

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Consolidation of Civil Courtrooms  
Hon. Brian L. McCabe  
Courtroom 8  
Courtroom 10  
627 W. 21<sup>st</sup> Street, Merced  
Wednesday, January 12, 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. Brian L. McCabe, 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 these 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. 21<sup>st</sup> Street, Merced

Wednesday, January 12, 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
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20CV-00535	Curtis Riggs, et al. v. Steven Margaretic
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Motion for Enforcement of Settlement

**Plaintiff's Motion to enter a judgment pursuant to the terms of the settlement and award costs and attorney's fees is GRANTED. Plaintiff is ordered to submit an appropriate judgment and attorney's fees will be awarded in an amount to be determined by noticed motion.**

**Any parties that appear should be prepared to address whether Defendant Steven Margaretic should also be ordered to prepare and file a formal account of all actions taken by Steven Margaretic with regard to assets in which Mt. Buillion Properties, LLC has or has ever had an interest that were within the possession or control of Defendant Steven Margaretic during the period March 1, 2019 to present, along with copies of all documents supporting the transactions addressed in the account. Defendant Steven Margaretic is a fiduciary and all fiduciaries have a duty to account. Paragraph 52 of the Sixth of Action of the Verified Complaint for Damages filed February 4, 2020 in this action "demands an accounting be made of all Mt. Buillion's business activities, including but not limited to, Bank of America account information, lease information for each tenant, distributions made to each member, receipts and payable for Mt. Buillion, and any other financial information to provide members with an accurate accounting of Mt. Buillion**

operations.” While the parties entered into a settlement agreement that, among things, required a turnover of records (See Paragraph 3 of the Settlement Agreement and Release of All Claims dated September 22, 2020), the evidence provided in support of the Motion for Enforcement of Settlement establishes a prima facie case that Defendant Steven Margaretic has failed to comply with those terms.

Defendant Steven Margaretic opposes the Motion for Enforcement of Settlement on the grounds that the terms of the Settlement Agreement and Release of All Claims dated September 22, 2020 are too vague to support what amounts to a request for specific performance. The fact remains is that fiduciary Steven Margaretic has a duty to account that is independent of the Settlement Agreement and Release of All Claims dated September 22, 2020 and an order that he account for “all actions taken by Steven Margaretic with regard to assets in which Mt. Buillion Properties, LLC has or has ever had an interest that were within the possession or control of Defendant Steven Margaretic during the period March 1, 2019” is not too vague to be enforceable.

In lieu of an order Defendant Steven Margaretic to prepare a formal account for all transactions from March 1, 2019 to present, the parties are free to enter into an agreement that Defendant Steven Margaretic perform specific acts of more limited scope, but absent such an agreement, the weight of evidence currently before the court establishes that Defendant Steven Margaretic is in ongoing breach of his duty to account.

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21CV-00064

Mike Adams v. West Communication Service, Inc.

Plaintiff’s Motion to Compel Further Responses to Request for Admissions, Set Two, Form Interrogatories, Set Two from Def Mario Joseph Tucciarelli; Request for Sanctions in the Amount of \$1,660.00

**The unopposed motion to compel further responses to Request for Admissions, Set Two is GRANTED. Defendant, Mario Joseph Tucciarelli, must serve further verified responses without objection to Request for Admissions, Set Two, numbers 8 through 12 and corresponding Form Interrogatories, Set Two, number 17.1 by Friday, January 14, 2022. The request for sanctions is GRANTED IN PART. Defendant, Mario Joseph Tucciarelli, and/or their counsel of record, Law Offices of Lynn M. Yempuku, must pay the sum of \$660.00.**

**The Court will insert the date and sanction amount on the proposed order lodged with the court on December 9, 2021, and sign the proposed order.**

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21CV-03514

Michael Lewis v. Dennis Nepote

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

**This matter is CONTINUED, ON THE COURT’S OWN MOTION, to Thursday, January 13, 2022 so that the Hon. Donald J. Proietti, the judicial officer who issued the November 22, 2021 orders, can hear the matter.**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Special Set Matters  
Hon. Ronald W. Hansen  
Courtroom 2  
2260 N Street, Merced

