

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Monday, September 16, 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 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 wanting a hearing transcript 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 civil calendars follow:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Civil Law and Motion
Hon. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced
Monday, September 16, 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
-----------------	----------------------------

16CV-02479	Silvestre Guadarrama v. Urbano Munoz, et al.
------------	--

Order to Show Cause re: Dismissal

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 has entered default judgments in favor of Plaintiff and against Defendants Olga Sepulveda and Karina Reyes, and Defendant Urbana Munoz was dismissed from the matter on October 18, 2022. The only remaining Defendants in the Third Amended Complaint filed July 8, 2022, are Ferrow Insurance Services, Inc. and Ferrow Insurance Services, both of which were served on successors in interest Defendants Olga Sepulveda and Karina Reyes, against whom default judgments have been entered. Appear to show cause why this matter should not be dismissed with prejudice because all claim against all named parties are resolved.

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. Appear to confirm readiness for October 15, 2024, jury trial, to schedule motions in limine and any potentially dispositive trial motions, and to receive the routine meet and confer orders used by this court.

Motion by Plaintiff Natalie Garibay to Compel Defendant Stryker Corporation to serve further answers to Plaintiff's Form Interrogatories, Set One, and for monetary sanctions in the amount of \$1,103.60 pursuant to Code of Civil Procedure § 2030.300(d)

This Motion Sought to compel further responses to Form Interrogatory 12.1 and 12.2. There is no dispute that a satisfactory verified response to Form Interrogatory 12.1 was filed while this motion was pending, making the portion of the motion moot except with respect to the issue of monetary sanctions. A verified supplemental response to Interrogatory 12.2 was also served while this motion was pending, but it asserts objections, including attorney work product objections apparently relating to the investigation by counsel. The verified response states:

“Stryker objects to this interrogatory on the ground that it seeks information protected by the attorney work product doctrine. Under *Coito v. Superior Court* (2012) 54 Cal.4th 480, Stryker is entitled to protection from answering this interrogatory because responding to it will reveal Stryker's attorney's tactics, impressions, or evaluation of the case. As part of its investigation, and in furtherance of the defense of the case on behalf of Stryker, counsel for Stryker, Kathleen Rhoads, interviewed certain individual or individuals. No reports were generated. [¶] If Stryker is forced to reveal which individual or individuals Stryker's counsel deemed necessary to interview as part of Stryker's counsel's investigation, counsel for Natalie Gariba would be able to take undue advantage of Stryker's counsel's industry or efforts. Consequently, Stryker is entitled to qualified work product protection on this interrogatory. *Coito, supra*, 54 Cal.4th at p.502. [¶] Moreover, qualified work product “is not discoverable unless the court determines that denial of discovery will unfairly prejudice the party seeking discovery in preparing that party's claim or defense or will result in an injustice.” Code Civ. Proc. §2018.030, subd. (b); *Nacht & Lewis Architects, Inc. v. Superior Court* (1996) 47 Cal.app.4th 214. Here, Natalie Garibay will not suffer any unfair prejudice because she was present at the scene of the incident giving rise to this action and was, and is, able to identify individuals who may have knowledge of the incident at the time that it occurred.”

Plaintiff's reply states: “Information responsive to form interrogatory 12.2 is not automatically entitled as a matter of law to absolute or qualified work product privilege. (*McVeigh v. Recology San Francisco* (2013) 213 Cal.App.4th 443, 4741.) The interrogatory usually must be answered. (*Ibid.*) An objecting party may be entitled to protection if it can make a preliminary or foundational showing that answering the interrogatory would reveal the attorney's tactics, impressions, or evaluation of the case, or would result in opposing counsel taking undue advantage of the attorney's industry or efforts. (*Ibid.*) 9 Defendant's "showing" consists of conclusory statements parroting the holding in

McVeigh. Assuming their showing is sufficient, "the trial court should then determine, by making an in camera inspection if necessary, whether absolute or qualified work product protection applies to the material in dispute." (McVeigh v. Recology San Francisco (2013) 213 Cal.App.4th 443,475, citing Coito v. Superior Court (2012)54 Cal.4th 480, 502.)"

The fact is that the supplemental response renders this motion moot as to both Interrogatory 12.1 and 12.2, except for the issue of sanctions, so the portion of the instant motion seeking to compel further responses must be denied as moot. This court elects to defer the issue of sanctions on this motion until the parties meet and confer and it is determined whether a second motion to compel will be necessary.

As Plaintiff correctly points out, Defendant has not provided any evidence establishing that attorney work product applies, at least not in the papers filed with this court. Generally this burden would have been satisfied by providing a verified response, without objection, to Interrogatory 12.2(c), the address and telephone number of the person who conducted the interview (or interviews). While the identify of the individuals interviewed may be protected, the fact that five interviews were conducted by Attorney Bob Jones is not. If the five interviews were conducted telephone by office receptionist Bob Jones, absent further information establishing a basis for work product, the interviews would not be protected and would be subject to disclosure via Form Interrogatory 12.2 as interpreted by McVeigh v. Recology San Francisco (2013) 213 Cal.App.4th 443,475, citing Coito v. Superior Court (2012) 54 Cal.4th 480, 502. With the exception of undisclosed expert witnesses who are subsequently disclosed pursuant to CCP § 2034, work product cannot be asserted to shield information during discovery and then withdrawn at trial. Absent good cause, motions in limine to exclude evidence that was responsive to discovery but was withheld pursuant to a privilege or work product objection will be granted. If the parties resolve these issues, sanctions will be denied on the grounds that there was a good faith basis for the failure to provide discovery. If not, the sanctions issue can be renewed along with any further sanctions that the moving party believes might be appropriate.

Accordingly, Motion by Plaintiff Natalie Garibay to Compel Defendant Stryker Corporation to serve further answers to Plaintiff's Form Interrogatories, Set One, and for monetary sanctions in the amount of \$1,103.60 pursuant to Code of Civil Procedure § 2030.300(d) is DENIED WITHOUT PREJUDICE.

23CV-01404

Alyssa Sprague v. David Flores, et al.

Motion by Counsel for Plaintiff to be relieved as counsel

The unopposed Motion by Counsel for Plaintiff to be relieved as counsel is GRANTED, effective upon service of notice of entry order. Plaintiff is ordered to appear or have counsel appear for the Case Management Conference set for September 30, 2024, at 10:00 A.M. in Courtroom 8.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Monday, September 16, 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
-----------------	----------------------------

There are no Mandatory Settlement Conferences Scheduled

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Civil Case Management Conferences
Hon. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced

Monday, September 16, 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
-----------------	----------------------------

Appearance required on all matters. 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

Ex Parte Matters
Hon. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced
Monday, September 16, 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

Monday, September 16, 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, Merced
Monday, September 16, 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 for hearing.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Short Cause Court Trials
Hon. Brian L. McCabe
Courtroom 8
627 W. 21st Street, Merced

Monday, September 16, 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
21CV-04109	Juan Rebanales v. Verlin Sherrell, Junior, et al. Default Prove Up Appearance required on all matters. 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.
22CV-00121	Pandit Sahota, et al. v. Manpreet Rai Motions in Limine No Motions in Limine have been filed by either party.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Limited Civil
Hon. Mason Brawley
Courtroom 9
627 W. 21st Street, Merced

Monday, September 16, 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
23CV-02676	LVNV Funding LLC v. Nakiese Dinkins 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 Entire case filed October 12, 2023 stated that a request for dismissal would be filed by July 13, 2024.
24CV-03235	[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-03329	[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-03520 [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-03521 [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-03667 [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-03859 [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.
