

TENTATIVE RULINGS

FOR: February 8, 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. 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 Richard Wilczak

17PR000240

PETITION FOR APPOINTMENT OF PROBATE CONSERVATOR OF THE PERSON AND ESTATE

APPEARANCE REQUIRED

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Conservatorship of Mabingnay, Noel

26-62762

REVIEW HEARING

APPEARANCE REQUIRED to confirm that the Probate Code section 2628 accounting exemption still applies.

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Conservatorship of Jeffrey Monroe

26-67844

ACCOUNTING

APPEARANCE REQUIRED to address the status of the estate and final accounting.

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

In the Matter of Payton Yeo

18PR000016

PETITION FOR ORDER AUTHORIZING COMPROMISE OF MINOR’S CLAIM

APPEARANCE REQUIRED

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

Estate of John Lund

17PR000261

1) PETITION FOR LETTERS OF ADMINISTRATION AND AUTHORIZATION TO ADMINISTER UNDER THE INDEPENDENT ADMINISTRATION OF ESTATES ACT

TENTATIVE RULING: The Petition is DENIED.

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

APPEARANCE REQUIRED. There is no proof of publication on file. In addition, Dallis Kathleen Near is named as Successor/Substitute Executor in the Last Will and Testament, but there is no declination to act on file from her. Petitioner is not named as Executor in the Last Will and Testament, and therefore if he is to act as Executor, a bond would be necessary unless waived by all beneficiaries on form DE-142/DE-111(A-3d).

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Estate of Emily Gray

18PR000011

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

TENTATIVE RULING: GRANT petition.

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Conservatorship of Alexander, Deruelle E., Jr.

PR23613

FOURTEENTH ACCOUNT AND REPORT OF CONSERVATOR, PETITION FOR SETTLEMENT, FOR ATTORNEY’S FEES

TENTATIVE RULING: GRANT Petition, including fees as prayed. After a review of the matter, the Court finds the Conservator is acting in the best interest of the Conservatee. Conservator should consider reducing the bond amount to save costs. The matter is set for a biennial review hearing and an accounting in two years, on February 6, 2020 at 8:30 a.m. in Dept. 2. 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.

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

Napa County v. Monticello Property Investment Group, et al. **26-62413**

MOTION TO ENFORCE STIPULATED JUDGMENT

TENTATIVE RULING: Plaintiff Napa County’s motion to enforce the stipulated judgment pursuant to Code of Civil Procedure section 664.6 is GRANTED. The motion is unopposed.



Duckhorn Wine Company v. Calistoga Wine LLC, et al. **26-66885**

DEFENDANTS AND CROSS-COMPLAINANTS CALISTOGA WINE LLC AND LINDA FOTSCH’S MOTION TO STRIKE OR TAX COSTS

TENTATIVE RULING: The Motion is GRANTED IN PART AND DENIED IN PART. The Motion is GRANTED as to the following:

Item 4.e. \$367.50 - The Court finds a duplicate copy of a deposition transcript to be merely convenient and/or beneficial to the conduct of litigation, and not reasonably necessary.

Item 8.a. \$90 - Witness fees are recoverable “for each day’s actual attendance,” and Mr. Beard did not attend trial. (Govt. Code § 68093.) Defendants also paid for only one of Mr. Gallegos’ witness fees.

Item 8.b. \$1,180 - Expert fees are not properly requested as Defendants never made a Code of Civil Procedure section 998 offer.

Item 11. \$1,414.16 - Only the costs of the photocopies of exhibits used at trial are allowed. (*Ladas v. California State Auto. Assn.* (1993) 19 Cal. App. 4th 761, 775 (*Ladas*), (“fees are not authorized for exhibits not used at trial.”).)

Item 14. \$2,260.65 - Electronic filing was neither required nor ordered by the Court.

Item 16. \$5,354.94 - Expert fees are not properly requested as Defendants never made a Code of Civil Procedure section 998 offer. Travel expenses, Federal Express charges and electronic legal research costs are also not recoverable. (*Ladas, supra*, 19 Cal. App. 4th at pp. 775-776.)

Subtraction of these amounts results in a total deduction of \$10,667.25 to the Memorandum of Costs filed December 21, 2017, leaving a balance of \$13,075.93.

The Motion is DENIED as to the remaining cost items. Defendants have not met their burden of showing any of the remaining cost items are improper or unreasonable. (*Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 856.)

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1st Source Bank v. Brian H. Merritt, et al.

26-58119

APPLICATION FOR ORDER DIRECTING DEFENDANTS TO COMPLY WITH THE COURT'S ORDER AND REQUEST FOR ISSUANCE OF OSC RE: CONTEMPT AND MONETARY SANCTIONS (RECEIVER FEES AND ATTORNEY'S FEES) AGAINST BEVERLY PORTER, TOWNSEND H. PORTER, JR., INDIVIDUALLY AND AS TRUSTEE FOR THE TOWNSEND H. PORTER REVOCABLE TRUST, THIRD PARTY PORTER FAMILY VINEYARDS, LLC, AND COUNSEL; REQUEST THAT RECEIVER BE APPOINTED AS RECEIVER OVER THE BOOKS AND RECORDS OF PORTER FAMILY VINEYARDS, LLC

TENTATIVE RULING: The matter is continued to February 21, 2018, at 8:30 a.m. in Dept. I due to the unavailability of the receiver. The receiver shall submit a report by February 16, 2018, indicating if any of the issues (site visit, software, etc.) have been resolved. If no issues have been resolved, no report is required.