

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

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

Tuesday, May 6, 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 calendars:

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

Unlimited Civil Law and Motion
Hon. Stephanie L. Jamieson
Courtroom 8
627 W. 21st Street, Merced

Tuesday, May 6, 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 ext. 2 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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| 23CV-00475 | Manuel Hernandez Perez, et al. v. Tan Preet Singh, et al. |
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Petition for Approval of Minor's Compromise- Nayeli Roma Ieli's

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 reasonableness of a 33% contingent fee. Payment of balance of proceeds to corporate fiduciary acting as trustee of a special needs trust appears appropriate.

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| 23CV-02618 | Susan Gaona, et al. v. Aboytes Transport LLC, et al. |
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Order to Show Cause re: Dismissal-Notice of Settlement

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 settlement.

Demurrer by Defendant McLane/Suneast, Inc. (with Joinder by Defendant Jose Alvarado) to the Complaint of Plaintiff Edwin Troncoso and to the Second Cause of Action for Sex/Gender Discrimination, the Third Cause of Action for Disability Discrimination, the Fourth Cause of Action for Failure to Accommodate, the Fifth Cause of Action for Failure to Engage in Interactive Process, the Sixth Cause of Action for Retaliation, the Eighth Cause of Action for CFRA Interference/Retaliation, the Ninth Cause of Action for Violation of Labor Code § 1102.5, the Tenth Cause of Action for Wrongful Constructive Termination in Violation of Public Policy, and the Eleventh Cause of Action for Intentional Infliction of Emotional Distress contained therein.

The Demurrer to the Second Cause of Action for Sex/Gender Discrimination is SUSTAINED WITH LEAVE TO AMEND. “In the case of an institutional or corporate employer, the institution or corporation itself must have taken some official action with respect to the employee such as hiring, firing, failing to promote, adverse job assignments, significant change in compensation or benefits, or official disciplinary action.” (*Roby v. McKesson Corp.* (2009) 47 Cal.4th 686, 706.) While the complaint alleges various acts of harassment, there is no allegation of the “explicit changes in the `terms and conditions, or privilege of employment’” (which may or may not include some of the acts of alleged harassment) that the discrimination claim is based upon. To the extent that alleged adverse job assignments are asserted to be official acts, the specific official act asserted as the basis of the claim must be alleged. While the complaint alleges that various acts of harassment were motivated by Plaintiff’s sex, specifically a supervisor’s alleged interest in dating Plaintiff, fact establishing a causal connection must be alleged to establish a causal connection between official acts by the corporate employer and Plaintiff’s sex or gender.

The Demurrer (and joinder thereto) to the Third Cause of Action for Disability Discrimination is SUSTAINED WITH LEAVE TO AMEND. The Plaintiff must allege that he suffered a specific disability or a condition qualifying as a disability, was otherwise qualified to perform the job, and was subjected to an adverse employment action because of such disability. (*Furtado v. State Pers. Bd.* (2013) 212 Cal.App.4th 729, 744.) The Plaintiff must establish that he is a qualified individual, i.e. an employee who can perform the essential functions of the job with or without reasonable accommodation. (*Id.* [citing *Green v. State of California* (2007) 42 Cal.4th 254, 260-261].) Note that FEHA does not prohibit an employer from discharging an employee with a physical or mental disability where the employee, because of his or her physical or mental disability is unable to perform his or her essential duties even with reasonable accommodation or cannot perform those duties in a manner that would not endanger his or her health or safety or the health or safety of others even with reasonable accommodation. (*Id.* at 742 [citing Government Code § 12926(f)(2)(A)&(B)].)

Plaintiff must also allege a specific adverse employment action or actions, and must allege facts establishing that his disability was a substantial motivating factor behind such adverse employment action. (*Harris v. City of Santa Monica* (2013) 56 Cal.4th 203, 231 [“Section 12940(a) does not prohibit discrimination `in the air.’ It prohibits discrimination that cause an employer to `refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms,

conditions, or privileges of employment.” (*Id.* at 231 [citing Government Code (§ 12940(a)).])

