

## TENTATIVE RULINGS

**FOR: October 2, 2020**

If you do not see a tentative ruling for a scheduled matter, then attendance at the hearing is required.

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## **CIVIL LAW & MOTION CALENDAR – Hon. Victoria Wood, Dept. A (Historic Courthouse) at 8:30 a.m.**

**Colton Callahan v. City of Napa**

**20CV000446**

[1] DEFENDANT’S DEMURRER TO VERIFIED COMPLAINT

**TENTATIVE RULING:** Defendant’s demurrer is SUSTAINED with 10 days’ leave to amend.

### **A. Request for Judicial Notice and Evidentiary Objections**

Defendant’s request for judicial notice is GRANTED, in part. The Court takes judicial notice of the Complaint filed in this matter, but not for the truth of the matters alleged therein. The Court takes judicial notice of the Napa Municipal Code (Napa MC). The Court takes judicial notice of the official records of the California Secretary of State for the corporate status of Green

Future, LLC, but for no other purpose. All other requests for judicial notice are DENIED on the ground that none are relevant to the Court's resolution of the issues raised by the demurrer.

Plaintiff's requests for judicial notice are GRANTED. The Court takes judicial notice of the Articles of Organization – Conversion, and the LLC-112 Statement of Information filed May 31, 2020, for Greener Future, LLC, but not for the truth of the matters asserted therein. The Court takes judicial notice of the official records of the California Secretary of State relating to the corporate status of Green Future, LLC, but for no other purpose. Defendant's objections to this request are OVERRULED. (*People v. Long* (1970) 7 Cal.App.3d 586, 591 [“[w]hile the courts take judicial notice of public records, they do not take notice of the truth of matters stated therein”].)

Defendant's objection to the Declaration of Christopher Wimmer is SUSTAINED on the ground that the declaration and its contents are irrelevant to the Court's resolution of the issues raised by the demurrer.

### **B. Factual and Procedural Background**

The Complaint alleges that Plaintiff was a business partner with Plaintiff's father, and Ron and Elliott Taylor (Taylors), third-parties to the present litigation, in a venture that sought “to pursue a cannabis license and real property in Napa” for the purpose of cannabis sales. (Complaint at ¶2.) Plaintiff alleges that he and Ron Taylor were equal co-owners of Greener Future, LLC (Greener Future), which was the sole owner of ST6 Holdings, LLC (ST6). (*Id.* at ¶3-4.) Plaintiff alleges that in furtherance of the business, he identified real property and the partners together caused ST6 to apply for and obtain a so-called Cannabis Establishment Clearance (CEC) from Defendant City of Napa. (See *Id.* at ¶¶3-8.) Plaintiff alleges that, on behalf of the business, he signed a letter of intent with Harvest Health, “a leading national cannabis retailer” by which the retailer “would operate a dispensary at the Property using ST6's [CEC]; Greener Future and Harvest Health would share in the ownership and profits of ST6; and Greener Future would retain ownership of the Property and receive rent.” (Complaint at ¶10.) Plaintiff then alleges that the Taylors undertook a series of actions by which they diverted these business opportunities to themselves and away from ST6 and Greener Future. (See *Id.* at ¶¶11, 16-17, 19, 23-24, 27-28, 38, 40-41.)

Plaintiff alleges that “on June 26, 2018, the Taylors sued [Plaintiff and his father] and ST6 in San Francisco Superior Court...seeking a declaration that [Plaintiff and his father] and ST6 held no ownership interest in the Property or [CEC], and had no lease on the Property.” (Complaint at ¶18.)

The gravamen of the present action is that the City, through certain staff, participated in and/or facilitated the allegedly wrongful purported transfer of ST6's CEC. Plaintiff asserts causes of action against the City of Napa for conversion (first), negligence (second) and declaratory relief (third). (See, generally, Complaint.)

Defendant City of Napa demurs, pursuant to Code of Civil Procedure section 430.10, subdivision (e), to the Complaint on the grounds that the first, second, and third causes of action do not state facts sufficient to constitute causes of action, and that Plaintiff lacks standing.

