

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Consolidation of Civil Courtrooms
Hon. Donald J. Proietti
Courtroom 8
Courtroom 10
627 W. 21st Street, Merced
Thursday, January 13, 2022

To limit the spread of the COVID-19 virus, all civil matters normally heard in Courtroom 8, Hon. Brian L. McCabe, and Courtroom 10, Hon. Donald J. Proietti, are being consolidated and heard by a single judge, Hon. Donald J. Proietti, in Courtroom 10.

Note: Separate Tentative Rulings are provided for Courtroom 9, Judge Pro Tems Monika Donabed and Peter MacLaren. Those matters will be heard either in-person or via remote hearing in Courtroom 9.

IMPORTANT: To limit the spread of the COVID-19 virus, the court will only conduct remote hearings on the combined Courtroom 8/10 calendars. Parties who contest the tentative ruling or wish to appear at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.

The specific tentative rulings for specific calendars follow:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Civil Law and Motion Tentative Rulings
Hon. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced

Thursday, January 13, 2022
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) 725-4240 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. **To limit the spread of the COVID-19 virus, the court will only conduct remote hearings. Parties who contest the tentative ruling or wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.**

Case No. **Title / Description**

18CV-03630 Valley Pacific Petroleum Services, Inc. v. J. Jesus Mendoza

Order of Examination

DROPPED FROM CALENDAR. No proof of service has been filed showing that the Order to Appear for Examination was personally served on the judgment debtor.

19CV-04989 North Coast Rivers Alliance, et al. v. San Luis and Delta-Mendota Water Authority

Review of Case Status

Remote appearances are recommended. To arrange a remote appearance, contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing. At the December 16, 2021 Review of Case Status, the parties confirmed a Case Management Conference for March 14, 2022 at 8:15 a.m. in Courtroom 8 at which a briefing schedule will be established. The parties were ordered to meet and confer concerning the briefing schedule and submit a joint report.

21CV-03090

Petition of Griselda Hernandez Villa

Order to Show Cause Re: Name Change

Absent a cogent objection by the time of the hearing, this petition by a mother to change the last names of her minor child is GRANTED upon the filing of a proof of publication. The Court notes that at the hearing on December 17, 2021, the Court found that that father had been served and only proof of publication was still required. To date, no proof of publication has been filed. Unless the father, or some other party with standing to object, appears and objects to the petition, the petition will be GRANTED upon the filing of a proof of publication. Once proof of publication is filed, the Court will sign the order lodged on September 21, 2021.

21CV-03514

Michael Lewis v. Dennis Nepote

Motion to Reconsider Previous Court Findings and Orders Made on November 22, 2021

The motion to reconsider previous Court findings and orders made on November 22, 2021 is GRANTED. The Court sets an Order to Show Cause Re: Restraining Order hearing on Wednesday, January 26, 2021 at 8:15 a.m. in Courtroom 8. The Court notes that the orders issued were the same as the temporary orders issued and will keep those orders in place pending the OSC hearing.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Limited Civil Calendar
Judge Pro Tem Monika Donabed
Courtroom 9
627 W. 21st Street, Merced

Thursday, January 13, 2022
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. **To limit the spread of the COVID-19 virus, the court strongly encourages remote hearings. Parties who contest the tentative ruling or wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.**

Case No.	Title / Description
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19CV-02248	Roxana Navarrete v. Araceli Ochoa, et al.
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Court Trial

Appearance required. Remote appearances are encouraged. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing. The complaint was filed on May 31, 2019 as a Limited Jurisdiction Matter seeking damages, injunctive, and declaratory relief arising from an alleged self-help lockout eviction of Plaintiff, a tenant, by Defendant, a landlord. While the damages claims may proceed, a court sitting in Limited Jurisdiction has no authority to order injunctive or declaratory relief.

20CV-02566	Juan Del Toro v. Irene Ortiz, et al.
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Order to Show Cause Re: Sanctions

Appearance required. Remote appearances are strongly encouraged. To arrange a remote appearance, contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing. Plaintiff's counsel has note filed a Case Management Conference Statement or any response to the OSC re

sanctions and the \$100 sanctions ordered payable to Merced Superior Court on December 9, 2021 have yet to be paid.

Case Management Conference

Appearance required. Remote appearances are strongly encouraged. To arrange a remote appearance, contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.

21CV-02575

LVNV Funding LLC v. Ashley Williams

Plaintiff's Motion to Deem Requests for Admissions Admitted (C.C.P. Section 2033.280)

The unopposed motion to deem Request for Admissions admitted is GRANTED. The Requests for Admissions propounded upon Defendant, Ashley Williams, shall be deemed admitted. The Court notes that Plaintiff is submitting on its moving papers without appearing and will sign the order lodged with the court on December 13, 2021.

21CV-03873

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

Demurrer to Complaint

Defendant's general demurrer to the complaint on the ground that the alleged notice of termination of tenancy attached to the complaint is defective on its face and insufficient to constitute a cause of action for unlawful detainer is OVERRULED. Although the 60-day notice of termination of tenancy does not use the precise language of Civil Code section 1946.2, subdivision (b)(2)(B) (*i.e.*, "[w]ithdrawal of the residential real property from the rental market"), the Court finds the language used in the notice ("Owner intends to withdraw the Premises from the rental market") is substantially similar and sufficient to constitute a cause of action for no-fault just cause eviction under the Tenant Protection Act of 2019. The Court notes that whether the alleged reason for termination of tenancy is true is an issue of fact for trial.

