

## **Tentative Rulings**

### **Law & Motion and Family Law Calendar for September 28, 2020**

#### **Department Two – Judge Douglas Prouty**

To request a hearing on any matter on this calendar, you must call the Court at 530/283-6305 by 12:00 noon, September 25 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.**

**PLEASE NOTE – DUE TO THE GOVERNOR'S EMERGENCY ORDER AND THIS COURT'S JUDICIAL EMERGENCY ORDER, ANY REQUIRED APPEARANCE CAN BE DONE BY USING COURT CALL (1-800-882-6878) – UNLESS OTHERWISE STATED IN THESE TENTATIVE RULINGS**

#### **Probate – 9:00 a.m.**

##### **Case No. PR20-00031                      Conservatorship of B., J.**

Tentative Ruling: **Appearance required.** The Court has received and reviewed the Court Investigator's Report and will discuss whether the matter is to be set for hearing and whether the Conservatee will appear.

##### **Case No. PR18-00040                      Conservatorship of East, Tiffany**

Tentative Ruling: **Appearance required.** The Court has received and reviewed the Court Investigator's Report and intends to follow the recommendation. The Court will discuss whether the matter is to be set for hearing and whether the Conservatee will appear.

##### **Case No. PR20-00042                      Estate of Henley, Betty**

Tentative Ruling: **No appearance required.** There are two Petitions which have been filed to administer the Decedent's estate. In this case, Petitioner Cameron Henley has filed a Petition for Administration of the Estate and in a related case no. PR20-00046, Petitioner William Henley has filed a Petition requesting his appointment as Administrator. Initially, the Court orders the two cases are consolidated and hereafter all filings in the Estate of Betty Henley are to be filed in the first case filed, PR20-00042, which is designated as the lead case.

The Court notes there is no Proof of Publication for posting of the Notice of Hearing for both Petitions as required by this Court's May 19, 2020 Administrative Order. Further, Objections have been filed by Petitioner William Henley, however there is no proof of service indicating the documents were served on counsel for Petitioner Cameron Henley as required by law. The hearing on each Petition will be continued to October 26, 2020, at 9:00 a.m. for the parties to post and serve as required by statute and the Administrative Order.

**Case No. PR20-00046**                      **Estate of Henley, Betty**

Tentative Ruling: **No appearance required.** See Tentative Ruling for case no. PR20-00042.

**Case No. PR20-00050**                      **Estate of Stone, Jimmy Lee**

Tentative Ruling: **No appearance required.** There is no Proof of Publication filed for this Petition. The matter is continued to October 26, 2020, at 9 a.m. for posting pursuant this Court's Administrative Order.

**Case No. PR19-00031**                      **Estate of Tebaldi, Harold Thomas, Jr.**

Tentative Ruling: **Appearance required.** This Petition for order confirming sale was continued to this date and notice has been given as required by law. No opposition to the Petition has been filed and the Court will proceed with the hearing to confirm the sale.

**Case No. PR20-00020**                      **Estate of Thompson, Jack G.**

Tentative Ruling: **Appearance required.** The Court will discuss the posting and sufficiency of notice as to this hearing date. No opposition to the Petition has been filed to date.

**Case No. PR18-00028**                      **Guardianship of Hogan, Reese Robert**

Tentative Ruling: **Appearance required.** The Temporary Guardians have filed a petition to termination the guardianship. The Court will discuss the status of the two children.

**Case No. PR18-00027**                      **Guardianship of Holcomb, Abigail and Addisyn**

Tentative Ruling: **Appearance required.** The Court has not received the Confidential Guardianship Status Report from the Guardian and orders the review hearing continued to October 26, 2020, at 9 a.m. Counsel for the Guardian is to give notice of the continuance to the Mother Sarah Holcomb. The guardian is ordered to file the Status Report prior to the next hearing. The Mother may appear by telephone at that next hearing by calling 1-877-336-1829 and enter the access code 4023142. The party must then wait on the line until the Court calls their case. The parties are to mute their phone until the case is called. All prior orders shall remain in full force and effect until the next hearing date.

