

Tentative Rulings

Law & Motion and Family Law Calendar for November 23, 2015

November 19, 2015, 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, Nov. 20, 2015 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 – Conservatorship of Pearce

Tentative Ruling: **Granted.** The court finds that notice has been given as required by law. The court has reviewed the petition for reappointment and report, and finds that conservatorship is still necessary and appropriate. The clerk is reminded to notify the conservator and his/her conservatee, and the person in charge of the facility 60 days before the date of termination, of the date that the conservatorship will expire.

Case No. PR12-00032 – Estate of Arnold

Tentative Ruling: **Approved.** The court finds that notice has been given as required by law. Petitioner's First and Final Account and Report of Administrator; Petition for Approving Report of Administrator, for Allowance of Attorney compensation and for Final Distribution is approved. Petitioner is to prepare the Order.

Case No. PR15-00045 – Estate of Clarke

Tentative Ruling: **Granted, upon receipt of proof of publication.** If proof is filed prior to the hearing, the court will find that notice has been given as required by law. Petitioner's Petition for Probate is granted.

Case No. PR15-00043- Estate of Eylders

Tentative Ruling: **Granted, upon receipt of proof of publication.** If proof is filed prior to the hearing, the court will find that notice has been given as required by law. Petitioner's Petition to Administer the Estate is granted. Petitioner is to prepare the Order.

Case No. PR08-6455 – Guardianship of Joa

Tentative Ruling: **No appearance required.** The court has received and reviewed the guardianship status report, and finds that continued guardianship is in the best interests of the

minor. The matter is set for an annual review on November 14, 2016, at 9:00a.m. The clerk is reminded to send notice to the guardian one month prior to the review date, informing the guardian of the duty to file a confidential status report prior to the hearing.

Case No. PR09-00005 – Guardianship of Rouse

Tentative Ruling: **No appearance required.** The court has received and reviewed the guardianship status report, and finds that continued guardianship is in the best interests of the minor. The matter is set for an annual review on November 14, 2016, at 9:00a.m. The clerk is reminded to send notice to the guardian one month prior to the review date, informing the guardian of the duty to file a confidential status report prior to the hearing.

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

Tentative Ruling: **No appearance required.** The court has received and reviewed the guardianship status report, and finds that continued guardianship is in the best interests of the minor. The matter is set for an annual review on November 14, 2016, at 9:00a.m. The clerk is reminded to send notice to the guardian one month prior to the review date, informing the guardian of the duty to file a confidential status report prior to the hearing.

Case No. PR15-00038 – Guardianship of Givens

Tentative Ruling: **Appearance required.** The court has received the investigator's report, and intends to follow the recommendation, granting guardianship.

Case No. PR14-00050 – Conservatorship of Brandes

Tentative Ruling: **Granted.** The court finds that notice has been given as required by law. The court has reviewed the petition for ratification and retroactive reappointment and report, and finds that conservatorship is still necessary and appropriate. The clerk is reminded to notify the conservator and his/her conservatee, and the person in charge of the facility 60 days before the date of termination, of the date that the conservatorship will expire.

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. CV14-00168 – County vs. BCM Construction

Tentative Ruling: **Granted.** Defendant Nichols, Melburg & Rossetto Architects (hereinafter “NM&R”) Motion for Determination of Good Faith Settlement is granted. The court has reviewed the motions, oppositions and reply, and applied the factors set forth in *Tech-Bilt, Inc. v. Woodward-Clyde & Associates* (1995) 38 Cal.3d. 488. The Supreme Court in *Tech-Bilt* held, in addition to inquiring into a rough approximation of plaintiffs’ total recovery and the settlor’s proportionate liability, the amount paid in settlement, the allocation of settlement proceeds among the plaintiffs, and a recognition that a settlor should pay less in settlement than he would if he were found liable after trial, the financial conditions and insurance policy limits of settling defendants, as well as the existence of collusion, fraud, or tortious conduct aimed to injure the interests of nonsettling defendants, “practical considerations obviously require that the evaluation be made on the basis of information available at the time of settlement.” (*Id.*, at p. 499.) Here, the parties asserting the lack of good faith have the burden of proof on that issue. The nonsettling defendants in this case have offered no experts or any other evidence to show that NM&R, the settling architects, were liable in any fashion. BCM Construction Company, Inc., merely states in its opposition that it is investigating whether NM&R or another party is liable in this matter. Fidelity and Deposit Company of Maryland states in its opposition that after discovery and inspections, it is probable that experts will be able to allocate the causes of any defects and to which defendants each defect would be attributable. Yet, no affidavits were filed to support their opposition. These assertions, without any supporting documents, are insufficient to carry their burden on the issue of the lack of good faith. As the court’s determination must be based on the information available at the time of the settlement, the court hereby grants NM&R’s Motion.

Case No. CV14-00195 – CSAA Insurance Exchange vs. Ferrellgas, Inc.

Tentative Ruling: **Granted.** Plaintiffs’ Motion for Order Authorizing Filing of First Amended Complaint is granted.

Case No. CV15-00139 – Matter of Johnson

Tentative Ruling: **Granted, upon proof of publication.** If proof is filed prior to the hearing, the court will grant the petition.

Case No. CV12-00214 – Rose vs. Guereque

Tentative Ruling: **Appearance required.** The court will review the payment schedule.

Family Law – 10:30 a.m.

Case No. FL10-00021– Mar. of Arredondo

Tentative Ruling: **Appearance required.** The court intends to have the petitioner calculate the amount of unpaid debt and determine spousal support from that calculation.

Case No. FL15-00131- Mlakar vs. Brooks

Tentative Ruling: **Appearance required.**

Case No. FL14-00138- Newlove vs. Newlove-Mullen

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

Case No. FL15-00193 – Robinson vs. Parker

Tentative Ruling: **Appearance required.** The court will order the parties to mediation.

CASE MANAGEMENT CONFERENCE TENTATIVE RULINGS

Case No. LC15-00054 – Bank of America vs. Guillory

Tentative Ruling: **Appearance required.** The court notes that plaintiff has not filed 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 defendant in the file.

Case No. CV15-00038 – Dayton vs. Smith

Tentative Ruling: **Appearance required.** The court has not received a dismissal.

Case No. CV15-00017 – Humphrey vs. Lancaster

Tentative Ruling: **Appearance required.** The court will confirm mediation, or set a date for a mandatory settlement conference.

Case No. CV15-00049 – Matter of Hainsworth

Tentative Ruling: **Appearance required.** The court notes there is no proof of service in the file on the District Attorney. If there is no appearance, the court intends to dismiss the case for lack of prosecution.

Case No. LC15-00050 – National Business Factors vs. Powell

Tentative Ruling: **Appearance required.** The court notes that plaintiff has not filed 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 defendant in the file.

Case No. FL12-000232 – Butts vs. Kilby

Tentative Ruling: **Appearance required.**

Case No. CV14-00156 – Sebring vs. Peterson

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

Case No. CV13-00059 – Corey vs. Brown

Tentative Ruling: **Appearance required.** OSC on failure to appear on 11/12/15. The court will reset the trial date. The parties/counsel are authorized to appear by Court Call.

Case No. CV14-00149 – McLaughlin v. JP Morgan Chase Bank

Tentative Ruling: **Appearance required.** The court intends to vacate the readiness conference and trial dates, if a dismissal is filed.