Defendant shall file his responsive pleading within five days of notice of entry of order. (Cal. Rules of Court, rule 3.1320(g); Code Civ. Proc., § 472b.) The prevailing party is directed to prepare a written order and submit the order by electronic filing to Commissioner David Foster.

Motion to Strike Complaint

Defendant's motion to strike the complaint in its entirety on the ground that plaintiff is a corporation and cannot represent itself in court in propria persona is DENIED. After defendant filed the motion to strike, plaintiff filed a substitution of attorney. A corporation's failure to be represented by an attorney is a defect that may be corrected. (*CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal.App.4th 1141, 1149-50.)

Defendant shall file his answer within five days of notice of entry of order. (Code Civ. Proc., § 472a, subd. (d).) The prevailing party is directed to prepare a written order and submit the order by electronic filing to Commissioner David Foster.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Restraining Order Calendar
Hon. David W. Moranda
Courtroom 12
1159 G Street, Los Banos

Thursday, January 13, 2022
11:00 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. **To limit the spread of the COVID-19 virus, the court strongly encourages remote hearings. Parties who contest the tentative ruling or wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.**

Case No.	Title / Description
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21CV-02740	Alyssa Spindler v. Misti Calvert
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Request for Restraining Order

Appearance required. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4124 to provide their contact information for the remote hearing. The Court notes that all parties were present on December 9, 2022 when the matter was continued to this date at the request of counsel to allow the related matters to be heard at the same time.

21CV-01795	Alyssa Spindler v. Trent Calvert
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Request for Restraining Order

Appearance required. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4124 to provide their contact information for the remote hearing. The Court notes that all parties were present on December 9, 2022 when the matter was continued to this date at the request of counsel to allow the related matters to be heard at the same time.

21CV-04044

Juanita Bristow v. Melissa Cantu

Request for Restraining Order

Appearance required. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4124 to provide their contact information for the remote hearing. The Court notes proof of personal service was filed on January 4, 2022, indicating respondent was personally served with notice of hearing on December 23, 2021.

21CV-00498

Desiree Jimenez v. Christopher Cortez

Request for Restraining Order Review

Appearance Required. The parties are ordered to contact the clerk of the court at (209) 725-4124 to provide their contact information for the remote hearing. The Court notes that temporary orders were issued for a few months and that this review date was set to confirm if there have been any further issues, at which time the restraining order would be dismissed the Court would continue with further orders. Appear to update the Court on if there have been further issues. If no parties appear, the matter DISMISSED WITHOUT PREJUDICE.

21CV-03506

Shakira Alvarez v. Kayla Franco

Request for Restraining Order

Appearance required. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4124 to provide their contact information for the remote hearing. The Court notes that all parties were present on November 18, 2021, when the matter was continued to this date. The Court notes that proof of service was filed on November 1, 2021, indicating respondent was served with notice of hearing and a response was filed and served on petitioner by mail on December 27, 2021.

21CV-01900

Aiyana Ellison v. Alyssa Spindler

Request for Restraining Order

Appearance required. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4124 to provide their contact information for the remote hearing. The Court notes that all parties were present on December 9, 2022 when the matter was continued to this date to allow the related matters to be heard at the same time.

21CV-04017

April Alexander v. Aaron Thomas

Appearance required. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4124 to provide their contact information for the remote hearing. The Court notes that no proof of service has been filed showing that respondent was served with the Notice of Hearing, the Request for Restraining Order, or the Temporary Restraining Order issued in this action. Absent an appearance by Petitioner and a showing of good cause for the failure to serve Respondent, the Order to Show Cause re Restraining Order shall be VACATED, and the matter DISMISSED WITHOUT PREJUDICE.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced
Thursday, January 13, 2022
1:15 p.m.

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Case No.	Title / Description
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21CV-03514 Michael Lewis vs Dennis Nepolte

Motion for Reconsideration of Order issued November 22, 2021

APPEARANCE REQUIRED. Parties who wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Judge Pro Tem Monika Donabed
Courtroom 9
627 W. 21st Street, Merced
Thursday, January 13, 2022
1:15 p.m.

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Case No. **Title / Description**

21CV-03022 Maxwell Enterprises vs Matthew Phelps

Ex Parte Application to Shorten Time to Set Aside Default/Judgment

APPEARANCE REQUIRED. Parties who wish to appear remotely at a hearing must contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Brian L. McCabe
Courtroom 10
627 W. 21st Street, Merced
Thursday, January 13, 2022
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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Case No.	Title / Description
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There are no Ex Parte matters scheduled.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. David W. Moranda
Courtroom 12
1159 G Street, Los Banos
Thursday, January 13, 2022
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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Case No.	Title / Description
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There are no Ex Parte matters scheduled.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Special Set Matters
Commissioner Donald E. Shaver
Courtroom 4
2260 N Street, Merced

Thursday, January 13, 2022
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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Case No.	Title / Description
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CVM017462	Amarjit Kandola v. Sohan Singh Sahota, et al.
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Review of Case Status

Appearance required. Remote appearances are encouraged. Parties who wish to appear remotely should contact the clerk of the court at (209) 725-4240 to provide their contact information for the remote hearing. This matter was remanded from the Fifth Appellate District for the limited purpose of addressing 1) the timeliness and merits of any request by either party to substitute a party, and 2) whether the judgment may properly be amended. (See Code Civ. Proc., § 43; cf. Pen. Code, § 1260.)