**Case No. PR19-00007**                      **Guardianship of Marro, Ariana Rose**

Tentative Ruling: **Appearance required.** The Court has not received the Confidential Guardianship Status Report from the Guardian and orders the review hearing continued to October 26, 2020, at 9 a.m. The Guardian is ordered to personally appear at the next hearing and file the Guardianship Status Report and if she does not appear, the Court will discuss issuing an Order to Show Cause re: Contempt for her non-appearance and failure to file a status report. . All prior orders shall remain in full force and effect until the next hearing date.

**Case No. PR07-6356**                      **Guardianship of Merkle, Kyli**

Tentative Ruling: **No appearance required.** The Court has received and reviewed the Confidential Guardianship Status Report. The Court finds it is in the minor's best interests to continue the guardianship and the next annual review hearing is set for September 27, 2021, at 9:00 a.m. All prior orders remain in full force and effect. The clerk of the court is reminded to send notice to the Guardian one month prior to this date, informing the Guardian of the duty to file a confidential status report prior to the review hearing. The Guardian is to appear by telephone at that time and date by calling 1-877-336-1829 and enter the access code 4023142. The party must then wait on the line and mute their phone until the Court calls their case.

**Case No. PR20-00034**                      **Guardianship of Orr, Delores C.**

Tentative Ruling: **Appearance required.** The Court has reviewed the Report filed by the Plumas County Department of Social Services and intends to deny the Petition by the paternal grandmother based upon the recommendation of DCSS.

**Case No. PR19-00032**                      **Guardianship of Avotte, William Lee**

Tentative Ruling: **Appearance not required.** The Court has not received the Confidential Guardianship Status Report from the Guardian and orders the review hearing continued to November 9, 2020, at 9 a.m. The Court Clerk is to mail a copy of the minute order to the Guardian. The guardian is ordered to file the Status Report prior to the next hearing. The Guardian is to appear by telephone at that time and date by calling 1-877-336-1829 and enter the access code 4023142. The party must then wait on the line until the Court calls their case. The parties are to mute their phone until the case is called. All prior orders shall remain in full force and effect until the next hearing date.

**Case No. PR20-00039**                      **Petition of Velasco, Richard**

Tentative Ruling: **Appearance required.** The Court will discuss the posting and sufficiency of notice as to this hearing date. No opposition to the Petition has been filed to date.

**Case No. PR19-00028**                      **Conservatorship of Wealder, Elmerina**

Tentative Ruling: **Appearance required.** This annual review was continued from August 24, 2020, to this date for a review of the conservatorship. Notice of the continuance was sent to Plumas County Counsel, R. McIlroy and the Court Investigator. The Court will discuss how the parties intend to proceed.

## CIVIL LAW AND MOTION CALENDAR – 9:30 a.m.

Case No. CV19-00155

Blankenship, Mary Beth v FCA US LLC

Tentative Ruling: This case is on calendar for Plaintiff's Motion Enforce Settlement Agreement pursuant to Code of Civil Procedure §664.6 and continued Case Management Conference. The Court has reviewed the Motion, supporting declarations, and argument filed by both parties. The Court notes that per CCP §664.6 Plaintiff seeks to have judgment entered pursuant to an executed settlement agreement as well as orders requiring Defendant to timely perform their obligations per the terms of the settlement agreement.

It has long been held that whether or not to enter a judgment based on the parties' settlement agreement is within the judge's discretion. *California State Auto.Ass'n Inter-Ins. Bureau v. Superior Court* (1990)50 C3d 658, 663-664. First, when ruling on a CCP §664.6 motion the Court must initially determine whether parties entered into a valid and binding settlement. *Bowers v. Raymond J. Lucia Cos., Inc.* (2012) 206 CA4th 724, 732. Based upon this Court's review of the Declarations submitted by both counsel and the Settlement Agreement itself, this Court finds that Plaintiff and Defendant entered into a valid and binding settlement where the material terms of the settlement are specified and the parties expressly acknowledged their understanding of it and their agreement to be bound by those terms.

