

Tentative Rulings
Law & Motion and Family Law Calendar for July 27, 2009

July 23, 4:00p.m.

Judge Janet Hilde
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 tomorrow, July 24th. 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.

Probate – 9:00a.m.

Case No. PR07-6387 – Conservatorship of Bush

Tentative Ruling: **Appearance required.**

Case No. PR05-6250 – Conservatorship of France

Tentative Ruling: **Appearance required.**

Case No. PR05-6240 – Estate of Messner

Tentative Ruling: **Approved.** Petitioner's petition for order accepting resignation of executor and appointment of successor administrator is granted.

Case No. PR09-00017 – Estate of Winchenbaugh

Tentative Ruling: **Approved.** The petition to administer the estate and order appointing executor is granted.

Case No. PR09-00016 – Estate of Thompson

Tentative Ruling: **Denied.** Petitioner has failed to file a completed proof of service of the notice of petition to administer estate. This matter will be continued to August 10, 2009, at 9:00a.m. Petitioner is to give proper notice and file a proof of service before August 10.

Civil – 9:30a.m.

Case No. CV09-00009 – Cota- Juarez vs. Internet Auto Rent

Tentative Ruling: **Denied.** Specially Appearing Defendant Internet Auto Rent & Sales, Inc.’ Motion to Quash Service of Summons and Complaint for Lack of Personal Jurisdiction is denied.

This action arises out of plaintiff’s complaint for breach of contract, intentional tort of conversion, fraud and civil RICO violations. Specially appearing defendant is a Nevada corporation that sells automobiles. Defendant claims that this court lacks personal jurisdiction over defendant.

The case involves the purchase of a vehicle by plaintiffs (hereinafter “Cota-Juarez” and “Gardner”) from defendant (hereinafter “Internet Auto”). It is undisputed that Cota-Juarez traveled to Internet Auto in Reno, Nevada to purchase a vehicle, and she executed the initial purchase agreement at that location. After Cota-Juarez signed the contract, a representative of Internet Auto, Adam Bishop (hereinafter “Bishop”), rode with Cota-Juarez in the vehicle to Gardner’s (Cota-Juarez’s father) home in Portola, California, to obtain his signature as a co-signer on the contract. Gardner signed the contract at his home in Portola. Bishop then proceeded with Cota-Juarez to her home in Portola to pick up her Land Rover, which was being used as a trade-in on the purchase contract. Bishop then drove the Land Rover from Cota-Juarez’s home. Approximately two weeks later, Bishop drove back to Gardner’s home in Portola and presented a new automobile purchase contract with an increased monthly payment for Gardner to sign, which he did at the Portola residence. Sometime later, Internet Auto called Gardner and requested he come back to Reno to sign the final contract. Subsequently, Internet Auto indicated to Gardner that financing had not been accomplished, and Internet Auto had the vehicle removed from Cota-Juarez’s place of employment in Portola.

Internet Auto does not dispute the two trips made into California. Internet Auto’s argument appears to be that, although there were two preliminary contracts signed in Portola, the final contract, which is the subject of this lawsuit, was signed in Nevada, and the fact that Internet Auto is not licensed and does not conduct business in California.

Although Internet Auto may not be subject to the *general* jurisdiction of California, the court finds evidence to support a finding of *specific* jurisdiction over Internet Auto. Courts have applied a three-part test for specific jurisdiction. A court may exercise specific jurisdiction over a nonresident defendant only if: (1) the defendant has purposefully availed himself or herself of forum benefits; (2) the controversy is related to or arises out of the defendant’s contacts with the forum; and (3) the assertion of personal jurisdiction would comport with ‘fair play and substantial justice’. (*Pavlovich v. Superior Court* (2002) 29 Cal.4th 262, 269.)

Here, Internet Auto purposefully availed itself of the benefits of the forum. Internet Auto's representative travelled to Portola to get Gardner's signature and pick up Cota-Juarez's car, and on another occasion, to deliver another contract to Gardner for his signature. It is clear these actions were related to the final contract, that is the subject of this lawsuit. Finally, the assertion of personal jurisdiction comports with fair play and substantial justice. All of the acts by Internet Auto in California were intentionally performed to consummate a business arrangement in which Internet Auto would profit.

