

TENTATIVE RULINGS

FOR: September 11, 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. Diane Price, Dept. I (Criminal Courts Bldg.-1111 Third St.) at 2:00 p.m.

In the Matter of the Charles Wignall Exemption Trust Under the Charles Wignall and Frances A Wignall Family Trust, Established July 10, 1989

17PR000269

PETITION FOR INSTRUCTION REGARDING APPROVAL OF A SETTLEMENT AGREEMENT REGARDING THE SALE OF THE TRUST’S INTEREST IN 470 BELLA VISTA COURT, ST. HELENA, AND DISTRIBUTION OF TRUST ASSETS

TENTATIVE RULING: Pursuant to stipulation, the matter is continued to October 26, 2018, at 2:00 p.m. in Dept. I.

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In Re The Faye Batten Saul 2006 Fam Admin Trust

26-59513

FIFTH ACCOUNT AND REPORT OF TRUSTEE AND PETITION FOR ITS SETTLEMENT

TENTATIVE RULING: GRANT Petition, including fees as prayed.

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In The Matter of Jane Saul Jones 1993 Trust

26-60743

FIFTH ACCOUNTS AND REPORT OF TRUSTEE AND PETITION FOR THEIR SETTLEMENT

TENTATIVE RULING: GRANT Petition, including fees as prayed.
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In The Matter of the Saul Charitable Remainder Unitrust

26-64341

FIFTH ACCOUNT AND REPORT OF TRUSTEE AND PETITION FOR ITS SETTLEMENT

TENTATIVE RULING: GRANT Petition, including fees as prayed.

CIVIL LAW & MOTION CALENDAR – Hon. Diane Price, Dept. I (Criminal Courts Bldg.-1111 Third St.) at 2:00 p.m.

In the Matter of Darell Allen Wilson

18CV000935

PETITION FOR CHANGE OF NAME

TENTATIVE RULING: Notice has been properly published and no written objections have been filed. The Petition for Change of Name is GRANTED without need for appearance.

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In the Matter of James Kenji Tokuyoshi

18CV001023

PETITION FOR CHANGE OF NAME

TENTATIVE RULING: Notice has been properly published and no written objections have been filed. The Petition for Change of Name is GRANTED without need for appearance.

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

Conservatorship of Irina Borschevskaya

18PR000168

PETITION FOR APPOINTMENT OF PROBATE CONSERVATOR OF THE PERSON AND ESTATE

TENTATIVE RULING: The hearing is vacated due to the death of the proposed conservatee.

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Estate of Robert Donald Sloan

PR24480

PETITION FOR APPOINTMENT OF SUCCESSOR TRUSTEE UPON RESIGNATION OF TRUSTEE

TENTATIVE RULING: Petitioner is not named as a successor trustee in the trust. Probate Code section 15602, subdivision (a)(3), provides that a trustee is required to give a bond when “an individual who is not named as a trustee in the trust instrument is appointed as a trustee

by the court.” Petitioner proposes bond in the amount of \$24,000, but the petition reports the trust estate as consisting of \$348,415. Probate Code section 15602, subdivision (b), states the Court may not excuse the bond requirement except under “compelling circumstances,” which includes a request by all adult beneficiaries that bond be waived.

If the intent is to have petitioner serve as successor trustee subject to a \$24,000 bond, Meredith Windish as the sole remaining beneficiary, needs to submit a waiver of the excess bond amount, which is \$324,415 (\$348,415 - \$24,000). In the alternative, Windish can submit a waiver for the entire bond amount.

Thus, the petition is GRANTED on the condition that petitioner either: (1) obtain a bond in the amount of \$24,000 after obtaining and filing a waiver from Windish for the excess bond amount of \$324,415 (\$348,415 - \$24,000); or (2) Windish file a waiver for the entire bond amount of \$348,415. If neither condition occurs, the petition will be granted subject to a bond in the amount of \$348,415.

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

In the Matter of Ismael Sepulveda Hernandez

18CV000990

PETITION FOR CHANGE OF NAME

TENTATIVE RULING: Notice has been properly published and no written objections have been filed. The Petition for Change of Name is GRANTED without need for appearance.

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LVNV Funding LLC v. Hurley, Laura T.

26-43584

MOTION TO VACATE RENEWAL OF JUDGMENT

TENTATIVE RULING: The Motion is GRANTED. The Motion was timely filed pursuant to Code of Civil Procedure section 683.170, subdivision (b). Defendant has attested that she never received the summons and complaint in this action or any subsequent document and has also produced evidence calling into question the reliability of the proof of service filed. (See Declaration of Aurora Harris filed August 31, 2018.) “[T]he failure to have served a summons and complaint is a defense to an independent action on a judgment. Likewise, the failure to have served a summons and complaint is a basis for a motion to vacate the renewal of a judgment.” (*Fid. Creditor Serv. v. Browne* (2001) 89 Cal.App.4th 195, 207; see also Code Civ. Proc., § 683.170(a).) The Court DENIES Defendant’s Request for Judicial Notice; it is unnecessary in light of Defendant’s provision of Ms. Harris’ case-specific declaration.