

**TENTATIVE RULINGS**

**FOR: March 13, 2019**

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. Victoria Wood, Dept. A (Historic Courthouse) at 8:30 a.m.**

**In the Matter of Taylor Wessel**

**17PR000138**

PETITION TO APPROVE COMPROMISE OF DISPUTED CLAIM – PERSON WITH A DISABILITY

**APPEARANCE REQUIRED**

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

**In the Matter of Mark Anthony Brown**

**19PR000040**

PETITION FOR AUTHORIZATION TO PERFORM NECESSARY TREATMENT AND FOR AUTHORIZATION TO CONSENT TO TREATMENT ON BEHALF OF AN ADULT PATIENT

**APPEARANCE REQUIRED**

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**\*At 9:30 a.m.\***

**Conservatorship of Brennan**

**26-27244**

REVIEW HEARING

**APPEARANCE REQUIRED.** The Court discloses that the conservatee's stepmother is a court employee with whom Judge Wood is well acquainted. Judge Wood still is able to be fair and impartial in this matter.

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

**Jody Frease Meijer, et al. v. Ronald F. Lausen, et al.**

**18CV000294**

MOTION FOR PROTECTIVE ORDER REGARDING DEFENDANT RONALD F. LAUSEN'S DISCOVERY REQUESTS, APPOINTMENT OF DISCOVERY REFEREE, AND REQUEST FOR MONETARY SANCTIONS

**TENTATIVE RULING:** The hearing on Plaintiffs' Motion for Protective Order and Appointment of a Discovery Referee is CONTINUED to April 17, 8:30 a.m., in Dept. A, to allow the Parties to meet and confer in earnest, in light of the Court's discussion herein below, to attempt to resolve the dispute.

Through the Complaint in this matter Plaintiffs allege that Defendant failed to make certain disclosures to Plaintiffs relating to Defendant's sale to Plaintiffs of residential real property. The Complaint asserts six causes of action relating to the same set of general allegations. The nature and scope of the allegations set forth in the Complaint are typical for this type of case.

Through the present motion, Plaintiffs assert that Defendants have propounded some 1,440 discovery requests, and seek a protective order on the ground that the number is unwarranted, and further seek the appointing a discovery referee.

Defendant counters that the true number of discovery requests is 1,318 – 659 separate requests propounded on each of the two Plaintiffs – and that they are warranted based on the complexities of the case. Defendants oppose the appointment of a referee.

The Court is inclined to agree with Plaintiffs. The Court finds nothing about this case, the allegations in the Complaint, or the number and identities of the parties that would warrant anywhere near this number of discovery requests on Plaintiffs.

A party has the right to propound thirty-five special interrogatories and thirty-five requests for admissions to every other party in the action. (Code Civ. Proc. §§ 2030.030, subd. (a)(1), and 2033.030, subd. (a).) The party may also propound “[a]ny additional number of official form interrogatories . . . *that are relevant to the subject matter of the pending action*

(emphasis added).” (*Ibid.* at § 2030.030, subd. (a)(2).) The Code of Civil Procedure provides a mechanism by which a party may propound discovery in excess of these limits, by serving a declaration of necessity. (*Ibid.* at §§ 2030.040-050, 2033.040-050.) The responding party may seek a protective order and the court, for good cause shown may make any order that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden or expense. (*Ibid.* at §§ 2030.090, 2033.080.)

Where a propounding party serves more than the statutory limit of interrogatories and/or requests for admission, and the responding party seeks a protective order on the ground that the number is unwarranted, the propounding party bears the burden of justifying the number of interrogatories and requests for admissions. (*Ibid.* at §§ 2030.040, subd. (b), 2033.040, subd. (b).)

The Court cannot imagine facts that would justify Defendants propounding over 1,300 discovery requests in the context of the Complaint in this matter. The Court finds that Defendants’ opposition papers do not provide any substantive justification. Defendants makes almost no effort to describe the substantive nature of the requests and how they relate to the issues raised in the complaint.

However, the Court also feels that granting a blanket protective order is an extreme remedy. Moreover, the Court is cautious about appointing a discovery referee in response to the first discovery dispute in the matter, especially where Defendants oppose such appointment.

For this reason, the Court CONTINUES the present matter to allow the parties to meet and confer in earnest in an effort to resolve the present dispute.