### C. Legal Analysis

A complaint must contain “facts constituting the cause of action.” (Code Civ. Proc. §425.10, subd. (a)(1).) A demurrer is treated as “admitting all material facts properly pleaded, but not contentions, deductions or conclusions of fact or law.” (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) The court may also consider as grounds for a demurrer any matter that is judicially noticeable under Evidence Code sections 451 or 452. (Code. Civ. Proc., §430.30, subd. (a).) “A demurrer tests only the legal sufficiency of the pleading. It admits the truth of all material factual allegations in the complaint; the question of plaintiff’s ability to prove these allegations, or the possible difficulty in making such proof does not concern the reviewing court.” (*Community on Children’s Television, Inc. v. General Foods Corp.* (1983) 35 Cal.3d 197, 213 14.) In reviewing a demurrer, the court must “construe the allegations of a complaint liberally in favor of the pleader.” (*Skopp v. Weaver* (1976) 16 Cal.3d 432, 438.) A general demurrer will also lie “where the complaint has included allegations that clearly disclose some defense or bar to recovery.” (*Cryolife, Inc. v. Super. Ct.* (2003) 110 Cal.App.4th 1145, 1152.)

#### 1. Plaintiff Fails to Allege Facts Showing that He Has Standing to Bring the Present Action

Defendant asserts that Plaintiff lacks standing to pursue the current action because ST6, as the holder of the CEC in question, is the party that would have suffered any injury caused by the allegedly wrongful transfer. (Support Memo. at 9:3-8.)

“Every action must be prosecuted in the name of the real party in interest, except as otherwise provided by statute.” (Code Civ. Proc. §367.) The real party in interest is “the person possessing the right sued upon by reason of the substantive law.” (*Killian v. Millard* (1991) 228 Cal. App. 3d 1601, 1605. “ ‘Where the complaint states a cause of action in someone, but not the plaintiff, a demurrer will be sustained.’ [Citation.]” (*Ibid.*)

Plaintiff first argues that “[t]his is a derivative action: Colton has sued to enforce the rights of ST6.” (Opposition Memo. at 8:2.) Plaintiff contends that “[h]e has standing to do so, because ST6 has only one member, Greener Future, and Colton is the sole member of Greener Future.” (*Ibid.*) However, through the Complaint Plaintiff alleges only that he was *a* member, as opposed to the *only* member, of Greener Future. “At the time of the actions alleged, Colton was a member of Greener Future, which was in turn the sole member of ST6, and he remains a member of Greener Future as of the filing of this lawsuit.” (Complaint at ¶49.) Moreover, the Complaint alleges that in another action involving the same facts, pending in the District Court of California in and for the County of San Francisco, “Elliott [Taylor] has contended he remains a member of Greener Future....” (*Id.* at ¶50.) Plaintiff further alleges that he “did not make a demand on Greener Future or ST6 to bring this lawsuit, as such a demand would have been futile.” (*Ibid.*)

Plaintiff next argues that he is permitted to bring this derivative suit pursuant to Corporations Code section 17709.02. The Court disagrees.

No action shall be instituted or maintained in right of any domestic or foreign limited liability company by any member of the limited liability company unless both of the following conditions exist:

(1) The plaintiff alleges in the complaint that the plaintiff was a member of record, or beneficiary, at the time of the transaction or any part of the transaction of which the plaintiff complains, or that the plaintiff's interest later devolved upon the plaintiff by operation of law from a member who was a member at the time of the transaction or any part of the transaction complained of.

(2) The plaintiff alleges in the complaint with particularity the plaintiff's efforts to secure from the managers the action the plaintiff desires or the reasons for not making that effort, and alleges further that the plaintiff has either informed the limited liability company or the managers in writing of the ultimate facts of each cause of action against each defendant or delivered to the limited liability company or the managers a true copy of the complaint that the plaintiff proposes to file. (Corp. Code §17709.02, subd. (a).)

As to the first requirement, Plaintiff argues that he has standing to bring the suit because he was a beneficiary of Greener Future at the times the transaction complained of occurred, and further because he "has an interest in the [CEC] 'by operation of law' [as] the owner of Greener Future." (Opposition at 8:15-23.)

