

TENTATIVE RULINGS

FOR: November 21, 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. Diane Price, Dept. F (Criminal Courts Bldg.-1111 Third St.)

Conservatorship of Sonia Lopez-Herrera

16PR000120

REVIEW HEARING

TENTATIVE RULING: After a review of the matter, the Court finds the Conservator is acting in the best interest of the Conservatee. Thus, the case is set for a biennial review hearing in two years, on November 21, 2019 at 8:30 a.m. in Dept. F. 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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Conservatorship of Plowman, Jerrell Lee

26-54164

REVIEW HEARING

TENTATIVE RULING: After a review of the matter, the Court finds the Conservator is acting in the best interest of the Conservatee. Thus, the case is set for a biennial review hearing in two years, on November 21, 2019 at 8:30 a.m. in Dept. F. The court investigator shall prepare a biennial investigator report for the next hearing date.

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Conservatorship of Rebecca Risch-Hendry

26-54504

PETITION FOR REAPPOINTMENT OF CONSERVATOR OF THE PERSON

APPEARANCE REQUIRED

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

Cashel Inc. v. Golden Gate HOA of Napa, Inc.

16CV000659

1) MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

TENTATIVE RULING: The Notice of Motion does not provide notice of the Court's tentative ruling system as required by Local Rule 2.9. Plaintiff's counsel is directed to contact Defendant's counsel forthwith and advise Defendant's counsel of Local Rule 2.9 and the Court's tentative ruling procedure. If Plaintiff's counsel is unable to contact Defendant's counsel prior to the hearing, Plaintiff's counsel shall be available at the hearing, in person or by telephone, in the event Defendant's counsel appears without following the procedures set forth in Local Rule 2.9.

The Motion is DENIED. Plaintiff fails to comply with California Rule of Court, rule 3.1324(b), which requires Plaintiff to explain when the facts giving rise to the amended allegations were discovered and the reasons why the request for amendment was not made earlier. Trial is currently set to begin in one week, and Plaintiff fails to provide any sufficient explanation for the delay in seeking amendment earlier. "Even if a good amendment is proposed in proper form, unwarranted delay in presenting it may of itself be a valid reason for denial." (*P&D Consultants, Inc. v. City of Carlsbad* (2010) 190 Cal.App.4th 1332, 1345 (internal quotations and citations omitted).) In addition, the new allegations do not arise out of the same facts and transactions.

2) MOTION TO CONTINUE TRIAL DATE

TENTATIVE RULING: The Notice of Motion does not provide notice of the Court's tentative ruling system as required by Local Rule 2.9. Plaintiff's counsel is directed to contact Defendant's counsel forthwith and advise Defendant's counsel of Local Rule 2.9 and the Court's tentative ruling procedure. If Plaintiff's counsel is unable to contact Defendant's counsel prior to the hearing, Plaintiff's counsel shall be available at the hearing, in person or by telephone, in the event Defendant's counsel appears without following the procedures set forth in Local Rule 2.9.

Defendant's Request for Judicial Notice is GRANTED. The Motion is DENIED. Plaintiff has not shown good cause for a continuance or explained the delay in seeking a continuance. Plaintiff's counsel previously stipulated to continue the trial to December 4, 2017. Plaintiff's counsel created the conflict with the San Francisco trial date when Plaintiff's counsel thereafter stipulated to continue the San Francisco trial to the same date.

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In the Matter of Raquel Ashley Bickford

17CV001094

PETITION FOR CHANGE OF NAME

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

PROBATE CALENDAR – Hon. Rodney Stone, Dept. I (Criminal Courts Bldg.-1111 Third St.)

Conservatorship of Philip Warren

17PR000217

PETITION FOR APPOINTMENT OF PROBATE CONSERVATOR OF THE ESTATE

APPEARANCE REQUIRED

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In The Matter of The Estate of Keith, Edward A.

26-36111

PETITION TO COMPEL TRUSTEE TO ACCOUNT - STATUS CONFERENCE

APPEARANCE REQUIRED (Court Call acceptable)

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Estate of Leigh S Wyckoff

26-68027

WAIVER OF ACCOUNT, RECEIPT OF ESTATE SHARE AND REPORT OF ADMINISTRATOR, PETITION FOR ALLOWANCE OF STATUTORY FEES TO PERSONAL REPRESENTATIVE AND ATTORNEY FOR ORDINARY AND EXTRAORDINARY SERVICES, AND FOR FINAL DISTRIBUTION

TENTATIVE RULING: GRANT petition, including fees as prayed.

CIVIL LAW & MOTION CALENDAR – Hon. Rodney Stone, Dept. I (Criminal Courts Bldg.-1111 Third St.)

Jose Luis Alejandro v. Ceja & Weisberg, LLC, et al.

17CV000385

DEMURRER AND MOTION TO STRIKE COMPLAINT

TENTATIVE RULING: The Demurrer is SUSTAINED and the Motion is GRANTED, both WITH LEAVE TO AMEND. Plaintiff failed to timely file and serve his opposition. Code of Civil Procedure section 1005, subdivision (b), provides that “[a]ll papers opposing a motion so noticed shall be filed with the court and a copy served on each party at least nine court days before the hearing. The opposition papers in this case were filed only three court days before the hearing, and therefore disregarded.

Any amended complaint shall be filed and served within 10 days of the date Defendant serves notice of entry of the court’s order. (Code Civ. Proc., § 472b.)

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MOTION FOR APPOINTMENT OF REFEREE TO SELL PROPERTY; FOR INTERLOCUTORY JUDGMENT FOR PARTITION BY SALE; AND FOR ATTORNEY'S FEES AND COSTS

TENTATIVE RULING: Defendant Wells Fargo Bank, N.A.'s request for judicial notice of the recorded deed of trust is GRANTED. The unopposed motion is GRANTED. The amount of fees for the referee and attorney's fees and costs shall be determined by a separate motion.