The Court notes two aspects of Defendants’ opposition papers that the Court hopes might provide some informal guidance to the parties during the meet and confer process. First, Defendants state that Plaintiffs’ “meet and confer letter alleged in a general fashion that the discovery was overly burdensome but made no attempt to meet and confer about any specific issues.” (Opposition Memorandum at p. 9:3-5.) As discussed above, on a motion for protective order it is Defendants, as propounding party, who bear the burden of justifying the number of discovery requests. (Code of Civ. Proc. §§ 2030.040, subd. (b), 2033.040, subd. (b).) The Court urges Defendants to take responsibility for this burden during meet and confer.

Second, Defendants report that Plaintiffs propounded in the neighborhood of 220 requests for production of documents on each of the two Defendants in this matter (for a total of 440 separate requests), and that Defendants, “while taken aback over the sheer number of requests propounded” responded to each. (Opposition Memorandum at p. 2:10-12.) While the Court shares Defendants’ initial reaction to the necessity of 220 separate discovery requests, the parties’ respective actions in propounding and responding to this number provides some guide (however informal) as to the number of issues requiring discovery in this case. The Court encourages the parties to look to this number as a lodestar.

If the parties are able to use this guidance to resolve the dispute through meet and confer efforts, Plaintiff may vacate the continued hearing date. In the event the parties need the Court’s further

intervention, the parties are directed to file, no later than April 10, 2019, supplemental briefing/statements addressing the dispute with more specificity as to each discovery request. In that event, the court reserves jurisdiction over the request for appointment of a discovery referee.

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

**Estate of Charles Eduard Hennion**

**17PR000251**

(1) MOTION FOR COMPLETE CONSOLIDATION OF CASE NO. 18PR000244 WITH CASE NO. 17PR000251 AND TO CONTINUE TRIAL

**TENTATIVE RULING:** Respondents Andrew Hennion, Erick Hennion, and Ronald Hennion’s motion to consolidate *In re the Matter of Hennion Living Trust*, Case No. 18PR000244, with the current case is GRANTED. The current case is designated as the lead case.

Respondents’ motion to continue the trial date is GRANTED. All dates are vacated. This case will assume the dates already reserved for Case No. 18PR000244. Thus, the mandatory settlement conference is set for June 27, 2019, the trial management conference is set for August 1, 2019, and the Court Trial: Long Cause is set for August 5, 2019.

(2) MOTION FOR CONTINUANCE OF MANDATORY SETTLEMENT CONFERENCE

**TENTATIVE RULING:** Objector Steven Hennion’s motion for continuance of the April 4, 2019 due to unavailability is MOOT in light of the granting of the motion to continue the trial date and the new June 27, 2019, date for the mandatory settlement conference.

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**In the Matter of Hennion Living Trust**

**18PR000244**

MOTION FOR COMPLETE CONSOLIDATION OF CASE NO. 18PR000244 WITH CASE NO. 17PR000251 AND TO CONTINUE TRIAL

**TENTATIVE RULING:** Objectors Andrew Hennion, Erick Hennion, and Ronald Hennion’s motion to consolidate the current case with *Estate of Charles Eduard Hennion*, Case No. 17PR000251, is GRANTED. Case No. 17PR000251 is designated as the lead case.

Objectors’ motion to continue the trial date in Case No. 17PR000251 is MOOT in light of the ruling in that case to continue the trial date and the resetting of other relevant dates.

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EXECUTOR'S FIRST AND FINAL REPORT ON WAIVER OF ACCOUNT; PETITION FOR SETTLEMENT; PETITION FOR ALLOWANCE OF STATUTORY AND EXTRAORDINARY ATTORNEY'S COMPENSATION; PETITION FOR REIMBURSEMENT OF EXPENSES OF ADMINISTRATION ADVANCED BY ATTORNEY; PETITION FOR AUTHORITY TO PAY CREDITOR'S CLAIM; PETITION FOR DISTRIBUTION OF ESTATE ASSETS PURSUANT TO DECEDENT'S LAST WILL AND TESTAMENT

**TENTATIVE RULING:** The petition is GRANTED IN PART as prayed except for the request for statutory ordinary compensation. The request for statutory ordinary compensation is awarded in the amount of \$6,152.52. The 3% sought of \$71,750.68 is \$2,152.52, not \$2,252.52.