Plaintiff argues he was a beneficiary because "[a]s a member of Greener Future, which was the sole member of ST6 at the time the [CEC] was issued and transferred, he stood to gain economically from ST6's [CEC]." (*Id* at 15-17.) Plaintiff cites no authority in support of this construction of the term "beneficiary" in the Corporations Code. Moreover, the argument mistakes the fundamental concept of a derivative suit. In a derivative suit, "[t]he harm to individual shareholders resulting from an injury to the corporation is indirect and arises solely by virtue of their stock ownership. A derivative action and any recovery in such an action belong to the corporation. A direct individual action by a shareholder, in contrast, alleges an injury to the plaintiff's interests as a shareholder separate and apart from any injury to the corporation as a whole. Any recovery in such an action belongs to the individual plaintiff." (*Villari v. Mozilo* (2012) 208 Cal.App.4th 1470, 1477-78.)

Plaintiff similarly fails to cite to authority supporting his contention that he has an interest in the CEC by operation of law as the owner of Greener Future. But Plaintiff's allegations that he was a founding member of Greener Harvest, seem to fundamentally undermine his argument that his interest in Greener Harvest devolved to him from another member by operation of law. (See Complaint at ¶4.)

Fundamentally, however, Plaintiff fails to identify allegations in the Complaint that would support either argument. The Court can find none. It is the *allegation* that section 17709.02 of the Corporations Code requires.

Plaintiff ignores, entirely, the *additional* requirement of that section of the code, that he allege "with particularity...that [he] has either informed the limited liability company or the managers in writing of the ultimate facts of each cause of action against each defendant or delivered to the limited liability company or the managers a true copy of the complaint that the plaintiff proposes to file." (Corp. Code §17709.02, subd. (a)(2).)

Plaintiff's failure to allege facts which, if true, would confer standing upon him to pursue this derivative action constitutes grounds for sustaining Defendant's demurrer.<sup>1</sup>

Finally, on this issue, the Court agrees with Defendant's position that Greener Future is currently barred from prosecuting this action. It is undisputed that Greener Future, LLC's powers, rights, and privileges have been suspended for failure to pay taxes. "During the period that a corporation is suspended for failure to pay taxes, it may not prosecute or defend an action [citation], appeal from an adverse judgment [citation], seek a writ of mandate [citation], or renew a judgment obtained prior to suspension [citation]." (*Grell v. Laci Le Beau Corp.* (1999) 73 Cal.App.4th 1300, 1306.)

Plaintiff contends that the holding in *Reed v. Norman* (1957) 48 Cal.2d 338, 343 excuses Plaintiff from the general requirement that he revive Greener Future's entity status prior to prosecuting the instant suit. The Court disagrees. The holding that revival was not necessary for the prosecution of the derivative suit in that case hinged on the court's finding that "[t]he books and records of the corporation are in the hands of the mismanaging officers according to plaintiff's complaints and thus the shareholders are not in a position to make a return or compute the franchise tax." (*Ibid.*) Plaintiff makes no such allegations here. Moreover, Plaintiff concedes that he "could revive the entity by paying the outstanding taxes and obtaining a revivor certificate." (Opposition Memo. at 10:7-8, citing *Benton v. County of Napa*, 226 Cal.App.3d 1485, 1489-90.) Plaintiff further concedes that, "[t]he FTB has confirmed...that if tax returns for two prior years are filed, and past due taxes and penalties totaling about \$2,100 are paid, a revivor certificate will be issued to Greener Future." (Opposition Memo. at 10:12-14.) In the context of these concessions, the Complaint fails to allege facts from which the Court can conclude that the instant case falls within the exception articulated in *Reed v. Norman*, *supra*, 48 Cal.2d at 343.

## 2. *Plaintiff Fails to Allege Facts Sufficient to State Claims for Negligence and/or Conversion*

Plaintiff's negligence and conversion claims are each based on allegations that Defendant acted improperly in matters relating to ST6's CEC. (See Complaint at 9:16-10:12.)

CECs are provided for under the "Medicinal and Adult-Use Cannabis Regulation and Safety Ordinance" codified at section 17.52.275 of the Zoning Title of the Napa Municipal Code (Napa MC). That section generally prohibits "all commercial cannabis activities." (Napa MC §17.52.275, subd. (A).) "However, medicinal cannabis retailers and small cannabis manufacturers that hold a valid Cannabis Establishment Clearance in accordance with this section are immune from enforcement of the prohibition of all commercial cannabis activities."

