

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

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

Tuesday, September 24, 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 – Hon. Mark V. Bacciarini

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
Hon. Mark V. Bacciarini
Courtroom 8
627 W. 21st Street, Merced

Tuesday, September 24, 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
----------	---------------------

19CV-04454	Teresa Morales v. Hector Prado
------------	--------------------------------

Case Management Conference

Appearance required. Remote appearances are permitted. 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.

21CV-03576	Herman Rico, et al. v. Stonefield Home, Inc.
------------	--

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 seek permission and arrange for a remote appearance. Appear to address the status of the payments and whether sanctions should be awarded for delay in processing payments.

21CV-03709

El Bajio Supermarkets, Inc. v. Jose Romero-Garcia

Trial Setting Conference

Appearance required. Remote appearances are permitted. 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 set new trial following stipulation and order vacating previously set jury trial.

22CV-02484

Alfred Ruiz, et al. v. Winncompanies LLC, et al.

Order to Show Cause re Dismissal

Appearance required. Remote appearances are permitted. 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. Plaintiffs' counsel is ordered to appear and address the failure of Plaintiffs to appear at the July 8, 2024, Case Management Conference and the August 14, 2024, Case Management Conference and Order to Show Cause re Sanctions, and to show cause why this matter should not be dismissed without prejudice. Absent an appearance by Plaintiffs' counsel and a showing of cause why this matter should not be dismissed, this matter will be DISMISSED WITHOUT PREJUDICE.

22CV-03582

BDC Atwater Shops LP v. Golden State Realty Assoc., Inc., et al.

Case Management Conference

Appearance required. Remote appearances are permitted. 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 proposed cross-complaint that Defendant discussed at the June 28, 2024, Case Management Conference.

24CV-01864

Jordana Badion v. Curtis Thornhill, et al.

Order to Show Cause re: Sanctions for Plaintiff's failure to appear at Case Management Conference

Appearance required. Remote appearances are permitted. 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 Plaintiff's failure to appear at the August 12, 2024, Case Management Conference.

24CV-01864

Richard Beale, et al. v. Melanie vali, et al.

Default Prove-Up

Appearance required. Remote appearances are permitted. 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-02541

Daniel Roberts v. Merced County Board of Supervisors

Demurrer by Defendant Merced County Board of Supervisors to Complaint of Daniel Roberts

This matter was previously set for hearing on September 18, 2024. The Pro Per Plaintiff appeared to contest the tentative ruling without having notified the court or counsel that he intended to appear. Since the tentative rulings was to sustain the pending demurrer without leave to amend, the court continued the matter to this date and time so that Plaintiff may provide oral argument. All parties are ordered to appear.

Defendant's Request for Judicial Notice is GRANTED. The Merced County Board of Supervisors is not subject to suit for actions by the Merced District Attorney because (1) neither state nor state officials acting in their official capacities are "persons" for purposes of a 42 U.S.C. § 1983 action for damages. (*Will v. Michigan Dept. of State Police* (1989) 491 U.S. 58, 71 fn 10; *Howlett v. Rose* (1990) 496 U.S. 356, 365.) The Merced County Board of Supervisors is statutorily barred from obstructing the district attorney's investigative or prosecutorial function. *Pitts v. County Kern* (1998) 17 Cal.4th 359.) While Government Code § 25303 generally provides that the County Board of Supervisors will supervise the official conduct of county officers, it further states that "this section shall not be construed to affect the independent and constitutionally and statutorily designed investigative functions of the ...district attorney of the county." (See *Grahm v. Municipal Court* (1981) 123 Cal.App.3d 1018, 1022.) These defects cannot be cured by Amendment. Accordingly, the Demurrer by Defendant Merced County Board of Supervisors to the Complaint of Daniel Roberts is SUSTAINED WITHOUT LEAVE TO AMEND.

