

## TENTATIVE RULINGS

**FOR: September 15, 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.**

**Conservatorship of William Ashworth Cummins**

**26-63046**

REVIEW HEARING

**APPEARANCE REQUIRED** for further information regarding the conservatee’s voting rights. Mr. Cummins was previously disqualified from voting, but the current court investigator’s report (and the previous report) indicates he is able to communicate a desire to vote. When a person has previously been disqualified from voting, Elections Code section 2209, subd. (b), provides that, “[i]f the investigator finds that the person is not incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process, the court shall hold a hearing to determine if, by clear and convincing evidence, the person cannot communicate, with or without reasonable accommodations, a desire to participate in the voting

process.” (Emphasis added.) If the court restores the conservatee’s voting rights, it must notify the Napa County Elections Division and the Secretary of State.

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

**In the Matter of Marcus Price**

**20CV000636**

PETITION FOR CHANGE OF NAME

**TENTATIVE RULING:** The Court previously continued this matter to allow for the filing of the proof of publication and for a declaration stating petitioner’s current address (street, city, and zip code) and to clarify the spelling of his proposed name. There remains no proof of publication on file and petitioner did not file the declaration. The petition is DENIED WITHOUT PREJUDICE.

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**In the Matter of Myrian Yvette Smith**

**20CV000722**

PETITION FOR CHANGE OF NAME

**TENTATIVE RULING:** There is no proof of publication in the court file. If one is filed before the hearing, the petition will be GRANTED without need for appearance. If no proof of publication is filed, the petition will be DENIED without prejudice.

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

**In the Matter of the Joseph F. Phelps Revocable Trust**

**16PR000203**

PETITION FOR ORDER APPROVING MODIFICATION OF TRUST TERMS

**TENTATIVE RULING:** There is no proof of service in the court file. If one is filed before or at the hearing showing 30 days’ notice, the petition will be granted. Otherwise the matter will be continued to October 22, 2020, at 8:30 a.m. in Dept. B to allow for proper notice.

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**Conservatorship of Beverly J. Ribelin**

**19PR000041**

ACCOUNT AND REPORT OF CONSERVATOR AND PETITION FOR ITS SETTLEMENT AND FOR FEES

**TENTATIVE RULING:** The Petition is GRANTED, including fees as prayed. After a review of the matter, the Court finds the conservator is acting in the best interest of the Conservatee. Thus, the matter is set for a biennial review hearing and an accounting in two years,

on July 14, 2022, at 8:30 a.m. in Dept. B. All accounting documents must be filed at least 30 days prior to the hearing. 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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**Estate of Robert Pecota**

**19PR000243**

FINAL REPORT OF EXECUTOR ON WAIVER OF ACCOUNT AND PETITION FOR FINAL DISTRIBUTION AND FOR ALLOWANCE OF COMPENSATION TO EXECUTOR AND ATTORNEY FOR ORDINARY SERVICES

**TENTATIVE RULING:** The Court previously continued this matter to allow the executor to file a supplement to clarify the status of the creditor's claim and whether paragraph 11 is accurate. Nothing has been filed. The Court extends a second opportunity to file the supplement. The matter is continued to October 15, 2020, at 8:30 a.m. in Dept. B. The clerk is directed to send notice.

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**Estate of Donna Marie Reis**

**20PR000107**

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

**TENTATIVE RULING:** GRANT petition.

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**Estate of Jerome James Sorich**

**20PR000127**

AMENDED PETITION FOR PROBATE OF LOST WILL AND FOR LETTERS OF ADMINISTRATION WITH WILL ANNEXED AND AUTHORIZATION TO ADMINISTER UNDER THE INDEPENDENT ADMINISTRATION OF ESTATES ACT

**TENTATIVE RULING:** There is no original will lodged with the court. Petitioner, therefore, needs to file a written statement of substance evidencing decedent did not intend to revoke the copy of the will attached to the amended petition. (See Prob. Code, §§ 6124, 8223.) The matter is continued to September 29, 2020, at 8:30 a.m. in Dept. B to allow petitioner to address this issue.

