

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Friday, September 13, 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

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

Friday, September 13, 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
----------	---------------------

21CV-02613	Maria Gonzalez, et al. v. Luca Lorenzi
------------	--

Status Conference

Appearance optional. 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 Settlement Funds.

22CV-01155	Estate of Devonea Graham, et al. v. County of Merced, et al.
------------	--

Motion by California Public Utilities Commission for Judgement on the Pleadings

The Request for Judicial Notice by Defendant California Public Utilities Commission is GRANTED.

The Motion for Judgment on the Pleadings as to the First Cause of Action for Negligence is SUSTAINED WITH LEAVE TO AMEND. Plaintiff fails to name any employee of the California Public Utilities Commission or any specific act or omission by any such employee. Furthermore, the Second Cause of Action for Danerous Condition on Public Property confers statutory immunity to all employees with regard to their duties and

responsibilities over public property. (Government Code § 840 [“public employee is not liable for any injury caused by a condition of public property where such condition exists because of any actor or omission of such employee within the scope of his employment”]; *Van Kempen v. Hayward Area Park, etc. Dist.* (1972) 23 Cal.App.3d 822, 825 [on claims involving public property only Government Code section 830 are controlling not Government Code section 815].)

The Motion for Judgment on the Pleadings as to the Second Cause of Action for Dangerous Condition on Public Property is **SUSTAINED WITH LEAVE TO AMEND**. Plaintiff has failed to state facts establishing that Defendant California Public Utilities Commission had ownership or control of the property where the incident occurred and matters of which this Court takes judicial notice establish that Defendant does not have ownership and does not have control. (*Goddard v. Dept. of Fish & Wildlife* (2015) 243 Cal.App.4th 350, 359.) Furthermore, mere regulatory control of crossings is not control for purposes of dangerous condition claims. (*Public Utilities Com. V. Superior Court* (2010) 181 Cal.App.4th 364, 366.)

While the opposition contends that, after considerable effort, Plaintiff obtained information that would support either the first or second cause of action, that information is not alleged in the subject complaint. Accordingly, the Motion for Judgment on the Pleadings is **GRANTED WITH LEAVE TO AMEND**.

23CV-01521 Cameron Avery v Atwater PJ Corporation

Order to Show Cause re: Dismissal

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. On April 8, 2024, Counsel appear and advised the court that the case had settled and that settlement documents were being circulated. No parties have appeared since that date and no Notice of Settlement or Dismissal has been filed. Absent an appearance and showing of good cause, the case will be dismissed without prejudice.

23CV-01962 Golden Hills Almond Ranch v. Jessie Espinosa

Case Management Conference

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 any discussion of potential mediation or settlement.

23CV-02189 Miguel Hernandez, et al. v. Guillermo Pacheco, et al.

Case Management Conference

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 any discussion of potential mediation or settlement.

23CV-03522

Kristin Harris v. Toyota Motor Sales, USA, Inc.

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 in this matter. The Notice of Settlement indicated that a dismissal would be filed by July 15, 2024.

23CV-04129

Michaela Ruiz v. John Ciuffo, et al.

Order to Show Cause re: Dismissal

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 Plaintiff's failure to appear at the June 3, 2024 Case Management Conference and at the July 12, 2024 Order to Show Cause re: Sanctions hearings and why this matter should not be dismissed without prejudice. Absent an appearance and showing of good cause this matter will be dismissed without prejudice.

24CV-00366

Hugo Garcia v. Walmart Inc.

Case Management Conference

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 mediation that was scheduled for August 23, 2024.

24CV-03676

Lamont Tumbling v. Enoch Green

Order to Show Cause re: Restraining Order

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 proof of service was filed August 27, 2024 showing service of the papers filed in this action on respondent.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Friday, September 13, 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. 21st Street, Merced

Friday, September 13, 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

Friday, September 13, 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.
