

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, September 16, 2021

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, September 16, 2021
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
----------	---------------------

21CV-00321	Ka Xiong, et al. v. Central Valley Regional Center, Inc., et al.
------------	--

Demurrer

Defendant's Demurrer is OVERRULED. The Second Cause of Action for Dependent Adult Abuse/Neglect alleges sufficient specific facts to establish a cause for Dependent Adult Abuse/Neglect. Paragraph 12 of the First Amended Complaint alleges that the Defendants failure to properly supervise the dependent adult under the care of Defendants resulted in the Dependent Adult leaving the facility unsupervised on August 29, 2020, that an employee found the Dependent Adult on the street but failed to take protective action, with the result that the Dependent Adult continued to walk into a canal area, fell into a canal and drowned. These allegations are assumed to be true for purposes of the instant demurrer. Accordingly, the demurrer is OVERRULED.

Motion to Strike Portions of Plaintiffs' First Amended Complaint

Defendant's motion to strike portions of plaintiffs' first amended complaint is DENIED. The allegations of the First Amended Complaint alleges facts that establish reckless disregard and malice by an employer by deliberate conduct implementing a cost cutting scheme with the knowledge that such scheme was designed to exploit elderly and dependent adults (Paragraph 59), that the Dependent Adult in question left the facility on several occasions, but Defendants intentionally ignored this problem with the result that

the Dependent Adult under the care of Defendants died. (Paragraph 60). The complaint further alleges that the employer ratified that conduct of its employees. (Paragraph 61.) Accordingly, the motion to strike is DENIED.

21CV-02778

Michael Adamson v. Michael Lewis

Order to Show Cause Re: Restraining Order

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

Special Set Matters
Commissioner Donald E. Shaver
Courtroom 4
2260 N Street, Merced
Wednesday, September 16, 2021
8:45 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 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**

20CV-01813 Lenora Peterson v. Manuel Pereira

Order to Show Cause Re: Restraining Order

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 Petitioner and Respondent's attorney were present on August 6, 2021, when the matter was continued to this date.

21CV-02695 Yvonne Reyes v. Gene DeCaro

Order to Show Cause Re: Restraining Order

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 proof of service was filed on August 25, 2021, indicating Respondent was personally served with notice of hearing on August 23, 2021 and that Respondent did not appear on September 13, 2021, when the matter was continued to this date.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Limited Civil Calendar
Judge Pro Tem Peter MacLaren
Courtroom 9
627 W. 21st Street, Merced
Thursday, September 16, 2021
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) 725-4240 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 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
21CV-02388	Casa De Delhi Senior Mobile Home Park v. Marilyn Cooper
	Unlawful Detainer 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.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Restraining Order Calendar
Hon. David Moranda
Courtroom 12
1159 G Street, Los Banos
Thursday, September 16, 2021
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:

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 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
-----------------	----------------------------

21CV-02740	Alyssa Spindler v. Misti Calvert
------------	----------------------------------

Request for Restraining Order

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, September 16, 2021
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) 725-4240 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
-----------------	----------------------------

There are no Ex Parte Matters scheduled.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

Ex Parte Matters
Judge Pro Tem Peter MacLaren
Courtroom 9
627 W. 21st Street, Merced
Thursday, September 16, 2021
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) 725-4240 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 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
-----------------	----------------------------

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, September 16, 2021
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) 725-4240 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 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
-----------------	----------------------------

There are no Ex Parte Matters scheduled.