Wednesday, January 12, 2022  
8:30 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 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.**

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<b>Case No.</b>	<b>Title / Description</b>
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20CV-02753	The People of the State of California v. \$211,870.00 U.S. Currency
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Claim Opposing Forfeiture Hearing

**The Court notes this matter is trailing a felony case in the Merced Superior Court, Criminal Case #20CR-04742.**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED

Limited Civil Calendar  
Peter MacLaren, Judge Pro Tem  
Courtroom 9  
627 W. 21<sup>st</sup> Street, Merced  
Wednesday, January 12, 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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<b>Case No.</b>	<b>Title / Description</b>
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19CV-01908	Yer Vang v. Martha Hernandez De Chavez
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Defendant's Motion to Compel Answers to Form Interrogatories, Special Interrogatories, and Responses to Request for Production of Documents; Request for Reasonable Sanctions and Attorney's Fees

**The unopposed motion to compel answers to Form Interrogatories, Special Interrogatories, and Response to Demand for Production of Documents is GRANTED. Plaintiff, Yer Vang, shall serve verified answers, without objection, to the Form Interrogatories (Set Number One) within twenty (20) days from the hearing of this motion; Plaintiff, Yer Vang, shall serve verified Answers, without objection, to the subject Special 9 Interrogatories (Set Number One) within twenty (20) days from the hearing of this motion; Plaintiff, Yer Vang, shall serve verified Responses, without objection, to the Demand for Production (Set Number One) within twenty (20) days from the hearing of this motion. Defendant's request for sanctions is GRANTED. Plaintiff, Yer Vang, to pay sanctions and attorneys' fees to Defendant in the amount of \$705.00 within twenty (20) days of the date of the hearing of this Motion.**

**The prevailing party is directed to prepare a written order consistent with the Court's ruling and provide a copy to opposing party/counsel for comment as required by California Rules of Court, rule 3.1312. The order is to be submitted by electronic filing to Hon. Brian L. McCabe.**

Defendant's Motion for Order that Matters be Deemed Admitted; Request for Reasonable Sanctions and Attorney's Fees

**The unopposed motion for order that matters be deemed admitted is GRANTED. Request for Admissions No. 1-14 are deemed admitted. The prevailing party is directed to prepare a written order consistent with the Court's ruling and provide a copy to opposing party/counsel for comment as required by California Rules of Court, rule 3.1312. The order is to be submitted by electronic filing to Hon. Brian L. McCabe.**

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19CV-05218

Discover Bank v. Evangelina Duke

Order to Show Cause Re: Dismissal – Notice of Settlement

**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 Court notes a Notice of Settlement of Entire Case was filed on August 12, 2020, indicating a request for dismissal would be filed no later than December 26, 2021. To date, a request for dismissal of entire action has not been filed. Absent an appearance by Petitioner, the matter will be DISMISSED WITHOUT PRUEJUDICE.**

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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, January 12, 2022  
1:15 p.m.

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<b>Case No.</b>	<b>Title / Description</b>
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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  
Peter MacLaren, Judge Pro Tem  
Courtroom 9  
627 W. 21<sup>st</sup> Street, Merced  
Wednesday, January 12, 2022  
1:15 p.m.

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<b>Case No.</b>	<b>Title / Description</b>
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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. Brian L. McCabe  
Courtroom 10  
627 W. 21<sup>st</sup> Street, Merced  
Wednesday, January 12, 2022  
1:15 p.m.

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<b>Case No.</b>	<b>Title / Description</b>
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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. David W. Moranda  
Courtroom 12  
1159 G Street, Los Banos  
Wednesday, January 12, 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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<b>Case No.</b>	<b>Title / Description</b>
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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  
Peter MacLaren, Judge Pro Tem  
Courtroom 9  
627 W. 21<sup>st</sup> Street, Merced

Wednesday, January 12, 2022  
1:30 p.m.

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<b>Case No.</b>	<b>Title / Description</b>
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There are no Limited Civil Long Cause matters scheduled.

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