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<sup>1</sup> The Court notes its significant concern that resolution of Plaintiff's argument that making a demand on either Greener Future or ST6 to bring the suit would be futile will involve issues that appear to be at the heart of the San Francisco litigation between Plaintiff and the Taylors. Plaintiff concedes, through his opposition that "[t]he Taylors have sued for dissolution of ST6 and Greener Future in the San Francisco action." (Opposition Memo. at 9:20-21.) He further urges that he "brings this suit to recover assets belonging to ST6" and that "anything recovered by ST6 here will be subject to judicial dissolution and winding up." (*Id.* at 9:21-23.) This overlap of issues creates a risk of inefficiency and inconsistent rulings. While this question is not before the Court on the present demurrer, it is a fairly sizable elephant in the room that the Court fears may demand attention in the future.

(*Ibid.*) “Notwithstanding the activities prohibited by this section, and notwithstanding that commercial cannabis activities are not and shall not become a permitted use in the City for so long as this section remains in effect, any medicinal cannabis retailer or small cannabis manufacturer that complies with all of the requirements set forth in this section and all applicable State Cannabis Laws shall receive a limited immunity from enforcement by the City of any prohibition of commercial cannabis activities under any remedies available to the City [pursuant to Napa MC’s Code Enforcement provisions].” (*Id.* at subd. (D)(1).)

A party seeking a CEC is required to submit a request to the City’s Community Development Director, pursuant to specific guidelines and subject to specific conditions. (Napa MC §17.52.275, subd. (D)(2).) “[i]f a Clearance Request is complete (containing all of the information required above), and the Director determines that the commercial cannabis activity is in compliance with all requirements of this section, the Director shall issue a written Cannabis Establishment Clearance to the proposed medicinal cannabis retailer or small cannabis manufacturer.” (*Id.* at subd. (D)(3).) Finally, “[a] Cannabis Establishment Clearance is non-transferable to another person or entity or location.” (*Id.* at subd. (D)(5).)

As Defendant correctly notes, “[a] public entity is not liable for an injury caused by the issuance, denial, suspension or revocation of, or by the failure or refusal to issue, deny, suspend or revoke, any permit, license, certificate, approval, order, or similar authorization where the public entity or an employee of the public entity is authorized by enactment to determine whether or not such authorization should be issued, denied, suspended or revoked.” (California Government Code §818.4.) The Court finds that the CEC is a certificate / authorization properly governed by the provisions of Government Code section 818.4 (Section 818.4).

Plaintiff attempts to circumvent the liability limitation imposed by Section 818.4 by limiting his prayer to injunctive and declaratory relief, rather than money or damages. (See Complaint at 11:3-17.) Plaintiff contends that “the Claim Act expressly provides that the immunities the City relies on *do not apply* to claims, like those in the complaint, seeking only injunctive relief.” (Opposition at 14:19-20.) Indeed, the Government Code provides that, “[n]othing in this part affects liability based on...the right to obtain relief other than money or damages against a public entity or public employee.” (Gov. Code §814.)

Plaintiff’s claims for injunctive relief fail, however, first because Plaintiff has not demonstrated that he exhausted his administrative remedies with regard to such relief, and second because the Complaint demonstrates that Plaintiff has an adequate remedy at law.

a. Plaintiff Fails to Allege Facts Sufficient to Establish That He Exhausted Available Administrative Remedies

Defendant argues that Plaintiff’s claims fail because the Complaint does not contain allegations that Plaintiff exhausted his administrative remedies prior to filing this action. (Support Memo. at 12:13-15.) “Where an administrative remedy is provided by statute, relief must be sought from the administrative agency and the remedy exhausted before the courts will act to review the action of that administrative agency.” (*Associated Cal. Loggers, Inc. v. Kinder* (1978) 79 Cal.App.3d 34, 43; see also *Tushner v. Griesinger* (1959) 171 Cal.App.2d 599, 605-606.) “A demurrer may properly be granted based on the failure to adequately plead an

exhaustion of administrative remedies.” (*Shuer v. Co. of San Diego* (2004) 117 Cal.App.4th 476, 482.)

