

## **TENTATIVE RULINGS**

**FOR: September 2, 2020**

If you do not see a tentative ruling for a scheduled matter, then attendance at the hearing is required.

**Remote appearances via Zoom are mandatory to prevent the spread of COVID-19.** Please use Zoom at the links listed below. COURTCALL IS NO LONGER AVAILABLE.

If you have cases scheduled in both courtrooms at the same time, first log-in to the Zoom session for the department that has your quickest matter(s), and upon check-in, ask the clerk to email the clerk in the other department to advise that you will be late to the other Zoom session.

### **Dept. A Zoom**

**Join by Video (Preferred)**

<https://us02web.zoom.us/j/85897874559?pwd=Nk1VTnNQZmIzNXQwbVNiUk1iOTNCZz09>

**Join by Phone:** 877 853 5247 or 888 788 0099      **Meeting ID:** 858 9787 4559      **Password:** 704959

### **Dept. B Zoom**

**Join by Video (Preferred)**

<https://us02web.zoom.us/j/89902611018?pwd=OXJRM2FFWHZ4YXJ4b2szZW51UFJYZz09>

**Join by Phone:** 877 853 5247 or 888 788 0099      **Meeting ID:** 899 0261 1018      **Password:** 776773

**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. A (Historic Courthouse) at 8:30 a.m.**

**Estate of John Joseph Vranka, Jr.**

**20PR000140**

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

**TENTATIVE RULING: GRANT** petition.

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

**Merryvale Vineyards LLC v. V2 Wine Group, LLC, et al.**

**19CV000482**

[1] PLAINTIFF’S MOTION TO CHANGE DESIGNATION UNDER STIPULATED PROTECTIVE ORDER, and

[2] COURT’S MOTION TO APPOINT DISCOVERY REFEREE

**APPEARANCE REQUIRED** to discuss a trial continuance and appointment of discovery referee, as stipulated to by the parties.

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

**Estate of Donna R. Rodgers**

**20PR000135**

[1] AMY J. RODGERS’ PETITION FOR LETTERS OF ADMINISTRATION AND AUTHORIZATION TO ADMINISTER UNDER THE INDEPENDENT ADMINISTRATION OF ESTATES ACT – LIMITED AUTHORITY

[2] KARIN A. SMITH’S PETITION FOR LETTERS OF ADMINISTRATION AND AUTHORIZATION TO ADMINISTER UNDER THE INDEPENDENT ADMINISTRATION OF ESTATES ACT

**TENTATIVE RULING:** Both matters are CONTINUED to September 24, 2020, 8:30 a.m. in Dept. B. The parties are directed to meet and confer in an effort to resolve the tension between the competing petitions. If no mutually acceptable resolution is achieved, the parties may file and serve, no later than September 16, 2020, any objections to the respective competing petition. In addition, Petitioner Amy J. Rogers shall address the following issues with her petition. The Amended Petition fails to identify the intended nominee in section 2, subdivision (b). Similarly, the proposed order on file fails to identify the nominee at section 3. There is no proof of service on file for the Amended Petition filed 8/3/2020.

**CIVIL LAW & MOTION CALENDAR – Hon. Monique Langhorne, Dept. B  
(Historic Courthouse) at 8:30 a.m.**

**Merchant Cash and Capital, LLC et al. v.  
The Specialist Salon, LLC et al.**

**18CV000209**

PLAINTIFF’S MOTION FOR ORDER SETTING ASIDE JUDGMENT OF DISMISSAL

**TENTATIVE RULING:** The motion is DENIED.

The notice of motion does not provide notice of the Court’s tentative ruling system as required by Local Rule 2.9. Moving party/counsel is directed to contact the opposing party/ies forthwith and advise of Local Rule 2.9 and the Court’s tentative ruling procedure. Notwithstanding the procedures set forth in Local Rule 2.9, the moving party/counsel shall appear at the hearing, by Zoom, unless it is confirmed that no party requests oral argument.

