaintiff served amended responses to Special Interrogatories, Set One on October 22, 2025, as confirmed in the Declaration of Matthew Russell filed the same day. Defendant acknowledges that his motion to compel is now moot in his reply brief filed October 23, 2025.

The request for monetary sanctions is GRANTED.

Defendant's request for sanctions is granted, however the court finds it reasonable to reduce the hourly rate from \$400 to \$300 as Counsel's declaration does not include information to support the requested hourly rate above those charged by local counsel.

Plaintiff is ordered to pay sanctions in the amount of \$1,110 within 30 days of the date of service of this order.

25CV-03799 Petition of: Arturo Patino Figueroa

Order to Show Cause Re: Name Change

Appearance required.

25CV-04301 Capital One, N.A. vs Dashawn Chambers

Motion to Compel Arbitration and Stay Proceedings

Defendant's unopposed motion to compel arbitration and stay proceedings is GRANTED.

Proof of service of the motion was filed with the court on October 3, 2025.

A trial court is required to grant a motion to compel arbitration "if it determines that an agreement to arbitrate the controversy exists." (Code Civ. Proc., § 1281.2.)

The party moving to compel arbitration bears the burden of proving by a preponderance of the evidence the existence of an arbitration agreement. (*Fleming v. Oliphant Financial, LLC* (2023) 88 Cal.App.5th 13, 18; *Lane v. Francis Capital Management LLC* (2014) 224 Cal.App.4th 676, 683.)

After the moving party establishes the existence of an arbitration agreement between the parties, then the burden shifts to the opposing party to show that the agreement is otherwise unenforceable. (*Condee v. Longwood Management Corp.* (2001) 88 Cal.App.4th 215, 219.)

The arbitration agreement appears to be valid. Therefore, the burden shifts to Plaintiff to show the agreement is otherwise unenforceable.

By not filing any opposition, Plaintiff has failed to meet their burden on this motion.

25CV-04489 Angel Olivares Escobar, et al. vs Roger Brewer, Junior

Petition for Minors Compromise

The petition to approve compromise of minor Alan Escobar's claim is DENIED WITHOUT PREJUDICE.

Number 11, on page 3, of the petition is not accurate. The petition at 11(b)(2) states that the total amount paid to all other persons other than claimant is \$60,000, however 11(b)(5) only accounts for \$50,000.

Number 17 (a)(2), on page 7, of the petition indicates that petition and attorney do not have an agreement for services, however this is contradicted by counsel's declaration in Attachment 13(a) and the services agreement attached as Attachment 17a.

In addition, the order approving compromise lists defendant or defendants as Roger S. Brewer et al. This indicates that there is more than one defendant. Number 4 of the order approving must list each defendant or settling party individually.

Petitioner must file an amended petition and proposed order fixing the above issues.

The petition to approve compromise of minor Angel Escobar's claim is APPROVED, pending the filing of an amended order approving.

The order approving lodged with the court contains the same error as that for Alan Escobar, in that the order approving compromise lists defendant or defendants as Roger S. Brewer Jr., et al. This indicates that there is more than one defendant. Number 4 of the order approving must list each defendant or settling party individually.

The petition to approve compromise of minor Aiden Escobar's claim is DENIED WITHOUT PREJUDICE.

Number 11, on page 3, of the petition is not accurate. The petition at 11(b)(2) states that the total amount paid to all other persons other than claimant is \$60,000, however 11(b)(5) only accounts for \$55,000.

Number 12(b)(5)(b)(i)(F) indicates that \$5.00 is to be paid from the proceeds for medical expenses. This contradicts Number 12(a)(4) which indicates the total medical expense to be paid from the proceeds is \$0.00.

This calls into question the accuracy of the amounts listed in Numbers 15, 16, and 18.

Moreover, the balance listed in Number 15 does not match the balance listed in 16(f).

Number 17 (a)(2), on page 7, of the petition indicates that petition and attorney do not have an agreement for services, however this is contradicted by counsel's declaration in Attachment 13(a) and the services agreement attached as Attachment 17a.

In addition, the order approving compromise lists defendant or defendants as Roger S. Brewer et al. This indicates that there is more than one defendant. Number 4 of the order approving must list each defendant or settling party individually.

Petitioner must file an amended petition and proposed order fixing the above issues.
