

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED**

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

Wednesday, September 4, 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 – 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. Brian L. McCabe  
Courtroom 8  
627 W. 21<sup>st</sup> Street, Merced

Wednesday, September 4, 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-02361	Curtis LaClaire v. Foster Poultry Farms, et al.
------------	---

Readiness 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 arrange for a remote appearance. Counsel to appear and given the Court's ruling GRANTING the Defendant's Motion for Summary Judgment on the complaint, be prepared to discuss whether the parties intend on proceeding to trial on the Cross-Complaint and, if so, whether both sides ready to proceed to trial September 9, 2024.**

20CV-02248	American Academy Holdings, Inc. v. Global Aerospace Insurance
------------	---

Motion to Dismiss Plaintiff's Complaint for Failure to Prosecute Pursuant to Code of Civil Procedure § 583.410-430 By Defendant Global Aerospace Insurance, Inc.

**A Corporation cannot even appear in an action, let alone prosecute it, unless represented by counsel. (*CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal.App.4<sup>th</sup> 1411, 1145 [citing *Caressa Camille, Inc. v. Alcoholic Beverage Control Appeals Bd.* (2002) 99 Cal.App.4<sup>th</sup> 1094, 1101-1103.]) This matter commenced on August 25, 2020 when attorney John P. Hannon II filed a complaint on behalf of Plaintiff corporation seeking damages for alleged breach of insurance contract and bad faith. Mr. Hannon brought a motion to**

be relieved as counsel on February 4, 2022, that was granted on March 10, 2022. Plaintiff corporation was unrepresented and therefore unable to prosecute this case for over a year until May 24, 2023, when attorney Brian P. Worthington filed a Notice of Appearance of Attorney on behalf of Plaintiff. A year later, on May 10, 2024, Mr. Worthington filed a motion to be relieved as counsel that was granted on June 13, 2024. No new counsel has yet appeared. Defendant Global Aerospace Insurance, Inc. filed the instant Motion to Dismiss on July 18, 2024, which establishes a prima facie case of failure to prosecute, and Plaintiff American Academy Holdings, Inc. cannot even file an opposition, let alone prosecute the case, until it obtains new counsel. A declaration filed on August 15, 2024, by officers of the plaintiff corporation requests more time claiming that they are making diligent efforts to locate new counsel. Accordingly, this Court issues an Order that Plaintiff American Academy Holdings, Inc. appear through counsel and Show Cause why its complaint in this matter should not be dismissed for failure to prosecute on October 2, 2024, 8:15 A.M. in Courtroom 8. Absent an appearance by counsel for Plaintiff and a showing of good cause why this matter should not be dismissed for failure to prosecute, this matter will be **DISMISSED WITHOUT PREJUDICE**.

#### Review of Case Status

**Continued on the Court's own motion to October 2, 2024, 8:15 A.M. in Courtroom 8 to trail the pending Order to Show Cause why this matter should not be dismissed for failure to prosecute.**

---

21CV-02072

Marisela Ruiz v. Wilbur Ellis Company, LLC

#### 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 arrange for a remote appearance. Complaint filed June 23, 2021, and Answer filed on April 7, 2023. Parties indicated at last Case Management Conference they were amenable to private mediation. Appear and appraise the Court of the status of setting matter for mediation.**

---

21CV-04082

DS Orchards, LLC, et al. v. Cardella Merced, LLC, et al.

Motion by Plaintiffs/Cross-Defendants DS Orchards LLC and Satya Chillara for Summary Adjudication that (1) Defendant/Cross-Complainant Dilbag Khera committed trespass on property leased by Plaintiff DS Orchards LLC between March 2021 to March 2023; and (2) California Law prescribes the rental value of a property where trespass occurred to be appropriate damages against a trespasser.