The Notice of Motion fails to state the specific grounds on which the motion is sought. (Code Civ. Proc. §1010; Rules of Ct., rule 3.1110, subd. (a).) The Notice of Motion states that “Plaintiff Merchant Cash and Capital, LLC...move[s] the court for an order setting aside the judgment of dismissal entered on September 27, 2018...” (See Notice of Motion.) On September 27, 2018, this Court entered a Stipulation for Judgment and Order (Stip. Judgment). The Stip. Judgment does not, however, include a dismissal without prejudice.<sup>1</sup>

To add to the Court’s confusion over the nature of the present motion, the memorandum filed in support of the motion requests relief under Code of Civil Procedure section 664.6. (See Support Memo at 3:14-21.) That statute is not cited in the Notice of Motion. That statute provides for the entry of judgment upon a settlement agreement. As noted, such judgment was entered on September 27, 2018. (See Stip. Judgment.) The memorandum then requests that the Court enter judgment, not on the settlement agreement, but rather on specific terms that appear, to the Court, to require specific factual findings that have not been litigated. (See *Id.* at 4:7-10.)

Finally, it appears that the Court’s jurisdiction over this matter expired on September 25, 2019. “If requested by the parties, the court may retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.” (Code Civ. Proc. §664.6.) In this case, however, the parties did not request the Court retain jurisdiction “until performance in full of the terms of the settlement.” (*Ibid.*) Rather, the Stip. Judgment provides as follows.

The Parties hereby STIPULATE AND AGREE TO REQUEST THAT THIS COURT: Under California Code of Civil Procedure § 664.6, retain jurisdiction over all of the Parties to enforce the Settlement Agreement...until the earlier of (1) performance in full of the terms of the Settlement Agreement...or (2) a period of twelve (12) months from the date this Stipulation is fully executed by all of the

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<sup>1</sup> The Stip. Judgment does provide that “The Settlement Agreement requires Plaintiff, within thirty (30) days after the Settlement Date, to file a Request for Dismissal without Prejudice with the Court that states that all parties are to bear their own costs and attorney’s fees in this matter.” (Stip. Judgment at ¶3.) It is possible that the Stip. Judgment, prepared and submitted by Plaintiff, was intended to serve this purpose. As noted, however, it does not actually contain a request for dismissal without prejudice and, therefore, none was entered upon entry of the Stip. Judgment.

Parties; at which time this Court, absent the filing of a Request for Dismissal with Prejudice, or a showing of good cause upon ex parte application why dismissal should not take place...may dismiss the action with prejudice.” (Stipulation for Judgment at ¶10.)

The Court notes that counsel for Plaintiffs drafted the Stip. Judgment. (See Stipulation for Judgment.) The Court finds its language clear and unambiguous. The Stipulation and Order was fully executed by all of the parties as of September 25, 2018. Therefore, pursuant to its terms, the Court’s jurisdiction under Code of Civil Procedure section 664.6 expired twelve months thereafter, or September 25, 2019.

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**Humphry Angeles v. Christian Weber, et al.**

**19CV000683**

**MOTION FOR TERMINATING SANCTIONS OR, ALTERNATIVELY, ISSUE, EVIDENCE AND/OR MONETARY SANCTIONS**

**TENTATIVE RULING:** Defendant William Christian Weber and Advanced Shelter Systems Inc’s motion for terminating sanctions or, alternatively, issue, evidence or monetary sanctions is **DENIED WITHOUT PREJUDICE**. Defendants contend sanctions are warranted because plaintiff Humphry Angeles has misused the discovery process by failing to respond to discovery and failed to serve responses to Weber’s form interrogatories (set two). (Ntc. at p. 2:9-11.) On July 1, 2020, the Court (Hon. Wood) ordered Humphrey to serve initial responses to the interrogatories. Failure to comply with a court order to provide discovery constitutes a misuse of the discovery process. (Code Civ. Proc., § 2023.010, subd. (g).) However, the notice of motion does not specifically state that Humphrey’s failure to comply with the Court’s order is a basis for the motion or that defendants are seeking monetary sanctions for a party’s failure to comply with a court’s discovery order compelling responses to interrogatories. (See *id.*, § 2030.300, subd. (e).)