

TENTATIVE RULINGS

FOR: March 13, 2020

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.

Estate of Diana Bonnevie Clark

20PR000054

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

TENTATIVE RULING: The matter is continued to May 12, 2020, at 8:30 a.m. in Dept. A to allow petitioner to file: (1) duties and liabilities form (Judicial Council form DE-147); (2) proposed order (DE-140) and letters (DE-150) conforming to the petition; and (3) the proof of publication. Petitioner also shall amend the petition by completing item 3(e) (item 2(d) regarding waiver of bond is checked, but no reasons are checked) and item 3(h) regarding her residence. If petitioner seeks to waive bond she shall file Waiver of Bond by Heir or Beneficiary (DE-142) signed by all heirs/beneficiaries.

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Conservatorship of Opp, Troy Richard

PR20206

ELEVENTH ACCOUNT AND REPORT OF CONSERVATOR, PETITION FOR CONTINUATION OF ALLOWANCE TO CONSERVATEE, PERIODIC COMPENSATION TO CONSERVATOR, ALLOWANCE OF ATTORNEY’S FEES FOR ATTORNEYS FOR CONSERVATORS OF THE PERSON AND ESTATE, AND REQUEST TO INCREASE BOND

TENTATIVE RULING: The Petition is GRANTED, including fees as prayed. After a review of the matter, the Court finds the Conservators are 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 February 15, 2022 at 8:30 a.m. in Dept. A. 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. Victoria Wood, Dept. A (Historic Courthouse) at 8:30 a.m.

Robert Squires v. Eric Hellman

17CV000964

MOTION TO COMPEL DEPOSITION, PROVIDE TESTIMONY, AND PRODUCE DOCUMENTS

TENTATIVE RULING: Plaintiff/cross-defendant Robert Squires' motion to compel defendant Eric Hellman to appear at a deposition is GRANTED. Hellman remains willing to appear for his deposition. This is a dispute between counsel as they are unable to agree on a date when they are mutually available. Because Hellman's counsel is in trial until April 9, 2020, the deposition shall be set three calendar days after the submission of Hellman's counsel's trial to the jury or a date thereafter agreeable to the parties. Hellman shall appear, provide testimony, and produce documents at that time. If after taking the deposition more time is needed for discovery related to information learned at the deposition, the parties can discuss whether entering into a stipulation to extend the discovery cut-off date would be appropriate. The Court would be inclined to entertain such a request and/or a request for a brief trial continuance.

Squires' request for monetary sanctions is DENIED. The imposition of monetary sanctions would be unjust based on opposing counsel's unavailability due to trial. The Court certainly understands the frustration incurred in trying to lock Hellman into a deposition date, but if opposing counsel is not available it is incumbent upon the parties to find a satisfactory date as a professional courtesy. Certainly, if the roles were reversed, plaintiff's counsel would want to be present for his client's deposition by finding a date he was available to attend.

Hellman's request for monetary sanctions in his joinder opposition is DENIED. The imposition of monetary sanctions would be unjust based on his counsel's unavailability due to trial.

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

Takeo Swords v. Rachel Tramontini

19CV000277

MOTION TO RECLASSIFY

TENTATIVE RULING: Plaintiff's motion for leave to file a first amended complaint reclassifying this action from a limited to an unlimited civil action is GRANTED. Plaintiff has shown the case is incorrectly classified and good cause for not seeking reclassification earlier. (Code Civ. Proc., § 403.040, subd. (b).) Plaintiff's medical expenses increased since the

complaint was filed, which now exceeds the limited civil jurisdictional amount. The motion was brought as soon as it was known that plaintiff's injuries were worse than originally believed.

The Court appreciates plaintiff's efforts to meet and confer as instructed in the December 4, 2019 Minute Order. The Court understands, but does not necessarily agree with, plaintiff's position that Code of Civil Procedure section 403.050 prohibits entering into a stipulation after the time allowed to respond to the initial pleading.

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Gerald L. Nunn, et al. v. JPMorgan Chase Bank, N.A., et al.

26-56767

MOTION TO CORRECT THE MINUTES OF MAY 16, 2019

TENTATIVE RULING: Plaintiffs Gerald L. Nunn and Judith L. Nunn (collectively, the "Nunns") motion to "Correct the Minutes of May 16, 2019" is DENIED. The Nunns seek to have the minute order reflect that on that date the matter was set for a January 13, 2020 jury trial by the agreement of the parties and to accommodate defendant JPMorgan Chase Bank N.A.'s request for a trial date sufficiently in the future to take deposition discovery and bring a motion for summary judgment.

The motion is, in essence, a motion for reconsideration of the Court's September 26, 2019 decision on the motion to dismiss. The Nunns are seeking to promote waiver and/or estoppel to support further arguments regarding the deadline to bring the case to trial after the remittitur. These arguments are based on facts available to the Nunns and should have been raised and argued in the motion to dismiss.¹

The Court is "foreclosed from rendering a new determination on the viability of" the motion absent a timely motion for reconsideration under Code of Civil Procedure section 1008. (See *Bennett v. Suncloud* (1997) 56 Cal.App.4th 91, 96-97.) The Nunns did not move for reconsideration of the Court's September 26, 2019 decision.

Moreover, judgment was entered on January 30, 2020. "It is well settled that entry of judgment divests the trial court of authority to rule on a motion for reconsideration." (*Safeco Ins. Co. v. Architectural Facades Unlimited, Inc.* (2005) 134 Cal.App.4th 1477, 1482.) Because judgment was entered, the Court lacks jurisdiction to rule on the Nunns' motion or to reconsider its prior ruling. (See *APRI Ins. Co. v. Super. Ct.* (1999) 76 Cal.App.4th 176, 181 [explaining that a court lacks jurisdiction to rule on a motion for reconsideration after final judgment is entered in a case, even if the motion was filed before entry of judgment].)

Even if the Court exercises its inherent authority under the premise and case law raised in the "motion to correct," there is nothing to "correct" as the May 16, 2019 Minute Order correctly reports that the Court set trial for January 13, 2020. Based on the evidence presented from the Nunns and their prior counsel – over nine months after the May 16, 2019 hearing date – as well as from Chase, the Court cannot reach a determination in the Nunns' favor that a change to the

¹ The Nunns did raise estoppel in their opposition to the motion to dismiss, but not on the ground now being proffered.

minute order would “conform to the facts and speak the truth, and likewise correct any error or defect occurring in a record through acts of omission or commission of the clerk in entering of record the judgments or orders of the court.” (*Haynes v. Los Angeles R. Corp.* (1927) 80 Cal.App. 776, 780.)

The Nunns’ request for judicial notice is GRANTED as to the March 29, 2019 case management statement, the May 2, 2019 Minute Order, the May 16, 2019 Minute Order, and the September 13, 2019 Order Permitting Hearing on Summary Judgment and/or Summary Adjudication Within 30 Days of Trial. (Evid. Code, § 452, subd. (d).)

The Court notes the Nunns filed a motion for new trial. The matter is set for calendar on April 3, 2020, at 8:30 a.m. in Dept. B. Chase shall file an opposition on or before March 20, 2020. The Nunns may file a reply by March 27, 2020.