24CV-02554

Daniel Roberts v. District Attorneys' Office of Merced County

Demurrer by Defendant District Attorney's Office of Merced County

This matter was previously set for hearing on September 18, 2024. The Pro Per Plaintiff appeared to contest the tentative ruling without having notified the court or counsel that he intended to appear. Since the tentative rulings was to sustain the pending demurrer without leave to amend, the court continued the matter to this date and time so that Plaintiff may provide oral argument. All parties are ordered to appear.

Defendant's Request for Judicial Notice is GRANTED. The term "person" under 42 U.S.C. § 1983 does not include municipal departments, "Naming a municipal department as a defendant is not an appropriate means of pleading a 42 U.S.C. § 1983 action against a municipality." (*Stump v. Gates* (D. Colo. 1991) 77 F. Supp. 808, 816.) Even if it was, state prosecutors are absolutely immune from liability under section 1983 for conduct

that is “intimately associated with the judicial phase of the criminal process.” (*Imbler Pachtman* (1976) 424 U.S. 409, 430-431.) While the Complaint could be amended to name the proper entity, there no amendment that can cure prosecutorial immunity, especially where as here the grounds for immunity are disclosed in the pleadings themselves. Accordingly, the Demurrer by Defendant District Attorney’s Office of Merced County to the Complaint of Daniel Roberts is **SUSTAINED WITHOUT LEAVE TO AMEND**.

24CV-02555

Daniel Roberts v. District Attorneys’ Office of Merced County

Demurrer by Defendant District Attorney’s Office of Merced County

This matter was previously set for hearing on September 18, 2024. The Pro Per Plaintiff appeared to contest the tentative ruling without having notified the court or counsel that he intended to appear. Since the tentative rulings was to sustain the pending demurrer with leave to amend, the court continued the matter to this date and time so that Plaintiff may provide oral argument. All parties are ordered to appear.

Defendant’s Request for Judicial Notice is GRANTED. The Demurrer by Defendant District Attorney’s Office of Merced County to the Complaint of Daniel Roberts is SUSTAINED WITH LEAVE TO AMEND to (1) allege compliance with the Government Claims Act or to state facts establishing that compliance is excused; (2) to state facts that would establish an exception to immunity under Government Code § 821.6 and 815.2; and (3) to state facts establishing a statutory basis whereby for holding the District Attorney liable for an injury that Plaintiff inflicted on himself while in custody at the John Latorraca Correctional Center.

24CV-02845

Santiago Vera v. Criselda Chiprez

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. All parties appeared at the prior hearing. Since witnesses relied upon by both parties were not present, both parties requested a continuance.

24CV-04142

Ismael Sanchez v. Victoria Zitacauari

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 has been filed establishing that the papers filed in this case have been served on Respondent.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Jury Trials and Long Cause Court Trials
Hon. Mark V. Bacciarini
Courtroom 8
627 W. 21st Street, Merced

Tuesday, September 24, 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 Jury Trials or Long Cause Court Trials Scheduled	
---	--

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Mark V. Bacciarini
Courtroom 8
627 W. 21st Street, Merced

Tuesday, September 24, 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.	
--	--

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Mason Brawley
Courtroom 9
627 W. 21st Street, Merced

Tuesday, September 24, 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.	
--	--

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Tuesday, September 24, 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.	
--	--

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Tuesday, September 24, 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.

Case No.	Title / Description
----------	---------------------

24CV-03810	Petition of Rachelle Gonzalez
------------	-------------------------------

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 an adult to change her own last name will be granted upon the filing of a proof of service and confirming through CLETS the petitioner is eligible for a name change.

24CV-03789	Petition of Jaziel Ramirez
------------	----------------------------

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. While this Petition purports to be by both parents seeking to change the name of their minor child, only one parent signed the petition. Appear to address whether the other parent is joining in the petition, and if not, to set a new date so service can be effected on the other parent.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Tuesday, September 24, 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
----------	---------------------

There are no Unlawful Detainer Matters Scheduled	
--	--