

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED**

2260 N Street, Merced  
627 W. 21<sup>st</sup> Street, Merced  
1159 G Street, Los Banos

Tuesday, July 16, 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 calendars:**

**Courtroom 8 – Judge Pro Tem Monika Saini Donabed**

**Courtroom 9 – Hon. Mason Brawley**

**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  
Judge Pro Tem Monika Saini Donabed  
Courtroom 8  
627 W. 21st Street, Merced

Tuesday, July 16, 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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20CV-02055	Harold Johnson, Senior v. Juan Ramirez, et al.
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Demurrer by County of Merced to First Amended Complaint on the grounds that the first amended complaint fails to state a cause of action because each cause of action is barred by the statute of limitations provided in Government Code § 945.6(a)(1), and that in addition, the First, Second, Fifth, Sixth, and Ninth Causes of Action fail to state a statutory basis for those claims, the Third Cause of Action fails to allege a caretaking or custodial relationship, and the Fourth Cause of Action fails to state a claim because the County of Merced is not a person for purposes of Penal Code § 496.

**The unopposed Request for Judicial Notice by Defendant County of Merced pursuant to Evidence Code § 452(c) and (d) of (1) the December 5, 2022, Order on Midway's Motion for Compelling Ricky Johnson to Withdraw as Counsel for the Trust of Harold Johnson Sr., dismissing the Doe Amendments on the Court's own motion and ordering Ricky Johnson to Withdraw as counsel; (2) The November 24, 2021, Claim by Harold Johnson Sr.; (3) The January 10, 2022, Notice of Action of Claim; and (4) the July 28, 2024, Doe Amendment is GRANTED.**

**The unopposed Demurrer to the First Amended Complaint on the grounds that the first amended complaint fails to state a cause of action because each cause of action is**

barred by the statute of limitations provided in Government Code § 945.6(a)(1) is **SUSTAINED WITH LEAVE TO AMEND**. This Court takes judicial notice of the Claim that was filed November 24, 2021, and rejected January 10, 2022. Two weeks after the statute of limitations expired, a Doe Amendment was filed on July 28, 2022, but was stricken on December 5, 2022.

The unopposed Demurrer by Defendant County of Merced to the First Amended Complaint's First, Second, Fifth, Sixth, and Ninth Causes of Action for failure to state a statutory basis for those claims is **SUSTAINED WITH LEAVE TO AMEND** to allege a statutory basis for the First, Second, Fifth, Sixth, and Ninth Causes of Action.

The unopposed Demurrer by Defendant County of Merced to the First Amended Complaint's Third Causes of Action for financial elder abuse for failure to allege a care taking or custodial relationship is **SUSTAINED WITH LEAVE TO AMEND**.

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23CV-02771

Wayne Smith, II v. Alzarino Azevedo, et al.

Plaintiff's Motion to Quash/Modify Deposition Subpoenas

The matter came up for hearing on July 9, 2024. On July 8, 2024, the Court posted the following tentative ruling:

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The matter arises from a motor vehicle collision in which Plaintiff alleges: Defendant driver's "changing lanes caused the left rear trailer of the Subject Vehicle to collide with the front passenger side of Plaintiff's vehicle. Plaintiff's vehicle was thereafter pinned and crushed between the middle concrete divider and the Subject Vehicle." (Complaint filed August 4, 2023, at Paragraph 10 Page 3:24-26.) The Opposition states that Plaintiff has claimed 64 different injuries and is claiming \$93,869.95 in past earnings and \$1.025,00, in future earnings as damages. The Opposition states that Plaintiff has issued a policy limits demand seeking \$2.7 Million in Economic Damages, and \$5 Million in non-economic damages. (Opposition filed June 25, 2024, at Page 5:1-21.)