The Demurrer to the Fourth Cause of Action for Failure to Accommodate, the Fifth Cause of Action for Failure to Engage in Interactive Process is **SUSTAINED WITH LEAVE TO AMEND**. Under section Government Code § 12940, it is an unlawful employment practice “to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee” unless the employer demonstrates doing so would impose an undue hardship. (*Wilson v. City of Orange* (2009) 169 Cal.App.4th 1185, 1192 [citing Government Code § 12940, subd. (m)].) To state a viable claim for failure to accommodate or to engage in the interactive process Plaintiff must allege (1) he has a covered disability, (2) he can perform the essential functions of his position, and (3) the employer failure to reasonably accommodate his disability. (*Wilson v. City of Orange* (2009) 169 Cal.App.4th 1185, 1192.) The Plaintiff must allege the specific accommodation he needed or requested. (See *King v. United Parcel Service, Inc.* (2007) 152 Cal.App.4th 426, 443 [“[T]he interactive process of fashioning an appropriate accommodation lies primarily with the employee.” (citation) An employee cannot demand clairvoyance of his employer. [citing *Spitzer v. The Good Guys, Inc.* (2000) 80 Cal.App.4th 1376, 1384; *Conneen v. MBNA America Bank, N.A.* (3d Cir.2003) 334 F.3d 318, 331].])

The Demurrer to the Sixth Cause of Action for Retaliation and Ninth Cause of Action for Violation of Labor Code § 1102.5 is **SUSTAINED WITH LEAVE TO AMEND**. To establish a prima facie case of retaliation under the FEHA, “a plaintiff must show (1) he or she engaged in a protected activity, (2) the employer subjected the employee to an adverse employment action, and (3) a causal link existed between the protected activity and the employer’s action.” (*Yanowitz v. L’Oreal USA, Inc.*, (2005) 36 Cal.4th 1028, 1042.) At noted above, the complaint contains allegations of gender motivated harassment, but does not allege a specific adverse employment action by the corporate employer.

The Demurrer to the Eighth Cause of Action for CFRA Interference/Retaliation is **SUSTAINED WITH LEAVE TO AMEND**. While employees generally have a right under CFRA to be reinstated to their pre-leave position upon their return to work, the right to reinstatement expires at the end of the 12-week statutory leave. If the employee is unable to return to work at that time, the employer may deny reinstatement and the CFRA does not require any further leave or accommodation. (See *Neisendorf v. Levi Strauss & Co.* (2006) 143 Cal.App.4th 509, 517-518 [“While an employer’s duties under the FEHA include extending reasonable accommodations to an employee if reasonable accommodations will enable the employee to perform his or her essential duties (Gov.Code, § 12940, subds.(a)(1), (2)), there is no similar provision in the CFRA requiring an employer to provide reasonable accommodation to an employee returning from CFRA leave.”]; *Rogers v. Cnty. of Los Angeles*, (2011) 198 Cal.App.4th 480, 490 [no claim where failure to return to work when 12-week leave expired].])

The Demurrer to the Tenth Cause of Action for Wrongful Constructive Termination in Violation of Public Policy is **SUSTAINED WITH LEAVE TO AMEND** because the underlying causes of action fail to state claims as discussed above.

The Demurrer to the Eleventh Cause of Action for Intentional Infliction of Emotional Distress is **SUSTAINED WITH LEAVE TO AMEND**. Intentional Infliction of Emotional Distress claims in the workplace are generally subject to the exclusive remedy

provisions of the Workers' Compensation Act ("WCA"), Lab. Code § 3600, et seq. (Shoemaker v. Myers (1990) 52 Cal.3d 1, 25.)

