

Tentative Rulings

Law & Motion and Family Law Calendar for September 28, 2015

Sept. 24, 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, Sept. 25, 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. PR07-6363– Conservatorship of Curran

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

Case No. PR15-00038– Conservatorship of Mason

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

Case No. PR13-00028 – Estate of McGushin

Tentative Ruling: **Approved.** Petitioner's Final Account and Report of Executor; Petition for Order Settling Account and Approving Report and for Final Distribution is approved. Petitioner is to prepare the Order.

Case No. PR12-00021 – Guardianship of Potts

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 minors. The matter is set for an annual review on September 12, 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.

:

Civil – 9:30 a.m.

Case Nos. LC15-00059, 56, 57, 58, 60, 61 – Almanor Lakefront LLC vs. Owens, and related cases

Tentative Ruling: **Sustained, in part, and overruled in part.** Defendants’ general demurrer with regard to the second cause of action is sustained, without leave to amend. The court sustains the demurrer on this count as it fails to state a cause of action. Plaintiff has improperly alleged a common count on an open book account, because rent due under a lease cannot be recovered in an action on an “open book account” in the absence of a contrary agreement between the parties.

Defendants’ demurrer with regard to standing is overruled. Plaintiff is alleged as “Almanor Lakefront, LLC”, not Mark Nicholson, as stated in defendants’ memorandum of points and authorities. The court can find no reference to Mr. Nicholson, in the unverified complaint.

Defendants’ demurrer to the first cause of action of the complaint because it only alleges a net sum total of damages and does not allege the specific rental amount per month owed, is sustained, with leave to amend.

Case No. CV15-00110 – In Re: McClure

Tentative Ruling: **Denied.** The court notes that the Superior Court in Tulare County ruled on a similar petition only one month prior to the present petition filed in this county. This petition alleges no new facts or reasons for this court to rule any differently than the previous ruling by Judge Reed in Tulare County on July 13, 2015, which set forth appropriate reasons to deny the petition, and as not in the best interests of the payee. It appears the only reason a petition was filed in this county is that the payee allegedly now lives in this county, and perhaps to get a different result. In addition, there is no Affidavit of Payee filed in this action, yet the Petition indicates the payee “desires to transfer the payments in order to pay off credit card debt and medical bills”, which were the same reasons for the last petition. As noted by Judge Reed in Tulare, a previous petition filed in another county, Kern County, was approved by that court last year, on July 22, 2014, ordering the lump sum payment of \$160,124 to the payee. This amount should have been sufficient to pay any credit card debts and medical bills. Three previous petitions were also denied by the Tulare Superior Court.

Family Law – 10:30 a.m.

Case No. FL10-00164 – Guthrie-Atkins vs. Atkins

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

Case No. FL15-00005 – Mar. of McColm

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

Case No. FL15-00131 – Mlakar vs. Brooks

Tentative Ruling: **No appearance required.** The court has signed a mediation agreement which resolves the custody and visitation issues.

Case No. FL14-00017 – Mar. Of Thran

Tentative Ruling: **No appearance required.** There is no proof of service on the petitioner. In addition, respondent's request for setting aside the judgment is not the proper remedy for his specific request. It appears that respondent will need to file an appropriate motion to compel enforcement of the judgment, and that this motion should be calendared before Commissioner Hamlin.

Case No. FL13-00136 – Mar. of Tidwell

Tentative Ruling: **Appearance required.**

CASE MANAGEMENT CONFERENCE TENTATIVE RULINGS

1:30p.m.

Case No. CV15-00017 – Humphrey vs. Lancaster

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 parties should be prepared to discuss ADR options and set a trial date.

Case No. CPR13-00049 – Snyder Family Trust

Tentative Ruling: **Appearance required.** The court will reset the trial date.

2:00p.m.

Case No. CV15-00033 – Carlson vs. Mason

Tentative Ruling: **Appearance required.** The court will confirm mediation, and the date for mediation.

Case No. CV14-00168 – County of Plumas vs. BCM Construction

Tentative Ruling: **Appearance required.** The court will confirm mediation, and the date for mediation.

Case No. CV14-00093 – Hunt vs. Firestone

Tentative Ruling: **Appearance required.** The court notes that neither party has filed a case management conference statement, as ordered on June 22, 2015. The court will confirm a referee.

Case No. CV15-00029 – Mason vs. Feather River Rail Society

Tentative Ruling: **Appearance required.** The court has not received a dismissal or notice of settlement.

Case No. CV14-00083- Rondon vs. Ruschhaupt

Tentative Ruling: **Appearance required.** If a dismissal is filed prior to the hearing, this matter may be taken off calendar.

Case No. CV14-00156- Sebring vs. Peterson

Tentative Ruling: **Appearance required.** The court will confirm the date for mediation.