

**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 18, 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 18, 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.**

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Case No.	Title / Description
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22CV-03116	Audrey Sutton, et al. v. MSC Investors
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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. At the July 17, 2024 hearing, the minors compromise had been approved and Plaintiff was awaiting payment. Appear to address the status of the payment.**

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24CV-02541	Daniel Roberts v. Merced County Board of Supervisors
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Demurrer by Defendant Merced County Board of Supervisors to Complaint of Daniel Roberts

**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.4<sup>th</sup> 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.

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24CV-02554

Daniel Roberts v. District Attorneys’ Office of Merced County

Demurrer by Defendant District Attorney’s Office of Merced County

**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 defendants is not an appropriate mens of pleading a 42 U.S.C. § 1983 acton 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.

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24CV-02555

Daniel Roberts v. District Attorneys’ Office of Merced County

Demurrer by Defendant District Attorney’s Office of Merced County

**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.

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24CV-03710

Adolph Cortinas v. Fabian Saelee

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 showing Respondent was served with the papers filed in this matter.

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24CV-03821

Katherine Crossley v. Debbie Clark

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 was filed August 13, 2024 showing that Respondent was served with the papers filed in this matter.**

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24CV-03822

Katherine Crossley v. Gary Hellman

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 was filed August 13, 2024 showing that Respondent was served with the papers filed in this matter.**

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24CV-04001

Vanesa Espinoza v. Jesus Ayala Garcia

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 was filed August 27, 2024 showing that Respondent was served with the papers filed in this matter.**

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24CV-04008

Corinne Padilla v. Manuel Mora Diaz

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 was filed August 24, 2024 showing that Respondent was served with the papers filed in this matter.**

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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 18, 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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23CV-03198	Wayne Grist v. Cody Cowden
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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 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 18, 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.

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Case No.	Title / Description
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22CV-02482	Calvary SPV I LLC v. Mang Chang
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Order to Show Cause re Dismissal-Notice 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. Appear to address the status of the Settlement. The Notice of Settlement of the Entire Case filed September 27, 2024 stated that a dismissal would be filed by June 24, 2024.**

23CV-02191	LVNV Funding LLC v. Tony Robles, an individual
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Order to Show Cause re Dismissal-Notice 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. Appear to address the status of the Settlement. The Notice of Settlement of the Entire Case filed September 11, 2023 stated that a dismissal would be filed by June 14, 2024.**

23CV-03602                      Synchrony Bank v. Dianna Rodriguez

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.**

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23CV-03603                      Synchrony Bank v. Dianna Rodriguez

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.**

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23CV-04720                      Westlake Services LLC Maria Cervantes De Soto

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.**

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24CV-00089                      Synchrony Bank v. Dianna Rodriguez

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.**

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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 18, 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

Wednesday, September 18, 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

Wednesday, September 18, 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  
Hon. Mason Brawley  
Courtroom 9  
627 W. 21<sup>st</sup> Street, Merced

Wednesday, September 18, 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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There are no Limited Civil Long Cause Court Trials Scheduled	
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