

TENTATIVE RULINGS

FOR: June 20, 2017

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. Rodney Stone, Dept. C (Historic Courthouse)

Estate of Lawrence Joseph Schlarmann

16PR000065

FIRST AND FINAL REPORT OF EXECUTOR, PETITION FOR ALLOWANCE OF STATUTORY ATTORNEY’S FEES, AND FOR FINAL DISTRIBUTION ON WAIVER OF ACCOUNTING

TENTATIVE RULING: GRANT petition.

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Conservatorship of Peter Francis Rieder

17PR000101

PETITION FOR APPOINTMENT OF PROBATE CONSERVATOR OF THE ESTATE

APPEARANCE REQUIRED. The proposed conservatee need not appear.

PROBATE CALENDAR – Hon. Diane Price, Dept. F (Criminal Courts Bldg.-1111 Third St.)

Conservatorship of Harry Ray Davis

17PR000094

PETITION FOR APPOINTMENT OF PROBATE CONSERVATOR OF THE PERSON AND ESTATE

APPEARANCE REQUIRED. The proposed conservatee need not appear.

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Estate of Ruth Eleanor Ancona

17PR000104

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

TENTATIVE RULING: GRANT petition.

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In the Matter of Parker Bartlett-May

17PR000104

PETITION FOR ORDER AUTHORIZING COMPROMISE OF MINOR'S CLAIM

APPEARANCE REQUIRED

**CIVIL LAW & MOTION CALENDAR – Hon. Diane Price, Dept. F (Criminal
Courts Bldg.-1111 Third St.)**

City of Napa v. Stephanie Duhau, et al

16CV000886

MOTION TO SET ASIDE DEFAULTS

TENTATIVE RULING:

Plaintiff the City of Napa's request for judicial notice is GRANTED IN PART AND DENIED IN PART. The request is granted as to the proof of service of summons and complaint, notice of entry of default and its proof of service, and notice of entry of judgment and order and its proof of service. The request is denied as to the Tracy Thompson declaration and the Airbnb, Inc. declaration and the accompanying spreadsheets. Although court records, the contents of these documents are not the proper subject of judicial notice.

Defendant Goya Sheen's motion to set aside the defaults due to mistake, inadvertence, surprise, or excusable neglect is DENIED. Sheen's declaration filed in support of the motion are not credible based on the events in this case. Hearings occurred in this matter on October 7 and 21, 2016. At both hearings, Sheen clearly was representing himself. The Court instructed Sheen that a complaint had been filed and implored him to retain counsel immediately. Thereafter, on November 2, 2016, Sheen emailed the City and referenced a "civil rights" attorney to whom he had been referred. (Jones Decl., ¶ 7.) The City responded to Sheen's email by urging him to have the attorney contact the City's attorney. (*Id.*) The City received no such contact. (*Id.*) The City then waited nearly two weeks after this email exchange to take Sheen's default. (*Id.*) Sheen also acknowledged in the email he was "now representing myself." (*Id.*, ¶ 7, Ex. 1 [November 2, 2016 email from Sheen].) The Court cannot find any mistake, inadvertence, surprise, or excisable neglect under these circumstances.

Nor do Sheen's claims of medical problems change the outcome. Sheen maintains he suffered medical issues in March 2016 and mid-October 2016. He states these issues resulted in headaches, loss of vision, loss of balance, and restricted his movement. (Sheen Decl., ¶¶ 16-18.) Yet, despite these purported medical issues, Sheen was able to appear at the hearings. He was defiant at the hearings and acted in a manner belying his claims of medical incapacity. Moreover, despite his proffered claims of medical issues, Sheen was able to continue to advertise and receive payment for hospitality and rental of the property, from October 8, 2016, through at least January 16, 2017. (Jones Decl., ¶ 6.)

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National Collegiate Student Loan Trust 2005-3
v. Jennifer S Yates, et al.

16CV000977
16CV000980
16CV000982

COURT'S MOTION TO CONSOLIDATE

TENTATIVE RULING: The Court's motion to consolidate is GRANTED. Case No. 16CV000980 and 16CV000982 are consolidated with lead Case No. 16CV000977.

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Tony Xuereb v. Gaetano Xuereb

26-68284

MOTION TO VACATE VOLUNTARY DISMISSAL

TENTATIVE RULING:

Defendant Gaetano A. Xuereb's motion to vacate the voluntary dismissal is GRANTED. Plaintiff Tony Xuereb does not oppose the motion. A Case Management Conference is set for August 1, 2017, at 8:30 a.m. in Dept. F.