The instant motion to quash or modify subpoena seeks records for seven sources, five seek claims files relating to prior medical injuries that the Plaintiff has suffered, and two seek plaintiff's prior employment records. On February 20, 2024, this Court denied a motion to quash subpoenas for medical records finding that the subject medical records were directly relevant. On February 23, 2024, this Court denied a Motion for Protective Order with regard to production of additional medical records, again finding that the medical records were directly relevant. While the claims files sought with the instant subpoenas do not seeking precisely the same information as the medical records previously sought, i.e. they also contain lost wage and noneconomic damages information, this court finds that the contents of those claims files are directly relevant to the instant action seeking damages for medical, economic, and noneconomic injury because they address the amount of losses suffered as a result of prior injuries. Plaintiff also argues that disclosure of prior claims files also seeks discovery of work product or premature disclosure of expert information. Any work product or disclosure of expert information currently subject to subpoena because it is in the possession

of third parties, is not privileged. Accordingly, the motion to quash the five subpoenas for claim files is DENIED on the grounds that those records are directly relevant to the instant litigation.

Plaintiff objects to the production of employment documents relating to prior places of employment as they are not relevant to the wages he was earning at the time of the accident. While this is technically correct, Plaintiff is not merely seeking reimbursement for a specific number of missed salary checks, he is seeking damages for a significant loss of future earnings capacity, and the wages earned from prior employment over an extended period of time which are directly relevant to the stability of the Plaintiff's earning capacity as of the moment of the accident. Accordingly, the motion to quash or limit subpoenas seeking prior employment records is DENIED because these records are directly relevant to earnings capacity.

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At the hearing, an attorney specially appearing for Plaintiff appeared to request oral argument. There had been no call to the court concerning the tentative ruling and Defense Counsel was not present, accordingly, the motion was continued one week to Tuesday July 16, 2024. The court now reposts the tentative ruling previously posted on July 8, 2024, and quoted above. Absent notice to all parties and a court that a party wishes to contest this tentative ruling, the ruling will be adopted by the court.

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24CV-02363

Jacqueline Alarcon v. Carlos Zaragoza

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) 725-4111 to arrange for a remote appearance. The Court notes that no proof of service is on file showing that respondent has been served with the papers filed in this matter.**

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24CV-02876

Kevin McCullom v. Merced County Deputy Probation Officer Fernandez

Petition for Writ of Mandate

**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. The only indicating that service has been made on respondent is a proof of service by First Class Mail. This does not qualify as service of an initial pleading in a civil action. Continued on the Court's Own Motion to September 10, 2024, for further status on service of the Petition on Respondent.**

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24CV-03022

Laurie Pease v. Nikata Longbaugh

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) 725-4111 to arrange for a remote appearance. The Court notes that proof of service on respondent was filed July 3, 2024.**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Jury Trials and Long Cause Court Trials  
Judge Pro Tem Monika Saini Donabed  
Courtroom 8  
627 W. 21st Street, Merced

Tuesday, July 16, 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
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There are no Jury Trials or Long Cause Matters Scheduled	
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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Ex Parte Matters  
Judge Pro Tem Monika Sania Donabed  
Courtroom 8  
627 W. 21st Street, Merced

Tuesday, July 16, 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
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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. Mason Brawley  
Courtroom 9  
627 W. 21<sup>st</sup> Street, Merced

Tuesday, July 16, 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
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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

Tuesday, July 16, 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
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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, July 16, 2024  
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.**

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Case No.	Title / Description
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24CV-01408	Petition of: Alyssa Pena
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Order to Show Cause re: Name Change

**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. Appear to address status of service on father. An ex parte application for post and mail has been filed, but post and mail can only be successful if there is a mailing address.**

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24CV-02475	Petition of: Angela Caballero
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Order to Show Cause re: Name Change

**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. This petition by one parent to change the name of a minor child is not supported with proof of service on the other parent, and there is as yet no proof of publication on file.**

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23CV-01317

Mary Linda Ramirez v. Roger Allen Paynter

Order to Show Cause re: Motion to Amend 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. Absent objection by the time of the hearing this motion to amend prior order to appoint a referee will be GRANTED.**

Motion to Amend 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. Absent objection by the time of the hearing this motion to amend prior order to appoint a referee will be GRANTED.**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

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

Tuesday, July 16, 2024  
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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There are no Unlawful Detainer Matters Scheduled.	
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