**The First Amended Complaint filed by Plaintiffs DS Orchards LLC, Satya Chillara, and 1100 Acre Almond Orchard LLC contains eight causes of action including a Second Cause of Action for Trespass which alleges (1) Plaintiff is to oversee monetary, budgetary, and fiscal control of farming operations; (2) In January and March of 2021, Dilbag Khera resigned as a member of Plaintiff; (3) In March 2021, Plaintiff demanded Defendants immediately leave the Farming Operations and vacate the Property; (4) In March 2021, Defendants refused to immediately leave the Farming Operations and vacate the Property; (5) Between March 2021 and March 2023, Defendants refused to allow**

Plaintiff to enter the Property, which denied Plaintiff its right to inspect the almond trees, the Crops, and the condition of the Farming Operations; (6) Between March 2021 and March 2023 Defendants were in sole possession and control of the Farming Operations; (7) Plaintiff did not give permission for Defendant to exceed its permission in disallowing Plaintiff to enter the Property, which denied Plaintiff its right to inspect the Crops, and the condition of the Farming Operation; (8) Plaintiff did not give permission for Defendant to exceed its permission to do anything other than manage the day to day, hands on, operation of the almond farm of the property; (9) Plaintiff has been harmed because of Defendants' actions; and (10) Defendant's conduct was a substantial factor in causing Plaintiff's harm. (First Amended Complaint filed November 16, 2023, Paragraphs 48-57, Pages 7:9-8:1.)

The instant Motion for Summary Adjudication states in the Notice of Motion and Motion that Plaintiffs/Cross-Defendants DS Orchards LLC and Satya Chillara [seek] Summary Adjudication that (1) Defendant/Cross-Complainant Dilbag Khera committed trespass on property leased by Plaintiff DS Orchards LLC between March 2021 to March 2023; and (2) California Law prescribes the rental value of a property where trespass occurred to be appropriate damages against a trespasser.

The Motion for Summary Adjudication is Supported by a Separate Statement of Undisputed Fact which addresses three issues: (1) Whether Dilbag "Bob" Khera disassociated himself from DS Orchards; (2) How long did Defendants have possession of the property; (3) How Much was paid to the Landlords to rent the Property in 2021, 2022, and 2023.

Issue 1 is supported by a single undisputed fact: Dilbag "Bob" Khera disassociated himself from DS Orchards on March 14, 2021, supported by the Declaration of Satya Chillara and a Request for Judicial Notice and which Defendant purports to dispute with the Declarations by Gilmore and Khera.

Issue 2 is supported by two undisputed facts: (1) That Dilbag "Bob" Khera had sole possession of the Property between March 14, 2021, and March 22, 2023, and (2) Dilbar "Bob" Khera sole possession of the Property between March 14, 2021, and March 22, 2023, was hostile to DS Orchards. Fact 1 is supported by the Declaration of Satya Chillara and a Request for Judicial Notice and Defendant purports to dispute Fact 1 on the grounds that the premises were in the possession of DS Orchard of which Khera owns 50%. There is no evidence that Plaintiff Chillara was ever excluded. The evidence cited by Defendant to dispute the fact is the Declaration by Khera. Fact 2 is also disputed and the evidence cited is the Declaration of Khera.

Issue 3 is supported by three facts, Facts 1, and 2, which Defendant does not dispute, and Fact 3, that Two years of Khera's wrongful occupation of the Property equates to damages in the sum of \$154,400 which Defendant disputes, citing to the Declaration of Khera.

The elements of Trespass are (1) the Plaintiff's ownership or control of the property, (2) the defendant's intentional, reckless, or negligent entry onto the property, (3) lack of permission for the entry or acts in excess of permission, (4) harm, and (5) defendant's conduct was a substantial factor in causing harm. (*Ralph's Grocery Co. v. Victory Consultant's Inc.* (2017) 17 Cal.App.5<sup>th</sup> 245, 258.)

