

Tentative Rulings

Law & Motion and Family Law Calendar for November 13, 2013

November 7, 2013, 4:00p.m.

Department Two

To request a hearing on any matter on this calendar, you must call the Court at 530/283-6305 by 12:00 noon, November 8, 2013, notice of the intention to appear must also be given to all other parties. If the clerk is not notified of a party's intention to appear, there will be no hearing and the tentative ruling becomes the order of the court.

If you do appear and want the matter reported by a court reporter in unlimited civil, family law or probate, you must contract with and provide your own court reporter. The Court does not provide an official reporter for these calendars.

Probate – 9:00 a.m.

Case No. PR4382– LPS Conservatorship

Tentative Ruling: **Appearance required.**

Case No. PR12-00001 – Conservatorship of Rios

Tentative Ruling: **No appearance required.** The court has reviewed the investigator's report, and finds that continued conservatorship is necessary and in the best interests of the conservatee. The court schedules a one year review for October 16, 2014, at 9:00a.m.

Case No. PR13-00044 – LPS Conservatorship

Tentative Ruling: **Granted.** The court finds that notice has been given as required by law. The court appoints the Public Guardian/Conservator as conservator of the person and estate of the proposed conservatee for a one year period. The clerk is reminded to notify the conservator and conservatee sixty days before the date of termination, pursuant to W&I Section 5362(a).

Case No. PR12-00030 – Guardianship Cross-Tillson

Tentative Ruling: **Appearance required.** The court has not received the confidential guardianship status report.

Case No. PR08-00100 – Guardianship of Forcino

Tentative Ruling: **Appearance required.** The court has not received the confidential guardianship status report.

Case No. PR08-00100 – Guardianship of Joa

Tentative Ruling: **Appearance required.** The court has not received the confidential guardianship status report.

Case No. PR09-00005– Guardianship of Rouse

Tentative Ruling: **Appearance required.** The court has not received the investigator’s report.

Case No. PR06-6341 – Guardianship of Rouse-Pierson

Tentative Ruling: **Appearance required.** The court has not received the investigator’s report.

Case No. PR05-6233 – Guardianship of Saari

Tentative Ruling: **Appearance required.**

Case No. PR13-00042 – Guardianship of Yager-Compton

Tentative Ruling: **Appearance required.** The court has not received the investigator’s report. The court also notes the proof of service is defective.

Case No. PR10-00038 – Matter of Thompson

Tentative Ruling: **Appearance required.** The court has not received the confidential guardianship status report.

Civil – 9:30 a.m.

Case No. LC13-00004 – National Business Factors vs. Porter

Tentative Ruling: **Granted.** Defendant’s Motion to Continue the Trial and Trial Related Dates is granted. The court will schedule a case management conference at 2:00p.m., on November 13, 2013, for resetting the trial date.

Case No. CV09-00243 – Owens vs. Kerns

Tentative Ruling: **Denied.** The motion for judgment on the pleadings by defendant, Dig-It Construction, Inc., is denied. Plaintiffs’ request for judicial notice is granted.

The First Amended Complaint, filed January 3, 2011 (“FAC”), alleges that both Dig-It defendants were involved in the original construction of Almanor Lakefront Village. *Id.*, para. 8. However, the FAC is devoid of any allegation suggesting that either Dig-It business performed post-installation remedial work. Further, the discovery responses of Dig-It Construction, Inc., of which the plaintiffs request this Court to take judicial notice, establish that the only work performed by “Dig-It,” in whatever capacity, occurred between September 9, 1999 and December 15, 2000. (*See*, Request for Judicial Notice, para. 1 and Response to Special Interrogatory No. 2, Exhibit 1 to Declaration of James P. McKenna, both filed October 30, 2013.)

However, the motion is untimely. *Code of Civil Procedure section 438(e)*. Further, the FAC, liberally construed, alleges facts sufficient to state a cause of action against Dig-It Construction, Inc. (FAC, p.2:21-23 (the true names of Does 1 and 2 are “. . . Caleb Holland, individually and dba Dig-It Construction and Dig-It Construction, Inc., (incorporated subsequently on February 20, 2004) . . .”); *see, e.g., Hughes v. Western MacArthur Company* (1987) 192 Cal.App.3d 951, 956 (allegations must reflect legal connection between parties); *Cleveland v. Johnson* (2013) 209 Cal.App.4th 1315, 1329-1330 (unincorporated business acquired by corporation).)

Family Law – 10:30 a.m.

Case No. FL11-00084 – Mar. of Bissell

Tentative Ruling: **Appearance required.** The court notes there is no proof of service in the file.

Case No. FL13-00081 – Brennan vs. Comeau

Tentative Ruling: **Appearance required.** The court will make a ruling on spousal support or set the matter for a contested hearing.

Case No. FL13-00167 – Mar. of Buckley

Tentative Ruling: **Granted.** Respondent's Motion to Set Aside Default is granted.

Case No. FL13-00011 – Mar. of Burkhart

Tentative Ruling: **Appearance required.**

Case No. FL10-00304 – Champlin vs. Hecker

Tentative Ruling: **Appearance required.** The court will hear the results of private mediation.

Case No. PR13-00034 – Guardianship of Bresnyan

Tentative Ruling: **Appearance required.** The court has not received the stipulation.

Case No. FL13-00117– Mar. of Hardgrave

Tentative Ruling: **Appearance required.** The court has not received the stipulation.

Case No. FL12-00172 – Mar. of Molina

Tentative Ruling: **Appearance required.** The court will hear the results of mediation.

Case No. FL105-25955 – Mar. of Renouf

Tentative Ruling: **No appearance required.** The court has signed the custody and visitation agreement.

Case No. FL13-00055 – Mar. of Smith

Tentative Ruling: **Appearance required.** The court will review the custody evaluation report with the parties.

CASE MANAGEMENT CONFERENCE TENTATIVE RULINGS

Case No. LC12-00232 – Denson vs. Gehrman

Tentative Ruling: **Appearance required.** The parties should be prepared to discuss ADR options and set a trial date.

Case No. LC13-00058 – Midland Funding vs. Kirkby

Tentative Ruling: **Appearance required.**

Case No. CV13-00063 – People vs. McCoy

Tentative Ruling: **Appearance required.**

Case No. CV13-00085 – Plumas Bank vs. Tenk

Tentative Ruling: **Appearance required.** Plaintiff has failed to file a case management conference statement. Should there be any further violations of Rule 3.725, this matter will be set for an order to show cause and sanctions may be imposed. The court also notes there is no proof of service on the defendants.

Case No. CV12-00214 – Rose vs. Guereque

Tentative Ruling: **Appearance required.**

Case No. LC13-00036 – Citibank vs. Griffith

Tentative Ruling: **Appearance required.** The court notes there is no proof of service on the defendant.

Case No. CV12-00241 – Crowley vs. Whited

Tentative Ruling: **Appearance required.** The court notes that neither the plaintiff nor the defendants have filed case management conference statements, as previously ordered on July 29, 2013.

Case No. FL10-00013 – Mar. of Mattingly

Tentative Ruling: **Appearance required.** The court will review the status of the case with the parties.bh