

**TENTATIVE RULINGS**

**FOR: April 5, 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. Rodney Stone, Dept. I (Criminal Courts Bldg.-1111 Third St.)**

**Estate of James Paul Gondola, Jr.**

**17PR000068**

FIRST AND FINAL REPORT OF ADMINISTRATOR AND PETITION FOR SETTLEMENT, FOR ALLOWANCE OF COMPENSATION TO ADMINSTRATOR AND ATTORNEYR FOR ORDINARY AND EXTRAORDINARY SERVICES AND FOR FINAL DISTRIBUTION UPON WAIVER OF ACCOUNTING

**TENTATIVE RULING:** GRANT petition, including fees as prayed. In light of the waiver of the accounting and the absence of any objections, the extraordinary fees are approved.

.....  
**Estate of Deborah L. Calvin**

**17PR000189**

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

**APPEARANCE REQUIRED**

.....  
**In the Matter of Roy Welton 2003 Revocable Living Trust**

**17PR000277**

SUCCESSOR CO-TRUSTEE'S FIRST ACCOUNT AND REPORT, JULY 18, 2011 TO JANUARY 31, 2017 AND PETITION FOR APPROVAL; AND FOR APPROVAL OF SUCCESSOR CO-TRUSTEE'S AND ATTORNEY COMPENSATION; AND PETITION FOR REMOVAL OF SUCCESSOR CO-TRUSTEE LARRY WELTON AND SHANNON WELTON

AS ARBITRATOR AND APPOINTMENT OF STEVEN WELSTON AS SOLE SUCCESSOR  
CO-TRUSTEE AND FOR INSTRUCTIONS TO SUCCESSOR SOLE TRUSTEE

**APPEARANCE REQUIRED**

.....  
**In the Matter of Beard Family Trust**

**26-58301**

PETITION FOR INSTRUCTIONS

**TENTATIVE RULING:** Successor trustee Sara A. Henry's motion for instructions to make certain upgrades and repairs to the existing trellis system is GRANTED. (Henry Decl., ¶¶ 3-4; Edgar D. Beard Decl., ¶¶ 2-7.) Objector Linda Beard has not established her competency to offer an opinion regarding vineyard management practices, and her attached documents have not been authenticated.

.....  
**Conservatorship of Ayala, Ramon**

**26-31858**

REVIEW HEARING

**TENTATIVE RULING:** After a review of the matter, the Court finds the conservator is acting in the best interest of the conservatee. The case is set for a biennial review hearing in two years, on April 2, 2020 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.

.....  
**Conservatorship of Cisneros, J.**

**26-60932**

REVIEW HEARING

**TENTATIVE RULING:** After a review of the matter, the Court finds the Conservators are acting in the best interest of the Conservatee. Thus, the case is set for a biennial review hearing in two years, on April 2, 2020 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.

.....  
**Conservatorship of Clark, Tracey Louise**

**PR23640**

REVIEW HEARING

**TENTATIVE RULING:** After a review of the matter, the Court finds the Conservators are acting in the best interest of the Conservatee. The case is set for a biennial review hearing in two years, on April 2, 2020 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.

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

**NCO Portfolio Management, Inc. v. Knight, B.**

**26-31743**

**MOTION TO VACATE DEFAULT AND DEFAULT JUDGMENT**

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

Ms. Knight's failed to timely serve her Motion. Code of Civil Procedure section 1005, subdivision (b), provides that "all moving and supporting papers shall be served and filed at least 16 court days before the hearing." The Court considers Ms. Knight's Motion only because the Assignee was able to file a substantive opposition.

Ms. Knight's Motion is GRANTED. Pursuant to Code of Civil Procedure section 473, subdivision (d), Ms. Knight has made a showing that the judgment entered in this case was void because she was never served. Ms. Knight has attested that she never lived at the Oakland address that was served in the arbitration proceeding, and therefore she was unaware of and did not participate in any arbitration proceeding. Although notice of the ruling on the Motion to Confirm Arbitration Award in this case was mailed to Ms. Knight's correct address, Code of Civil Procedure section 1290.4, subdivision (b), requires service to be made in the same manner as a summons when the party being served has not previously appeared. As Ms. Knight was not properly served, the Court lacked jurisdiction over her and the default judgment is void. Ms. Knight's objections to the exhibits presented by Assignee is SUSTAINED; Assignee has failed to provide any authentication for the exhibits being presented.