The pleadings serve as the outer measure of materiality in a summary judgment motion and the motion may not be granted or denied on issues not raised in the pleadings. (*Laabs v. City of Victorville* (2008) 163 Cal.App.4<sup>th</sup> 1242, 1258.) On the one hand, the Second Cause of Action of the First Amended Complaint states: “In March 2021, Plaintiff demanded Defendants leave the Farming Operations and vacate the Property” (§50) and “In March 2021 Defendants refused to immediately leave the Farming Operations and vacate the property” (§51) and, on the other hand, alleges Plaintiff did not give permission for Defendants to exceed its permission to do anything other than manage the day to day, hands on, operation of the almond farm at the property.” These allegations appear allege that while Defendants were asked to vacate the premises, they were given permission to manage the day to day, hands on, operation of the almond farm at the property. The Trespass alleged in the pleadings is that the permission to manage day to day hands on farm operations was exceeded by interference with the right to inspect. The issue, then, for purposes of summary adjudication, is whether whatever the Defendant did to interfere with the right of inspection constitutes a trespass. However, the Memorandum of Points and Authorities appears to argue that the Trespass was not the interference with inspection alleged in the Second Cause of Action, but the failure to discontinue managing farm operations after being ordered to leave the premises making Plaintiff liable for the full rental value of the property. The Separate Statement does not address either of those issues.

Accordingly, the Motion for Summary Adjudication is DENIED because Plaintiff’s Separate Statement and the Evidence Supporting it fails to state a prima facie case that Plaintiff is entitled to judgment as a matter of law for a trespass that interfered with the right of inspection as alleged in the Third Amended Complaint.

Case Management Conference

**Appear to address the status of the Case and whether this matter is ready to be set for trial.**

---

22CV-01049                      Jeremy Curtiss v. Kevin Campbell, 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 arrange for a remote appearance. Appear to address the status of the case.**

---

22CV-01465                      Valeria Arredondo v. Adjoin

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 arrange for a remote appearance. Appear to address the status of the case.**

---

22CV-03434

Serena Pellegrino v. CVS Pharmacy, Inc., et al.

Status Conference/Motion for Final Approval of Class Representative Action Settlement

**The Motion for final approval is GRANTED. Absent objection the Court will sign the Order lodged with the Court on July 29, 2024.**

---

24CV-03161

Lucia Perez v. Andrea Gonzales

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 service of the papers filed in this action on Respondent.**

---

24CV-03754

Jose Ceja v. Luis Morales Gallegos

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 a proof of service was filed on August 15, 2024 and this matter was continued so the parties could bring all of their witnesses.**

---

24CV-03874

Kristin Flores v. Sergio Guerrero

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 a proof of service was filed on August 15, 2024, showing service of the papers filed in this matter on respondent.**

---

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

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

Wednesday, September 4, 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
----------	---------------------

21CV-01240	Espinoza Bail Bonds, Inc. v. Diana Pasadas, et al.
------------	--

Mandatory Settlement Conference

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

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Limited Civil Calendar  
Hon. Mason Brawley  
Courtroom 9  
627 W. 21<sup>st</sup> Street, Merced

Wednesday, September 4, 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:

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
----------	---------------------

---

23CV-00982	Absolute Resolutions Investments, LLC v. Meghan White
------------	---

Motion for Order that Requests for Admission be Deemed Admitted and Request for Sanctions of \$60.

**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-03778	[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]
------------	--

Unlawful Detainer 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.**

---

24CV-03831	[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]
------------	--

Unlawful Detainer 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. Appear to address the status of the Settlement.**

---



SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

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

Wednesday, September 4, 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. 21<sup>st</sup> Street, Merced

Wednesday, September 4, 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

Wednesday, September 4, 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

Limited Civil Long Cause Court Trials  
Hon. Mason Brawley  
Courtroom 9  
627 W. 21<sup>st</sup> Street, Merced

Wednesday, September 4, 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-00285	Alfredo Saldivar v. Ramiro Trigo
------------	----------------------------------

Order of Examination

**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.**