

**TENTATIVE RULINGS**

**FOR: July 26, 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. 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.

**PROBATE CALENDAR – Hon. Victoria Wood, Dept. C (Historic Courthouse) at 2:00 p.m.**

**In the Matter of The Boben 1989 Family Trust**

**18PR000158**

PETITION FOR INSTRUCTIONS REGARDING THE SALE OF REAL PROPERTY

**TENTATIVE RULING:** The Petition is GRANTED.

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**Conservatorship of Scicchitano, J.**

**26-61233**

VERIFIED THIRD ACCOUNT AND REPORT OF CONSERVATOR AND PETITION TO REDUCE THE AMOUNT OF THE BOND

**TENTATIVE RULING:** There is no proof of service of the accounting on Conservatee’s attorney. There are also no original bill statements from conservatee’s care facility. (Prob. Code §2620(c)(5).) The hearing on the accounting is continued to August 14, 2018 at 2:00 p.m. in Dept. I to allow for proper notice to Conservatee’s counsel and for submission of the bill statements. The clerk is directed to send notice to the parties.

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**Conservatorship of Zehe, A**

**26-61911**

REVIEW HEARING

**TENTATIVE RULING:** After a review of the matter, the court finds the Conservators are acting in the best interest of the Conservatee. Thus, the case is set for a biennial review hearing in two years, on July 23, 2020 at 8:30 a.m. in Dept. I. The court investigator shall prepare a biennial investigator report for the next hearing date. The clerk is directed to send notice to the parties.

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**Guardianship of Laura Kayoko Sarsfield**

**26-66548**

REQUEST FOR TERMINATION OF GUARDIANSHIP

**TENTATIVE RULING:** The Request is GRANTED. The Guardianship is terminated.

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**Conservatorship of Donald E. Willett**

**26-67296**

AMENDED FINAL ACCOUNT AND REPORT OF CONSERVATOR OF THE PERSON AND ESTATE AND PETITION FOR APPROVAL OF ACCOUNT; AND FOR TERMINATION OF CONSERVATORSHIP

**TENTATIVE RULING:** The submitted accountings do not balance; total charges do not equal total credits, as required by Probate Code section 1061, subdivision (c). Furthermore, the Amended Petition fails to address the fees of Conservator's counsel; the amount sought should be requested in the Petition, or waived. An amended accounting is to be prepared, filed, and served by August 17, 2018. Hearing on the matter is continued to September 6, 2018 at 2:00 p.m. in Dept. C.

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**Conservatorship of Lee Ann Sedgwick**

**PR22875**

REVIEW HEARING

**TENTATIVE RULING:** Based on the report of the court investigator, the Court determines by clear and convincing evidence that the conservatee can communicate a desire to participate in the voting process, and therefore orders the conservatee's right to register to vote shall be restored, pursuant to Elections Code section 2209, subdivision (b). After a review of the matter, the Court finds the co-conservators are acting in the best interest of the conservatee. Thus, the case is set for a biennial review hearing in two years, on July 28, 2020, at 8:30 a.m. in Dept. I. The court investigator shall prepare a biennial investigator report for the next hearing date. The clerk is directed to send notice to the parties.

**CIVIL LAW & MOTION CALENDAR – Hon. Victoria Wood, Dept. C (Historic Courthouse) at 2:00 p.m.**

**Sienna Lynch v. Hang Thuy Ha, et al.**

**18CV000422**

MOTION TO STAY PROCEEDINGS

**TENTATIVE RULING:** The unopposed Motion is GRANTED. The Case Management Conference currently set for September 11, 2018 is continued to November 13, 2018 at 2:00 p.m. in Dept. C.

**CIVIL LAW & MOTION CALENDAR – Hon. Elia Ortiz, Dept. E (Criminal Courts Bldg.-1111 Third St.) at 2:00 p.m.**

**Mauro Gumpal v. Queen of the Valley Medical Center, et al.**

**17CV001391**

1) DEFENDANT JENNIFER GUNNELL, M.D.'S DEMURRER TO PLAINTIFF'S COMPLAINT

**TENTATIVE RULING:** Defendant's Demurrer is SUSTAINED WITHOUT LEAVE TO AMEND. Plaintiff's Complaint is barred by Code of Civil Procedure section 340.5, which provides: "[i]n an action for injury or death against a health care provider based upon such person's alleged professional negligence, the time for the commencement of action shall be three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first." (Emphasis added.) In Plaintiff's Complaint, Plaintiff alleges that the injury occurred between August 2009 and August 2010, which would require Plaintiff to file his complaint by August 2013 at the latest. Even if the statute of limitations was tolled by Code of Civil Procedure section 352.1, subdivision (a), that would extend the time period for Plaintiff to file his complaint to August 2015. Plaintiff's Complaint was filed on December 8, 2017, and is therefore time-barred. Plaintiff's arguments regarding Code of Civil Procedure sections 335.1 and 337.1 are misplaced as only the first cause of action for medical negligence is alleged against this Defendant.

A Case Management Conference is set for September 26, 2018 at 2:00 p.m. in Dept. I.

2) DEFENDANT JENNIFER GUNNELL, M.D.'S MOTION TO STRIKE PORTIONS OF PLAINTIFF'S COMPLAINT

**TENTATIVE RULING:** In light of the Court's ruling above, Defendant's Motion to Strike is MOOT.