

TENTATIVE RULINGS

FOR: April 10, 2018

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. These proceedings include civil law and motion hearings. If counsel want their civil law and motion hearing reported, they must arrange for a private court reporter to be present. 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.

PROBATE CALENDAR – Hon. Diane Price, Dept. C (Historic Courthouse)

Conservatorship of Glenn Earl Luce

16PR000188

FIRST ACCOUNTING AND REPORT OF CONSERVATOR; PETITION FOR ALLOWANCE OF FEES TO CONSERVATOR OF PERSON AND ESTATE, FOR ATTORNEY FEES, AND FOR TERMINATION OF CONSERVATORSHIP

TENTATIVE RULING: GRANT Petition, including fees as prayed.

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Estate of Erma M. Santos

18PR000038

PETITION FOR PROBATE OF WILL AND FOR LETTERS TESTAMENTARY AND AUTHORIZATION TO ADMINISTER UNDER THE INDEPENDENT ADMINISTRATION OF ESTATES ACT

TENTATIVE RULING: The original will is not in the Court file. (Prob. Code, § 8200.) Petitioner shall lodge the original will with the Court or submit a petition for probate of a lost or destroyed will. (*Id.*, § 8223.) In addition, the Letters submitted are not signed. Hearing on the matter is continued to May 3, 2018 at 8:30 a.m. in Dept. C to allow time for the missing/incomplete documents to be completed and filed. The Court will sign the proposed Order regarding waiver of appraisal by probate referee.

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Estate of Louis Harry Miroglio

18PR000068

PETITION FOR PROBATE OF WILL AND FOR LETTERS TESTAMENTARY AND AUTHORIZATION TO ADMINISTER UNDER THE INDEPENDENT ADMINISTRATION OF ESTATES ACT

TENTATIVE RULING: GRANT petition. IAEA powers are not checked in the caption of the petition, but it is clear from the body of the petition and other materials that petitioner seeks full authority to act. Although the relationships are not listed in paragraph 8, it is apparent from decedent’s will that each person is decedent’s child.

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Estate of Edgar O’Brien

18PR000072

PETITION FOR PROBATE OF WILL AND FOR LETTERS TESTAMENTARY AND AUTHORIZATION TO ADMINISTER UNDER THE INDEPENDENT ADMINISTRATION OF ESTATES ACT

TENTATIVE RULING: GRANT petition. Based on counsel’s declaration that Michael O’Brien has corresponded with her via email and his refusal to provide a physical address, the Court dispenses with notice to a physical address and permits notice via email. Email service was completed on March 26, 2018.

CIVIL LAW & MOTION CALENDAR – Hon. Rodney Stone, Dept. I (Criminal Courts Bldg.-1111 Third St.)

Justin Klinger, et al. v. Alma Ochoa, et al.

17CV000179

PETITION FOR WRIT OF MANDATE IN OPPOSITION TO DEFENDANT JUSTIN KLINGER’S APPLICATION FOR A GOOD FAITH SETTLEMENT [CCP §877.6(e)]

TENTATIVE RULING: The Notice of Motion does not provide notice of the Court’s tentative ruling system as required by Local Rule 2.9. Defendant’s counsel is directed to contact opposing counsel forthwith and advise opposing counsel of Local Rule 2.9 and the Court’s tentative ruling procedure. If Defendant’s counsel is unable to contact opposing counsel prior to the hearing, Defendant’s counsel shall be available at the hearing, in person or by telephone, in the event opposing counsel appears without following the procedures set forth in Local Rule 2.9.

The Petition is DENIED. The settlement reached, which includes a proposed policy limits payment of \$50,000, appears to satisfy all of the *Tech-Bilt* factors. There is conflicting evidence as to whether the settling Defendant has any liability for the accident. The proposed payment is 33% of Plaintiff’s claimed special damages, which is considerable for a settling party that may not have any liability.

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**Raja Development Co., Inc. v.
Napa County Regional Open Space District, et al.**

17CV000211

DEMURRER TO THE THIRD AMENDED COMPLAINT

TENTATIVE RULING:

Defendant Napa County Regional Park and Open Space District's demurrer to the first cause of action for breach of covenant running with the land on the ground of failure to state sufficient facts is SUSTAINED WITHOUT LEAVE TO AMEND. (Code Civ. Proc., § 430.41, subd. (e)(1).) Plaintiff Raja Development Co., Inc.'s claim is based on defendant's breach of the second fence agreement by refusing to pay 50% of all the costs associated with construction of the fence. (Third Amended Compl., ¶ 26.) However, by its terms, the third fence agreement superseded the second fence agreement and "all previous agreements." (See *id.*, Attachment C, ¶ 27 ["This Agreement constitutes the entire agreement between the parties relating to the subject of this Agreement and supersedes all previous agreements, promises, representations, understandings and negotiations, whether written or oral, among the parties with respect to the subject matter hereof."].)

Defendant's demurrer to the third cause of action for common counts and fourth cause of action for declaratory relief is SUSTAINED WITHOUT LEAVE TO AMEND. The third and fourth causes of action are dependent on the defective breach of contract claim.

The case management conference is taken off-calendar and an OSC: dismissal is set for June 10, 2018, at 8:30 a.m. in Dept. I.

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Idaly Rodriguez, et al. v. Foley Family Wines, Inc, et al.

17CV000561

MOTION TO CONTINUE TRIAL

TENTATIVE RULING: Defendant Kuleto Villa, LLC's motion to continue trial is GRANTED. The parties are to appear to discuss a new trial date and any other applicable dates.