Case No. CV09-00156 – Matter of Langus

Tentative Ruling: **Appearance required.** The court has not received proof of publication.

Family Law – 10:30a.m.

Case no. FL04-25268 – Biggs vs. Ross

Tentative Ruling: **Appearance required.** The court will order the parties to orientation and mediation, if not already scheduled.

Case no. FL07-27690 – Mar. of Clem

Tentative Ruling: **Appearance required.** The court will hear argument on the court's tentative decision.

Case no. FL04-24746 – Mar. of Dennison

Tentative Ruling: **Appearance required.** The court has not received proof of service on the respondent.

Case No. FL09-000164 – Mar. of Dollard

Tentative Ruling: **Appearance required.** The court will order the parties to orientation and mediation, if not already scheduled.

Case No. FL09-00147 – Guanzon vs. Bratcher

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

Case No. FL09-00133 – Guanzon vs. Bratcher

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

Case No. PR08-6412 – Guardianship of Kelley

Tentative Ruling: **Appearance required.** The court will review the previous orders.

Case No. PR08-6413 – Guardianship of Kelley

Tentative Ruling: **Appearance required.** The court will review the previous orders.

Case No. FL07-27643 – Mar. of Kepple

Tentative Ruling: **Appearance required.** The court will hear the results of mediation and either confirm or vacate the hearing set for July 28, 2009.

Case No. FL04-24640 – Mar. of Quinn

Tentative Ruling: **Appearance required.**

Case No. FL05-25870 – Mar. of Robinson

Tentative Ruling: **Appearance required.**

CASE MANAGEMENT CONFERENCE TENTATIVE RULINGS

Case no. LC09-Q0086 – Withrow vs. Albarran

Tentative Ruling: **Appearance required.** The parties should be prepared to discuss ADR options and set a trial date.

Case no. CV08-28526 – Diamond S. Corporation v. Folchi

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

Case no. CV08-27992 – Estate of Foard vs. Production Chemical Manufacturing

Tentative Ruling: **Appearance required.** The court will confirm settlement or will require the parties to submit the names of arbitrators to the court for selection of an arbitrator.

Case no. PR09-00011 and PR09-000006 – Guardianship of White

Tentative Ruling: **Appearance required.**

Case no. LC08-00011 – Interinsurance Exchange vs. McElroy

Tentative Ruling: **Appearance required.** The court will set the matter for a default hearing.

Case no. CV08-28555 – Jamison vs. Blake

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

Case no. CV09-00009 – Juarez-Cota vs. Internet Auto Rent

Tentative Ruling: **No appearance required.** The court will continue the case management conference to August 24, 2009, at 2:00p.m.

Case no. CV08-00135 Kirk vs. Limpert

Tentative Ruling: **Appearance required.** The court will confirm the mediator and the date of mediation.

Case no. CV04-25326 – Ball vs. County of Plumas

Tentative Ruling: **No appearance required.** The court will continue the case management conference to August 10, 2009, at 2:00p.m.

Case no. CV08-28461 – McMorrow vs. County of Plumas

Tentative Ruling: [Judicial disclosure: Judge Hilde is well acquainted and socializes with Attorney Peter Hentschel.] **Appearance required.** The parties should be prepared to discuss ADR options and set a trial date.

Case no. CV06-26517 – Mero vs. Gardner

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

Case no. FL09-00032 – Mar. of O’Bryant

Tentative Ruling: **Appearance required.** The court will set this matter for trial. Counsel for respondent is ordered to prepare the Order after Hearing from the hearing on May 7, 2009, to be submitted by July 27, 2009, or sanctions may be ordered.

Case no. CV08-28167 – Shewry vs. Swengrosh

Tentative Ruling: **Appearance required.** The parties have settled; however, the court has not received the stipulated judgment.

Case no. CV08-28466 – Shewry vs. Thomas

Tentative Ruling: **No appearance required.** As the defendant has only recently been served, this matter will be continued to August 24, 2009 at 2:00p.m. for further case management conference.

Case no. FL06-26462 – Mar. of Stilwell

Tentative Ruling: **Appearance required.** The court will review the visitation orders.