The Napa MC provides as follows. “Any request for an administrative hearing to appeal an administrative determination pursuant to this code (hereinafter “appeal”) must be made in accordance with this chapter. Any appeal must be in writing, accompanied by any required fees or charges, and submitted to the City Clerk. Any such appeal must be received by the City Clerk within 10 calendar days of the issuance of the administrative determination being appealed...[¶]...The letter of appeal must state: (1) the specific administrative determination or action objected to (including an identification of the date on which the administrative determination was issued); (2) the action appellant requests the city to take; (3) all factual and legal grounds which the appellant wishes the city to consider as reasons for the appeal (such grounds to be identified by the appellant shall include, without limitation, any and all constitutional or statutory claims); and (4) the name, address and telephone number of appellant and any authorized representatives of the appellant...[¶]...Any administrative determination (that is subject to the appeal provisions of this chapter) shall be final unless appealed pursuant to the requirements of this chapter. Failure to timely request an administrative hearing, and/or to fully state all factual and legal grounds for the appeal, in the manner required by this chapter constitutes a waiver of the appeal and a failure to exhaust administrative remedies.” (Napa MC, §1.26.020.

The Complaint contains no allegations that Plaintiff made any such request to appeal any of the administrative determinations that he now seeks to have the Court overturn.<sup>2</sup> Plaintiff appears to concede the point by failing to address it through his opposition.

Plaintiff’s failure to allege facts tending to show that he took steps to exhaust his administrative remedies prior to filing the present action is sufficient grounds to sustain Defendant’s demurrer as to the first and second causes of action. (*Shuer v. Co. of San Diego*, *supra*, 117 Cal.App.4th at 482.)

b. Plaintiff Fails to Allege Facts Sufficient to Establish that Damages Would be Inadequate

The Complaint alleges facts that disclose that Plaintiff is not entitled to the prayed-for injunctive relief for a second, independent reason. A permanent injunction is only available where “pecuniary compensation would not afford adequate relief.” (Civil Code §3422, subd. (1).) “A permanent injunction is an equitable remedy for certain torts or wrongful acts of a defendant where a damage remedy is inadequate. A permanent injunction is a determination on the merits that a plaintiff has prevailed on a cause of action for tort or other wrongful act against a defendant and that equitable relief is appropriate.” (*City of South Pasadena v. Department of Transportation* (1994) 29 Cal.App.4th 1280, 1294.) “To qualify for a permanent injunction, the plaintiff must prove (1) the elements of a cause of action involving the wrongful act sought to be

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<sup>2</sup> The Complaint does allege that Plaintiff wrote two letters to the City regarding ST6’s CEC. (See Complaint at ¶¶22, 31, Exh. I.) However, none of these sought an appeal of any decision, and none satisfies the requirements of Napa MC section 1.26.020. Plaintiff also alleges that he submitted a claim under the Tort Claims Act on “the City’s approved claim form.” (See Complaint at ¶¶33-34, Exh. M.) But this alleged claim is equally insufficient at satisfying the requirements of Napa MC section 1.26.020.

enjoined and (2) the grounds for equitable relief, such as, inadequacy of the remedy at law.” (*Ibid.*)

The Court can find no allegations in the Complaint tending to establish that any aspect of Plaintiff’s alleged injury cannot be adequately compensated in damages.

In fact, the relevant allegations uniformly suggest the opposite; that Plaintiff’s injuries are monetary and can be compensated in damages. First, as noted above, the gravamen of the Complaint is that the City of Napa aided or facilitated Plaintiff’s former partners in embezzling business opportunities away from their venture with Plaintiff. Plaintiff alleges that the purpose of the business venture was cannabis sales. (Complaint at ¶2.) Plaintiff further alleges that, pursuant to the LOI, Harvest Health “would operate a dispensary at the Property using ST6’s License; Greener Future and Harvest health would share in the ownership and profits of ST6; and Greener Future would retain ownership of the Property and receive rent.” (Complaint at ¶10.) Finally, the Complaint alleges that Plaintiff was injured because the Taylors wrongfully diverted these business opportunities to themselves and away from ST6 and Greener Future, and the City of Napa assisted in, or facilitated this diversion. (See *Id.* at ¶¶11, 16-17, 19, 23-24, 27-28, 38, 40-41.)

Based on the foregoing, Plaintiff’s alleged injury stems from his inability to enjoy his share of the “profits of ST6...ownership of the Property and...rent.” (Complaint at ¶10.) Plaintiff reinforces this conclusion, by alleging that “ST6 was harmed, because it lost its valuable License to operate a dispensary at the Property.” (*Id.* at ¶¶ 62, 67.) Finally, the Court notes the language Plaintiff alleges that he used in presenting his Tort Claims Act claim to Defendant. (See *Id.* at ¶¶33-34, Exh. M.) “The damages for such action are fairly easy to calculate as there were agreed upon financial projections with Harvest, accepted by ST6 during the negotiations leading up to the LOI. This includes \$2.4 million payable within the first two years (with \$400,000 down and 65% of the net profits until \$2M was paid) plus \$1.4 million in estimated profits each year for the remainder of the ten year term as the 35% owner. In addition, there were two 5 -year extensions per the premium lease between the parties (as well as the value of the real estate being paid down by that lease). The estimated damages likely exceed \$20 million.” (*Id.* at Exh. M.)