Upon such a finding under CCP §664.6, overwhelming case law provides that this Court must enter a judgment which conforms exactly to the parties' agreement and cannot add additional provisions to modify the express terms of the settlement. In fact, it has been held that a judge erred in entering judgment that was different from the terms of parties' stipulated settlement and the parties are only entitled judgment pursuant to the settlement agreement terms and "nothing more." *California State Auto. Ass'n., supra*, at 664; *Machado v. Myers*, (2019) 39 CA5th 779, 790. Accordingly, unless Plaintiff and Defendant mutually consent to set aside their settlement agreement and agree to the same settlement with additional terms to enforce that settlement, this Court can only enter a judgment incorporating the terms of this settlement agreement. Accordingly, this Court grants the Plaintiff's Motion and Plaintiff is prepare the Order providing that a judgment incorporating the terms of the settlement agreement is to be entered.

The Judgment is also to provide that this Court retains jurisdiction to ensure that all parties perform their obligations under the settlement agreement.

If either party requests argument regarding this Tentative Ruling, the Court authorizes appearance by CourtCall. Plaintiff is to prepare the proposed Order incorporating this Court's ruling and the Judgment incorporating the settlement terms and the Court's reservation of jurisdiction over compliance with the settlement agreement terms.

## **FAMILY LAW CALENDAR - 10:30 a.m.**

### **Case No. FL19-00038**                      **Brown, Neo v Caporale, Natalie**

Tentative Ruling: **Appearance required.** The Court will discuss the results of mediation and service of the documents filed by Petitioner.

### **Case No. FL18-00208**                      **Caballero, Koby v Pettit, Haley**

Tentative Ruling: **Appearance required.** The Court will discuss the results of mediation and whether the matter needs to be set for a long cause contested hearing.

### **Case No. FL03-24189**                      **Carpenter, Brenda v Carpenter, Glenn**

Tentative Ruling: **Appearance required.** Respondent has filed a Request for Order to enter judgment only as to marital status without prejudice to any property or support issues. The Court will grant the motion to bifurcate marital status and will grant the judgment nunc pro tunc which is without prejudice as to any other property or support issues. The Court will discuss with the parties the legal date as to termination of marital status and setting the matter for a case management conference.

### **Case No. FL19-00239**                      **Collins, Vicki v Collins, Ronald**

Tentative Ruling: **Appearance required.** The parties have agreed on all outstanding issues and the Court will enter the Judgment upon testimony from either party as to jurisdictional facts. Petitioner's Request for Order is taken off-calendar based upon the entry of Judgment and resolution of all issues.

### **Case No. FL20-00022**                      **Coronado, Tami Lynn v Coronado-Lopez, Hector**

Tentative Ruling: **Appearance required.** The Court will discuss if the parties have attended mediation.

### **Case No. FL19-00197**                      **Garner, Sarah v. Bobby Garner**

Tentative Ruling: **Appearance required.** The Respondent's Request for Order was continued to this date for the results of mediation. The Court will discuss whether this matter has been set for a contested hearing in this department on October 15, 2020 at 1:30 p.m. regarding custody and visitation.

### **Case No. FL15-00223**                      **Harrigan, Rose v Harrigan, William**

Tentative Ruling: **Appearance required.** Respondent has filed a motion to reduce permanent spousal support. The Court will discuss whether counsel are requesting a hearing or submit the matter based upon argument and pleadings filed to date.

**Case No. FL19-00238**                      **Hrenko, Sandra v Hrenko, Raymond**

Tentative Ruling: **Appearance required.** This matter is on calendar for a case management conference and Respondent's Request for various orders regarding the listing and sale of the family residence and for attorney's fees. The parties are reminded that this calendar is a short cause calendar with a maximum of 10 minutes to discuss any motions.

**Case No. FL18-00048**                      **Jordan, Natasha v. Ricky Haworth**

Tentative Ruling: **Appearance required.** Continued arraignment of Respondent on Order to Show Cause re: Contempt.

**Case No. FL20-00045**                      **Quiring, Donald v. Savannah Quiring**

Tentative Ruling: **Appearance required.** No proof of service of Temporary Emergency Orders and Request for Orders modifying custody and support on Petitioner. The matter will be taken off-calendar unless a continuance is requested for service.

**Case No. FL12-00019**                      **Sousa, Dexter v. Manjeot, Danielle**

Tentative Ruling: **Appearance required.** The Court will discuss the results of mediation and whether there has been a change of circumstances to modify the 2016 Judgment.

