

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

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

Wednesday, January 22, 2025

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. Stephanie Jamieson

Courtroom 9 – Commissioner David Foster

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. Stephanie Jamieson
Courtroom 8
627 W. 21st Street, Merced

Wednesday, January 22, 2025
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
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22CV-03431	State of California <i>ex rel.</i> Kendall and Davis LLC v. Le-Nguyen Dental Corporation, et al.
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Demurrer to Third Amended Complaint

The court acknowledges that Plaintiff-Relator's opposition was not timely filed. However, the court finds good cause to accept the opposition, noting that Defendants had sufficient time to file a reply brief on January 14, 2025. Absent evidence of prejudice caused by the delay, the court accepts the opposition and will rule on the merits of the demurrer.

A Third Amended Complaint was filed October 16, 2024, by Plaintiff-Relator, Kendall and Davis LLC, a Texas Limited Liability Corporation. On November 18, 2024, Defendants, Le-Nguyen Denal Corporation dba El Portal Dental Group and Kang C. Nguyen D.D.S., filed a demurrer to the Third Amended Complaint asserting that the complaint fails to state a cause of action pursuant to Cal. Code Civ. Proc. § 430.10, subd. (e), that Plaintiff-Relator lacks capacity to sue pursuant to Cal. Code Civ. Proc. § 430.10, subd. (b), and that Plaintiff-Relator lacks capacity to sue pursuant to Cal. Corp. Code § 17708.07, subd. (a). Defendants and Plaintiff-Relator each made requests for judicial notice pursuant to Evidence Code § 452.

The requests for judicial notice are GRANTED.

The demurrer for failure to state a cause of action for fraud is OVERRULED. The Third Amended Complaint alleges fraud with the required specificity and contains allegations sufficient to establish fraudulent intent.

The demurrer as to Plaintiff-Relator's capacity to sue pursuant to Cal. Code Civ. Proc. § 430.10, subd. (b) is OVERRULED. The court has taken judicial notice of the fact that the Texas Secretary of State reinstated Plaintiff-Relator's corporate status effective January 6, 2025.

The demurrer as to Plaintiff-Relator's lack of capacity to sue for failure to register to perform intrastate business in California pursuant to Cal. Corp. Code § 17708.02, is SUSTAINED WITH LEAVE TO AMEND.

Defendants assert that Plaintiff-Relator lacks capacity to sue because it engaged in intrastate business in California without registering with the California Secretary of State, a prerequisite to maintaining a legal action. (Cal. Corp. Code § 17708.07, subd. (a).) The court has taken judicial notice of Plaintiff-Relator's lack of registration in California. Paragraphs 15 and 31 of the Third Amended Complaint, relied upon by Defendants to support their demurrer, appear to establish either that Plaintiff-Relator was an active participant in the management of an intrastate dental practice, albeit through RD Merced LLC and Amy Critz, DDS. Plaintiff-Relator's evidence that RD Merced LLC was registered to conduct business in California is insufficient to cure Plaintiff-Relator's lack of capacity.

In the event Plaintiff-Relator can plead around its failure to register in California despite appearing to operate an intrastate dental practice or substitute a plaintiff that is both a real party in interest and an entity with capacity to sue in California, an amended complaint may be filed. The amended complaint shall be filed on or before February 28, 2025.

Case Management Conference

The Case Management Conference is CONTINUED ON THE COURT'S OWN MOTION to March 24, 2025, at 10:00 a.m. in Courtroom 8.

23CV-03668

Mark Fink, et al. v. KZ, Inc., et al.

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. On September 13, 2024, plaintiff filed a notice of settlement indicating that a conditional settlement would be completed and a request for dismissal filed no later than October 28, 2024. To date, no dismissal request has been filed. Appear to address the status of the settlement.

24CV-06224

In the Matter of: Victoria Maria Zitacuaro

In Camera Hearing

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.

24CV-06338

Angela Evans v. Sadag Sanad

Order to Show Cause re: Civil Harassment 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 showing service of the papers filed in this action on respondent has been filed.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Mandatory Settlement Conference
Hon. Stephanie Jamieson
Courtroom 8
627 W. 21st Street, Merced

Wednesday, January 22, 2025
8:15 a.m.

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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. *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 Mandatory Settlement Conferences on Calendar

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Limited Civil Calendar
Commissioner David Foster
Courtroom 9
627 W. 21st Street, Merced

Wednesday, January 22, 2025
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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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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24CV-02106	Onemain Financial Group, LLC vs Nancy Gonzalez
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Motion for Order Deeming Admitted Requests for Admission

Plaintiff's unopposed motion for an order deeming admitted the truth of any facts specified in plaintiff's Requests for Admission, Set One, served on defendant Nancy Garcia Gonzalez is GRANTED. (Code Civ. Proc., § 2033.280(c).) It is undisputed that defendant has not served a response to plaintiff's requests for admission. The Court notes that the notice of motion and supporting papers do not request an award of monetary sanctions (see Code Civ. Proc., § 2023.040).

The Court will sign the proposed order submitted with the moving papers.

24CV-04228	LVNV Funding LLC vs D Wisdom Hambrecht
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OSC re: Dismissal – Notice of Settlement

Appearance is *not* required. On October 16, 2024, plaintiff filed a notice of settlement indicating that a conditional settlement would be completed and a request for dismissal filed no later than September 10, 2025. This hearing appears to have been prematurely scheduled. The Court continues the OSC hearing to November 12, 2025, at 10:00 a.m. in Courtroom 9 and directs the clerk's office to send notice to the parties.

24CV-04347 [Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Unlawful Detainer 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.

24CV-04603 [Parties' names withheld pursuant to CCP § 1161.2(a)(1)]

Unlawful Detainer 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.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Stephanie Jamieson
Courtroom 8
627 W. 21st Street, Merced

Wednesday, January 22, 2025
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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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.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Commissioner David Foster
Courtroom 9
627 W. 21st Street, Merced

Wednesday, January 22, 2025
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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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.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Hon. Jennifer O. Trimble
Courtroom 12
1159 G Street, Los Banos

Wednesday, January 22, 2025
1:15 p.m.

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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

Limited Civil Long Cause Court Trials
Commissioner David Foster
Courtroom 9
627 W. 21st Street, Merced

Wednesday, January 22, 2025
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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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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24CV-05257	[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]
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Demurrer to Answer

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.

Readiness 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.

24CV-05955	[Parties' names withheld pursuant to CCP § 1161.2(a)(1)]
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Motion to Set Aside Default

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.
