

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

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

Wednesday, February 21, 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 McCabe

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

Wednesday, February 21, 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-04820	Samantha Wallace v. Greg Hostetler, et al. Status Review of Settlement Appearance Required. Individuals who wish to appear remotely may call (209) 725-4111 for permission to make a remote appearance. Appear to address the status of payment component of the settlement and the determination of any credits thereto.
20CV-03465	Sherise Woolridge v. Jain Farm Fresh Foods, Inc. Status Conference Continued on the Court's own motion to Wednesday, November 6, 2024 at 8:15 A.M. in Courtroom 8 to ascertain the status of the case following the arbitration currently scheduled for October 14, 2024.

22CV-01322

Barbara Ruiz v. Perlei Luxury Salon and Boutique, et al.

Motion for Summary Judgment by Defendant ADITI Investors LLC

The unopposed Motion by Defendant ADITI Investors LLC for Summary Judgment as to the Complaint of Plaintiff Barbara Ruiz is GRANTED. The Separate Statement of Undisputed Fact filed by Defendant ADITI Investors LLC is supported by admissible evidence establishing that while Defendant ADITI Investors LLC owns the land on which Defendant Perlei Luxury Salon and Boutique is located, it did not have possession or control of such property pursuant to its lease and therefore owned no duty for any alleged dangerous condition on said premises. This shifts the burden of proof to Plaintiff Barbara Ruiz to submit a Response to the Separate Statement of Undisputed Fact along with evidence establishing a triable issue of material fact. Plaintiff Barbara Ruiz has not filed any Response to the Separate Statement, has not submitted any evidence or any opposition to the motion. Accordingly, Plaintiff Barbara Ruiz has failed to meet her burden of proof and the Motion for Summary Judgment by Defendant ADITI Investors LLC is GRANTED.

22CV-01665

Berenice Perez v. Nicholas Luis

Order to Show Cause re: Dismissal-Notice of Settlement

Appearance Required. Individuals who wish to appear remotely may call (209) 725-4111 for permission to make a remote appearance. Appear to address the status of the policy limit release and payment pursuant to such release,

23CV-04568

Shawna Walsh v. Jorge Colmenero

Order to Show Cause re: Restraining Order

Appearance Required. The Court notes that a Proof of Unsuccessful Service was filed February 1, 2024. Appear to address the status of service on Respondent.

24CV-00330

Cecilia Velasco v. Elsy Mendoza Vasquez

Order to Show Cause re: Restraining Order

Appearance Required. The Court notes that there is no proof of service indicating that there is no proof of service indicating that the Notice of Hearing or the Application for Temporary Restraining Order was served on Respondent. Absent appearance by Petitioner and a showing of good cause, the matter will be DISMISSED WITHOUT PREJUDICE.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Wednesday, February 21, 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.

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Case No.	Title / Description
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There are no Mandatory Settlement Conferences Scheduled.	
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Limited Civil Calendar
Commissioner David Foster
Courtroom 9
627 W. 21st Street, Merced

Wednesday, February 21, 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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23CV-04358	[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]
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Demurrer

Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 arrange for a remote appearance.

Defendants' general demurrer to the complaint is OVERRULED. A demurrer challenges only defects appearing on the face of the pleading or from matters outside the pleading that are judicially noticeable. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318; Code Civ. Proc., § 430.30.) The complaint alleges sufficient facts to constitute a cause of action for unlawful detainer against defendants for failure to pay rent pursuant to Code of Civil Procedure section 1161(2). The Court finds unpersuasive defendants' argument that the notice attached as an exhibit to the complaint is defective on its face.

Defendants' special demurrer to the complaint for uncertainty is OVERRULED. The complaint alleges all the necessary facts to constitute a cause of action for unlawful detainer against defendants and is not so vague and ambiguous that the responding party "cannot reasonably determine what issues must be admitted or denied, or what counts or claims are directed at [them]." (*Khoury v. Mally's of Calif., Inc.* (1993) 14 Cal.App.4th 612, 616.)

Defendants shall file their answer within five days of notice of entry of order. (Cal. Rules of Court, rule 3.1320(g); Code Civ. Proc., § 472b.)

Plaintiff is directed to prepare a written order consistent with the Court's ruling for the Court's signature and to provide notice thereof to the opposing party/counsel as required by law and the California Rules of Court. The order is to be submitted by electronic filing to Commissioner David Foster.

24CV-00197 [Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Unlawful Detainer Court Trial

Appearance required. Remote appearances are permitted. Parties who wish to appear remotely must contact the clerk of the court at (209) 725-4111 arrange for a remote appearance.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Wednesday, February 21, 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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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
Judge Pro Tem Peter MacLaren
Courtroom 9
627 W. 21st Street, Merced

Wednesday, February 21, 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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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

Wednesday, February 21, 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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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

Limited Civil Long Cause Court Trials
Judge Pro Tem Peter MacLaren
Courtroom 9
627 W. 21st Street, Merced

Wednesday, February 21, 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:

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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 Limited Civil Long Cause Court Trials scheduled.	
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