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**Estate of Pascual Machin Gabaldon**

**20PR000133**

SPOUSAL PROPERTY PETITION

**TENTATIVE RULING:** GRANT petition.

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**\*At 9:00 a.m.\***

**Conservatorship of Maria Elena**

**26-48848**

PETITION FOR RENEWAL OF APPOINTMENT OF LPS CONSERVATOR

**APPEARANCE REQUIRED**

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**\*At 9:00 a.m.\***

**Conservatorship of Karl Cooper**

**26-64720**

PETITION FOR RENEWAL OF APPOINTMENT OF LPS CONSERVATOR

**APPEARANCE REQUIRED**

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

**Humberto Lovola Cisneros, et al. v. Frog’s Leap Winery**

**18CV001013**

MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

**TENTATIVE RULING:** The motion is GRANTED. The September 22, 2020 hearing on the Court’s Motion to Dismiss is CONTINUED to February 11, 2021.

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**In the Matter of Paul Jason Kochli**

**20CV000743**

PETITION FOR CHANGE OF NAME

**TENTATIVE RULING:** Notice has been properly published and no written objections have been filed. The petition is GRANTED without need for appearance.

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**PLAINTIFF’S MOTION FOR PRE-JUDGMENT AND POST-JUDGMENT INTEREST ON COURT-ENFORCED SETTLEMENT**

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

According to the Notice of Motion, Plaintiff Says Siri moves “for pre-judgment and post-judgment interest on the December 2, 2019 court-enforced \$500,000 settlement pursuant to Code Civ. P. § 998.” (Notice of Motion at 1:20-25.)

The Court cannot determine the grounds on which Plaintiff seeks the requested relief. Plaintiff fails to set forth, in the Notice of Motion, the grounds on which she brings the present motion. (See Code Civ. Proc. §1010 [“the notice of a motion, other than for a new trial, must state...the grounds upon which it will be made”]; see also Rules of Court, Rule 3.1110 [“[a] notice of motion must state in the opening paragraph the nature of the order being sought and the grounds for issuance of the order”]; *People v. American Sur. Ins. Co.* (1999) 75 Cal.App.4th 719, 726.) Through her Points and Authorities in Support of the motion (Support Memo), Plaintiff discusses authority providing for an award of interest in each of the following litigation contexts:

- On a contract when damages are liquidated (see *Id.* at 3:21-22);
- On a contract when damages are unliquidated (see *Id.* at 3:23-24);
- In cases involving tort claims and/or breach of a non-contract obligation (see *Id.* at 4:6-28, 5:13-21, 5:24-28); and,
- Wrongful Termination (see *Id.* at 6:27-7:6).

Plaintiff does not, however, provide any discussion regarding whether or why any of the foregoing authority is applicable in the instant case. Rather, Plaintiff simply states as follows. “The Court should award to Plaintiff pre-judgment interest from May 11, 2012, the undisputed date of her firing, and post-judgment interest from December 2, 2020, date the Court determined there was an acceptance by Plaintiff of the \$500,000 defense 998 offer. [¶] The math may be kept very simple: 10% against \$500,000, compounded annually, from May 11, 2012, to present.” (Support Memo at 7:13-18.) Moreover, Plaintiff presents no evidence in support of her motion; And therefore, Plaintiff fails to present evidence that she is entitled to interest under any of the cited authority.

Through its opposition, Defendant Sutter Home Winery, Inc. dba Trincherro Family Estates pointedly addresses the reasons why Plaintiff is not entitled to interest under the authority cited in her Support Memo. Plaintiff’s Reply Points and Authorities (Reply) fails to address any of these arguments. It is otherwise unilluminating on the question of Plaintiff’s entitlement to interest.

Because (1) the Court is unable to determine the specific grounds on which Plaintiff seeks an award of interest, (2) Plaintiff fails to present evidence in support of her motion and (3) Plaintiff does not, for the reasons discussed in Defendants Opposition, appear to be entitled to an award of interest under any of the authority presented, the motion is DENIED.