

TENTATIVE RULINGS

FOR: March 28, 2019

The Court may exercise its discretion to **disregard** a late filed paper in law and motion matters. (Cal. Rules of Court, rule 3.1300(d).)

Unlawful Detainer Cases – Pursuant to the restrictions in Code of Civil Procedure section 1161.2, no tentative rulings are posted for unlawful detainer cases and appearances are required.

Court Reporting Services – The Court does not provide official court reporters in proceedings for which such services are not legally mandated. Parties are responsible for either making the appropriate request in advance or arranging for their own private court reporter. Go to <http://napacountybar.org/court-reporting-services/> for information about local private court reporters. Attorneys or parties must confer with each other to avoid having more than one court reporter present for the same hearing.

CIVIL LAW & MOTION CALENDAR – Hon. Victoria Wood, Dept. A (Historic Courthouse) at 8:30 a.m.

First American Title Company of Napa v. Larry Frattini, et al.

18CV000164

MOTION FOR PROTECTIVE ORDER

TENTATIVE RULING: Defendants Placer Title Company and Mother Lode Holding Company’s motion for a protective order to exclude Mark Holderbein from the depositions of non-parties Christine Cramer-Kern and Jennifer Reyes pursuant to Code of Civil Procedure section 2025.420, subdivision (a), is DENIED. The Court is not authorized to issue a protective order excluding parties, such as plaintiff’s officer, from attending the depositions. (Code Civ. Proc., § 2025.420, subd. (b)(12); see *Willoughby v. Super. Ct.* (1985) 172 Cal.App.3d 890, 892 [parties have the right to attend depositions].) Even if the Court was authorized to issue such a protective order, defendants have not demonstrated good cause to overcome plaintiff’s right to have Mark Holderbein, Chief Operating Officer, present at the depositions. Although another officer could attend, Holderbein is the person most suited to assist counsel with the depositions because Holderbein was Cramer-Kern and Reyes’ direct supervisor with specialized knowledge of their job duties, functions, and roles. (Holderbein Decl., ¶ 18.) He is in the best position to assist counsel in obtaining the most relevant information and determining the veracity of each deponent’s answers. (Chiarelli Decl., ¶ 4.)

Plaintiff’s request for monetary sanctions is GRANTED IN PART in the amount of \$765 against defendants’ counsel, Gordon Young and Donald Slater, payable to plaintiff’s counsel within 10 calendar days of service of notice of entry of order. This amount represents the amount plaintiff incurred in cancellation charges from the deponents’ prior deposition. (Chiarelli Decl., ¶ 8.) The imposition of additional monetary sanctions would be unjust under the circumstances. (Code Civ. Proc., § 2025.420, subd. (h).)

The Court elects not to address plaintiff's 24 evidentiary objections to the Cramer-Kern and Reyes declarations as they are not material to the disposition of the motion.

Defendants evidentiary objection numbers 12-13 to the Holderbein declaration are OVERRULED. The Court elects not to address defendants' remaining 58 evidentiary objections to the Holderbein, Karpuk, Miranda, and Lopez declarations as they are not material to the disposition of the motion.

Plaintiff has offered to relocate the depositions to a larger setting to accommodate the deponents. If the size of the conference room really is an issue for the deponents, the parties are free to meet-and-confer on the matter. Moreover, the Court encourages Holderbein to refrain from interacting with the deponents during their depositions.

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Serjio Collazo et al. v. Mark Joel Willoughby

18CV001000

MOTION TO BE RELIEVED AS COUNSEL

APPEARANCE REQUIRED

PROBATE CALENDAR – Hon. Monique Langhorne, Dept. B (Historic Courthouse) at 8:30 a.m.

Estate of Geneva Alice Boles

17PR000249

REPORT ON WAIVER OF ACCOUNTING AND PETITION FOR FINAL DISTRIBUTION, FOR ALLOWANCE OF COMPENSATION TO ATTORNEYS FOR ORDINARY SERVICES

TENTATIVE RULING: The petition is GRANTED IN PART. The request for attorney's fees is granted in the amount of \$7,535.45. This amount represents \$2,109.25 in attorney time (7.15 hours x \$295 per hour) plus \$5,426.20 in paralegal time (41.74 hours x \$130 per hour).

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In the Matter of Golden Eagle "A Trust"

19PR000005

VERIFIED PETITION TO: (1) CONFIRM NON-EXISTENCE OF POWER OF TRUSTEE(S); (2) REMOVE TRUSTEE(S); (3) APPOINT INDEPENDENT FIDUCIARY TO ACT AS TRUSTEE OF THE TRUST; (4) DEMAND ACCOUNTING TO BENEFICIARIES; AND (5) ENJOIN USE OF TRUST PROPERTY AND ASSETS

TENTATIVE RULING: Respondents Daniel Proskine and Raymond Augustyniak did not comply with the February 21, 2019 Minute Order requiring responses by March 21, 2019. Although respondents filed responses, they are not properly verified. Respondents did not

comply with Code of Civil Procedure section 2015.5 requiring the verifications to be made under penalty of perjury. Nor is Proskine's response dated.

The Court orders respondents to prepare and file an accounting from the date of decedent's death on January 21, 2004, until the filing of the petition pursuant to Article 8 of the trust. Respondents shall serve and file their accounting by May 28, 2019. If additional time is needed, the parties shall meet-and-confer to reach a stipulation.

Although the parties so stipulated, the Court now orders respondents not to take any action that would adversely affect the trust while this matter is pending.

A case management conference is set for June 28, 2019, at 8:30 a.m. in Dept. B.