Motion to Strike Prayer For Declaratory Relief, Prayer for Injunctive Relief, and Prayer for and Requests for Punitive Damages (§§ 28, 36, 43, 50, 57, 64, 74, 89, 100)

The Motion to Strike Prayer For Declaratory Relief, Prayer for Injunctive Relief, and Prayer for and Requests for Punitive Damages (§§ 28, 36, 43, 50, 57, 64, 74, 89, 100) is GRANTED WITH LEAVE TO AMEND. Plaintiff has failed to adequately plead a claim for Declaratory Relief, a Claim for Injunctive Relief or a Claim for Punitive Damages and therefore the portions of the prayer seeking such relief are stricken with leave to amend to provide a basis for such relief.

An employer cannot be held liable for punitive damages "unless the employer had advance knowledge of the unfitness of the employee and employed him or her with a conscious disregard of the rights or safety of others or authorized or ratified the wrongful conduct for which the damages are awarded or was personally guilty of oppression, fraud, or malice." (Civ. Code § 3294(b).) In addition, to hold a corporate employer liable for punitive damages, "the advance knowledge and conscious disregard, authorization, ratification, or act of oppression, fraud, or malice must be on the part of an officer, director, or managing agent of the corporation." (Id.) Accordingly the Motion to Strike Prayer For Declaratory Relief, Prayer for Injunctive Relief, and Prayer for and Requests for Punitive Damages (§§ 28, 36, 43, 50, 57, 64, 74, 89, 100) is GRANTED WITH LEAVE TO AMEND.

Case Management Conference

CONTINUED ON THE COURT'S OWN MOTION TO Monday, December 1, 2025 at 10:00 A.M. in Courtroom 8.

24CV-01945 Luis Valles Soto v. Marco Estrada

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. There is no proof of service on file showing service of this request to renew a restraining order on Respondent.

25CV-01476 Petition of: Angela Gonzales

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 the status of publication of this petition by one parent to change the name of a minor child and to address the status of service on the other parent.

25CV-01525

Petition of: Alicia Porras

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 the status of publication of this petition by an adult to change the spelling of her own name.

25CV-01534

Petition of: Ethan Smith

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. Proof of Publication having been filed, this petition by an adult to change the spelling of his own name is GRANTED.

25CV-01855

Joe Simpson v. Lashdawn Davis

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. Proof of Service was filed April 14, 2025 showing service of the papers filed in this action on Respondent.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Jury and Long Cause Court Trials
Hon. Stephanie Jamieson
Courtroom 8
627 W. 21st Street, Merced

Tuesday, May 6, 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:

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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| 20CV-03210 | Kulwinder Kaur v. Maninder Gill, et al. |
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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.

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| 24CV-01630 | Walter and Barbara Knoll, et al., v. Gary Papale, et al. |
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Default Prove Up

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

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

Tuesday, May 6, 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:

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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There are no Ex Parte matters scheduled.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Tuesday, May 6, 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:

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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There are no Ex Parte matters scheduled.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Tuesday, May 6, 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:

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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| There are no Ex Parte matters scheduled. | |
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Civil Law and Motion
Hon. Jennifer O. Trimble
Courtroom 12
1159 G Street, Los Banos

Tuesday, May 6, 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) 725-4111 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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| 25CV-00577 | Petition of: Vanessa Perez |
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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 the status of Posting of Notice to the father of this Petition by one parent to change the last name of a minor child.

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| 25CV-01123 | Petition of: Maria Garifas |
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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 the status of Service on the father of this Petition by one parent to change the last name of a minor child.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Civil Unlawful Detainers
Hon. Jennifer O. Trimble
Courtroom 12
1159 G Street, Los Banos

Tuesday, May 6, 2025
2:00 p.m.

The following tentative rulings shall become the ruling of the court unless a party gives notice of intention to appear as follows:

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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| 25CV-00805 | [Parties' names withheld pursuant to CCP § 1161.2(a)(1)] |
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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.