

TENTATIVE RULINGS

FOR: November 16, 2016

The Court may exercise its discretion to **disregard** a late filed paper in law and motion matters. (Cal. Rules of Court, rule 3.1300(d).)

Unlawful Detainer Cases – No tentative ruling will be posted because access to records is not permitted until 60 days after the complaint is filed. Parties **must appear** for all unlawful detainer demurrers, motions to quash, and other matters. After 60 days, tentative rulings will be posted in accordance with the local rules.

Court Reporting Services – The Court does not provide official court reporters in proceedings for which such services are not legally mandated. These proceedings include civil law and motion hearings. If counsel want their civil law and motion hearing reported, they must arrange for a private court reporter to be present. Go to <http://napacountybar.org/court-reporting-services/> for information about local private court reporters. Attorneys or parties must confer with each other to avoid having more than one court reporter present for the same hearing.

PROBATE CALENDAR – Hon. Diane Price, Dept. C (Historic Courthouse)

In the Matter of Brandon Pokres

16CV000818

PETITION FOR CHANGE OF NAME

TENTATIVE RULING: Notice has been properly published and no written objections have been filed. The petition for name change is GRANTED without need for appearance.

In the Matter of the Angiolina A Martini Trust

16PR000174

PETITION FOR ORDER DETERMINING TITLE TO PROPERTY

TENTATIVE RULING: GRANT petition.

CIVIL LAW & MOTION CALENDAR – Hon. Diane Price, Dept. C (Historic Courthouse)

In the Matter of the See Family Trust

26-65384

MOTION TO ENFORCE SETTLEMENT AGREEMENT

TENTATIVE RULING: The matter is continued to November 30, 2016, at 8:30 a.m. in Dept. C. The Order to Show Cause re: Dismissal in Shueh v. Shueh, 26-66129 is also continued to the same date and time.

PROBATE CALENDAR – Hon. Rodney Stone, Dept. F (Criminal Courts Bldg.-1111 Third St.)

Matter of Charles Wignall Marital and Exemption Trusts

26-17787

PETITION FOR INSTRUCTIONS

TENTATIVE RULING: GRANT petition.

Conservatorship of Judith M. Franzi-Price

26-59300

(1) THIRD ACCOUNT AND REPORT OF CONSERVATOR, AND PETITION FOR ALLOWANCE OF COMPENSATION FOR CONSERAVTOR’S SERVICES AND FOR ATTORNEY’S FEES

TENTATIVE RULING: GRANT petition, including fees as prayed conditioned on submitting proof that a bond was obtained in the amount of \$600,000 within 15 calendar days. The review hearing and the accounting set for October 5, 2017, shall remain on calendar. All accounting documents must be filed at least 30 days prior to the hearing. The clerk is directed to send notice to the parties.

(2) PETITION FOR ORDER AUTHORIZING PAYMENT OF FEES TO CONSERVATOR OF THE PERSON AND FOR ATTORNEY’S FEES

TENTATIVE RULING: GRANT petition, including fees as prayed.

CIVIL LAW & MOTION CALENDAR – Hon. Rodney Stone, Dept. F (Criminal Courts Bldg.-1111 Third St.)

Duckhorn Wine Company v. Calistoga Wine LLC, et al.

26-66885

SLOAN UPTON’S MOTION FOR SUMMARY JUDGMENT

TENTATIVE RULING: Sloan Upton’s Motion is GRANTED. Mr. Upton’s Objections to Cross-Complainants’ Evidence in Opposition are SUSTAINED. A “cross-defendant has met his or her burden of showing that a cause of action has no merit if that party has shown that one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to that cause of action.” (Code Civ. Proc. § 437c(p)(2).) The sole cause of action alleged against Mr. Upton in the Cross-Complaint is for Slander of Title. Cross-Complainants allege that “Upton made false statements to Cross-Defendant Duckhorn regarding the location and status of an easement on Cross-Complainants’ land” and that “Cross-Defendant Duckhorn relied on Mr. Upton’s disparaging and false statements regarding Cross-Complainants’ property and has utilized the pipeline at issue, which has caused actual damage to Cross-Complainants’ land.” (Cross Complaint at ¶¶ 45, 49.) To prove a claim for slander of title, Cross-

Complainant must show “publication, falsity, absence of privilege, and disparagement of another's land which is relied upon by a third party and which results in a pecuniary loss.” (*Appel v. Burman* (1984) 159 Cal.App.3d 1209, 1214.) Mr. Upton’s Motion established that he did not make any false statements to Duckhorn, or that any such statements were relied upon. (See Declaration of Zachary Rasmuson and Deposition of Linda Fotsch, p.137, lines 9-18.)

“Once the defendant or cross-defendant has met that burden, the burden shifts to the plaintiff or cross-complainant to show that a triable issue of one or more material facts exists as to that cause of action or a defense thereto.” (Code Civ. Proc. § 437c(p)(2).) In opposition, Cross-Complainants attempt to introduce documents (Exhibits G, H and K to the Declaration of Dominique Windberg) that were not previously relied on or referenced in the Cross-Complaint or in response to Cross-Defendants’ discovery requests. The documents are also inadmissible for the reasons articulated in Mr. Upton’s sustained objections to evidence. Mr. Upton has shown that there is no triable issue as to any material fact and that he is entitled to a judgment as a matter of law.