The Complaint contains significant allegations suggesting that damages could provide Plaintiff with adequate compensation for his alleged injury, and no allegations tending to suggest otherwise. Because Plaintiff seeks exclusively injunctive relief through his first and second causes of action, the Complaint fails to state an actionable claim for relief under either conversion or negligence theories. (Civil Code §3422, subd. (1).) This failure is sufficient grounds to sustain Defendant’s demurrer as to the first and second causes of action. (*Shuer v. Co. of San Diego, supra*, 117 Cal.App.4th at 482.)

### 3. *Declaratory Relief is Not Available Under the Facts Pled*

Finally, Plaintiff is not entitled to the declaratory relief sought through the Complaint. “It is settled that an action for declaratory relief is not appropriate to review an administrative decision.” (*State v. Super. Ct.* (1974) 12 Cal.3d 237, 249.) Pursuant to the allegations of the Complaint, each of the issues that Plaintiff seeks a declaration regarding reflect an administrative decision made by the Defendant’s Community Development Director. An action for declaratory

relief is not an appropriate means for seeking review of those decisions. (*State v. Super. Ct.*, *supra*, 12 Cal.3d at 249.)

4. *Leave to Amend*

Generally, it is an abuse of discretion for a court to deny leave to amend where there is any reasonable possibility that a Plaintiff can state a good cause of action. (*Goodman v. Kennedy* (1976) 18 Cal.3d 335, 349.) Plaintiff asserts to the Court's satisfaction that such a possibility exists here.

**C. Conclusion**

For the reasons stated herein above, Defendant's demurrer to the Complaint is SUSTAINED with 10 days' leave to amend.

[1] DEFENDANT'S MOTION TO STRIKE

**TENTATIVE RULING:** In light of the Court's ruling granting Defendant's demurrer to the Complaint, the issues raised through Defendant's motion to strike are MOOT.

**PROBATE CALENDAR – Hon. Monique Langhorne, Dept. B (Historic Courthouse) at 8:30 a.m.**

**Conservatorship of Miguel Angel Lopez**

**16PR000205**

REVIEW HEARING

**TENTATIVE RULING:** Based on the report of the court investigator, the Court determines by clear and convincing evidence that the conservatee cannot communicate, with or without reasonable accommodation, a desire to participate in the voting process, and therefore orders the conservatee disqualified from voting pursuant to Elections Code section 2208.

After a review of the matter, the Court finds the co-conservators are acting in the best interest of the conservatee. The Court has considered the court investigator's recommendation to discharge Miguel Lopez Romo as a co-conservator as well as the possible need to transfer the matter to Sonoma County, but believes doing so at this juncture would not be in the best interest of the conservatee. Thus, the case is set for a biennial review hearing in two years, on September 30, 2022, at 8:30 a.m. in Dept. B. The court investigator shall prepare a biennial investigator report for the next hearing date. The clerk is directed to send notice to the parties.



AMENDED PETITION FOR PROBATE OF LOST WILL AND FOR LETTERS OF  
ADMINISTRATION WITH WILL ANNEXED AND AUTHORIZATION TO ADMINISTER  
UNDER THE INDEPENDENT ADMINISTRATION OF ESTATES ACT

**TENTATIVE RULING:** On September 15, 2020, petitioner informed the Court that the original will was lodged that morning. On September 23, 2020, the Court continued the matter to allow time for the document to appear in the court file or for petitioner to file a proof of lodging. The original will is not in the court file and petitioner has not filed a proof of lodging. As noted in previously tentative rulings, without an original will on file, petitioner needs to file a written statement of substance evidencing decedent did not intend to revoke the copy of the will attached to the amended petition. (See Prob. Code, §§ 6124, 8223.) The matter is continued to October 16, 2020, at 8:30 a.m. in Dept. B to allow for the filing of this document.