**Case No. FL19-00177**                      **Villalobos, Alice Marie v Hechler-Schafer, David**

Tentative Ruling: **Appearance required.** The Court will discuss the results of mediation. The Petitioner has not filed any opposition to the Request for Order.

**CASE MANAGEMENT CONFERENCE/OTHER CASES**  
**1:30 p.m.**

**Case No. LC20-00052**                      **Discover Bank v Anderson, Laurie**

Tentative Ruling: **No appearance required.** Plaintiff has not served nor sought an order for service by publication in violation of Rule of Court 3.740(d). The Case Management Conference will be continued to December 28, 2020, at 2:00 p.m. for service or to show cause why monetary sanctions should not be imposed.

**Case No. CV20-0072**                      **Mainburg, Robert v Stanton, Carol**

Tentative Ruling: **Appearance required.** The Court will discuss case status and ADR.

## CASE MANAGEMENT CONFERENCE/OTHER CASES

2:00 p.m.

**Case No. CV19-00193**                      **American Valley Aviation v County of Plumas**

Tentative Ruling: **Appearance required.** The Court will discuss case status and whether case is ready for mediation.

**Case No. LC19-00140**                      **Autovest LLC v Messick, Brooke**

Tentative Ruling: **Appearance required.** This matter is on for a case management conference and for an order to show cause for the parties failure to appear for the June 22, 2020 case management conference and failure to file case management statements for June 22, 2020, and this continued case management conference in violation of Rule of Court 3.725(a).

**Case No. CV19-00242**                      **Bank of America N.A. v Bowman, Nanette**

Tentative Ruling: **Appearance required.** Plaintiff has not filed a Case Management Statement in violation of Rule of Court 3.725. Plaintiff is to show cause why monetary sanctions should not be imposed for that violation. The Court will discuss the status of the case.

**Case No. LC19-00230**                      **Bank of America N.A. v Oxford, Leslie**

Tentative Ruling: **Appearance required.** Plaintiff has again failed to file a case management statement in violation of Rule of Court 3.725 and failed to appear for case management conferences on April 13, 2020, and June 22, 2020. This matter is on calendar for an order to show cause why monetary sanctions should not be imposed for those violations. The Court will impose sanctions for \$1,000.

**Case No. CV19-00082**                      **Carrillo, Fernando v Schlueter, Christine**

Tentative Ruling: **Appearance required.** Plaintiff has failed to file a case management conference statement in violation of Rule of Court 3.725. Plaintiff has also not served Defendant in violation of Rule of Court 3.740(d). Plaintiff is to show cause why monetary sanctions should not be imposed. The Court will discuss the status of the case.

**Case No. LC19-00209**                      **LVNV Funding LLC v Tucker, James**

Tentative Ruling: **Appearance required.** Plaintiff has not filed a Case Management Statement in violation of Rule of Court 3.725. Plaintiff is to show cause why monetary sanctions should not be imposed for that violation. The Court will discuss the status of the case.

**Case No. CV19-00238**                      **Meyer, Michael v County of Plumas**

Tentative Ruling: **Appearance required.** The Court will discuss case status and whether case is ready for mediation.

**Case No. LC19-00199**                      **Midland Funding LLC v Baldwin, Christianna**

Tentative Ruling: **Appearance required.** Plaintiff has failed to file a case management statement in violation of Rule of Court 3.725 and failed to appear for case management conferences on April 13, 2020, and June 22, 2020. This matter is on for an order to show cause why monetary sanctions should not be imposed. The Court will impose sanctions for \$1,000.

**Case No. LC19-00075**                      **Petersen-Dean Inc v Poole, Marni**

Tentative Ruling: **No appearance required.** Plaintiff has filed for Chapter 11 bankruptcy and this case has been stayed by that case. The Case Management Conference is continued for status to December 28, 2020, at 2:00 p.m.

**Case No. CV18-00039**                      **State Farm Mutual Automobile Ins v Muller, Mariette**

Tentative Ruling: **Appearance required.** The Court will discuss case status and whether case is ready for mediation.