

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

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

Wednesday, June 5, 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 L. 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 L. McCabe
Courtroom 8
627 W. 21st Street, Merced

Wednesday, June 5, 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.

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Case No.	Title / Description
20CV-03773	West Creek Builders, LLC v. Samuel Escobar, et al. Readiness Conference No appearance necessary. Case set for mandatory settlement conference on August 26, 2024, and jury trial on October 1, 2024. Readiness conference to trail the Mandatory settlement conference on 8-26-24.
21CV-01240	Espinoza Bail Bonds, Inc. v. Diana Pasadas, et al. Trial Setting Conference 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 case and to set trial.

22CV-03104

Roger Accornero v. Joseph Borba, et al.

Case Management Conference

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 case.

23CV-02212

In the Matter of: Inspection of Assessor's Parcel 045-190-075 and 045-190-076 (23570 Geer Ave, Hilmar, CA 95324)

Review of Case Status

Appearance Required. Individuals who wish to appear remotely may call (209) 725-4111 for permission to make a remote appearance. Respondents are ordered to appear and show cause why the Petition should not be GRANTED.

23CV-04005

Mariela Mendoza v. Livingston Community Health

Demurrer by Livingston Community Health to Plaintiff's Complaint's Seventh Cause of Action for Intentional Infliction of Emotional Distress

Defendant's Demurrer to the Seventh Cause of Action for Negligent Infliction of Emotional Distress is SUSTAINED WITHOUT LEAVE TO AMEND as being barred by the exclusive remedy of the California Workers' Compensation Law. While Plaintiff may be entitled to emotional distress damages arising from her claims for discrimination on the basis of sex and disability, retaliation, harassment, and/or failure to provide reasonable accommodation, she is not entitled to emotional distress damages for mere negligence by her employer. (*Robomatic, Inc. v. Vetco Offshore* (1990) 225 Cal.App.3d 270, 275.) Accordingly, the demurrer to the Seventh Cause of Action for Negligent Infliction of Emotional Distress is SUSTAINED WITHOUT LEAVE TO AMEND.

Motion to Strike Punitive Damages Claim

Defendant's Motion to Strike Punitive Damages Allegations are GRANTED WITH LEAVE TO AMEND. California Courts have long held that a conclusory statement in the pleading that a party acted with oppression, fraud or malice is insufficient within the meaning of Civil Code § 3294 to allege punitive damages. (*Brousseau v. Jarrett* (1997) 73 Cal.App.3d 864, 872.)

Case Management Conference

Continued on the Court's own motion to Wednesday September 25, 2024, at 8:15 A.M. in Courtroom 8.

24CV-02040

Hingino Samano v. Sergio Lopez Moreno

Order to Show Cause re: Restraining Order

Appearance Required. Individuals who wish to appear remotely may call (209) 725-4111 for permission to make a remote appearance. The Court notes that there is no proof of service on file showing service of the papers filed in this action on Respondent.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Wednesday, June 5, 2024
9:00 a.m.

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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 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, June 5, 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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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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22CV-04155	Absolute Resolutions Investment LLC v. Martin Ramirez
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Order to Show Cause re Dismissal – Notice of Settlement

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. Appear to address status of settlement (Cal. Rules of Ct., rule 3.1385(c)).

23CV-03187	In re: 1901 Place Road, Los Banos CA 93635-5329
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Petition re Unresolved Claims and Undistributed Surplus Proceeds of Trustee's Sale

Appearance required by claimants to the surplus funds from the trustee's sale of the property. 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.

23CV-03406

Discover Bank v. Dianna Rodriguez

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 to arrange for a remote appearance.

23CV-03528

Calvary SPV I LLC v. Nickolas Salazar

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 to arrange for a remote appearance.

24CV-00426

[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

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. The Court notes that on May 22, 2024, plaintiff lodged with the court a Stipulated Agreement and Order for Judgment signed by defendant on May 22, 2024. Appear to address status of settlement and entry of judgment.

24CV-00509

Frank Duclo v. Andre Santos

Motion to Vacate Judgment (Small Claims)

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.

24CV-00884

[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Motion to Set Aside Default, Vacate Default Judgment and/or Stay of Execution

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.

24CV-01008

[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Status Review 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. If no parties appear for the hearing, the Court will dismiss the case without prejudice in accordance with the Stipulation for Entry of Judgment filed on May 23, 2024.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Wednesday, June 5, 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
Commissioner David Foster
Courtroom 9
627 W. 21st Street, Merced

Wednesday, June 5, 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.
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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, June 5, 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

Limited Civil Long Cause Court Trials
Commissioner David Foster
Courtroom 9
627 W. 21st Street, Merced

Wednesday, June 5, 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
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23CV-03691	Jose Botelho v. Amerigas Propane, Inc.
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Order of Examination (Small Claims)

Appearance required. The Court notes that proof of service was filed on June 3, 2024, indicating personal service on the judgment debtor's authorized agent for service of process on May 7, 2024. Effective January 1, 2024, Code of Civil Procedure section 708.110(d) requires personal service not less than 30 days before the date set for examination. In this case, the order of examination was personally served 29 days before the examination.