

Tentative Rulings

Law & Motion and Family Law Calendar for June 14, 2021

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, June 11, 2021, and 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 –ANY REQUIRED APPEARANCE BY COUNSEL MUST BE DONE BY USING COURT CALL (1-800-882-6878) – UNLESS OTHERWISE STATED IN THESE TENTATIVE RULINGS. ANY REQUIRED APPEARANCE BY A PARTY APPEARING WITHOUT AN ATTORNEY MUST BE DONE BY CALLING THE COURT'S CONFERENCE LINE AT 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.

PROBATE CALENDAR – 9:00 a.m.

Case No. PR17-00019 Conservatorship of Levine, David

Tentative Ruling: **Appearance required.** This case is on calendar for the annual review and hearing on the Petition for reappointment of the conservator. The Court has read the confidential declarations which recommend continuing the conservatorship.

Case No. PR21-00023 Estate of Wiederhold, Robert

Tentative Ruling: **No appearance required.** The Court has reviewed the Petition, Capacity Declarations, and Screening Form. The Court has not yet received the Court Investigator's Report. The Court will continue this hearing to June 28, 2021, at 9 a.m. for receipt of the Report. Counsel can appear by CourtCall for that date.

Case No. PR21-00013 Conservatorship of Wickman, Aspen

Tentative Ruling: **No appearance required.** The Court has reviewed the Petition, Capacity Declarations, Screening Form and the Court Investigator's Report recommending a conservatorship in this case. Notice has been given as required by law. Counsel can appear telephonically by CourtCall.

Case No. PR21-00025 Estate of Buhr, Stephen

Tentative ruling: **No appearance required.** The Court finds that notice has been given as required by law as to the Petition for Administration of Estate. No opposition having been filed, the Court grants the Petition and will sign the proposed Order.

Case No. PR20-00054 Estate of Johnson, Eleanor

Tentative ruling: **No appearance required.** The Court has reviewed the First and Final Accounting and finds that notice has been given as required by law. No opposition has been filed. The Court grants the Order for Final Distribution on Waiver of Accounting and will sign the proposed Order.

Case No. PR15-00007 Estate of Kroencke, Olga

Tentative ruling: **No appearance required.** Petitioner has filed a Report of Sale and Petition for an Order confirming the sale of real property. Notice has been given as required by law and no opposition has been filed. The Court will grant the Petition and sign a proposed order.

Case No. PR15-00006 Estate of Kroencke, Peter

Tentative ruling: **No appearance required.** Petitioner has filed a Report of Sale and Petition for an Order confirming the sale of real property. Notice has been given as required by law and no opposition has been filed. The Court will grant the Petition and sign a proposed order.

Case No. PR21-00021 Estate of Spence, Linda

Tentative ruling: **No appearance required.** It does not appear that there has been service or posting of the Petition and Notice of Petition as required by this Court's Administrative Order. This hearing will be continued to July 12, 2021, at 9 a.m. for the required service and posting.

Case No. PR21-00002 Estate of Terhorst, Judy

Tentative ruling: **No appearance required.** The Court has reviewed the Waiver of Accounting and Petition for Final Distribution and finds that notice has been given as required by law. No opposition has been filed. The Court grants the Order for Final Distribution on Waiver of Accounting. No proposed Order has been submitted to the Court for signature.

Case No. PR18-00021 Guardianship of Daniels, Reese

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 June 13, 2022, 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 that 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. PR19-00008 Guardianship of Gilmer, Angela

Tentative ruling: **Appearance required.** This case is on calendar for the annual review. The Court has read the Confidential Status Report filed by the Guardian. The Guardian indicates she is moving to Arizona. Before she can move, this matter needs to be discussed with the Court. For this hearing, the Guardian can **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. PR19-00007 Guardianship of Marro, Ariana

Tentative ruling: **Appearance required.** The Guardian and father were both ordered to personally appear before this Court for the review hearing. If they do not appear, the Court intends to issue a warrant for their failure to appear.

Case No. PR20-00000 Guardianship of Meza, Hazley & Meza, Juliyan

Tentative ruling: **No appearance required.** The Court has received and reviewed the Confidential Guardianship Status Reports. The Court finds it is in the minors' best interests to continue the guardianship and the next annual review hearing is set for June 13, 2022, 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 that 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. PR21-00022 Guardianship of Orr, Delores

Tentative ruling: **Appearance required.** Notice has been given as required by law. The Court has reviewed the confidential Guardianship Investigation Report and intends to follow the recommendation for appointment of the Guardian. The Court will sign a proposed Order granting the Petition. The next annual review hearing is set for June 13, 2022, at 9:00 a.m. The clerk of the court is reminded to send notice to the Guardian one month prior to that 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. PR18-00013 In the Matter of Walter W. Methner Trust

Tentative ruling: **Appearance required.** This case is on calendar for the Petition for Approval of Sale of Real Property. The Court finds that notice has been given as required by law. The Court will discuss the efforts which have been made regarding the solicitation of offers for the highest and best price reasonably attainable for the property.

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

Case No. CV20-00161 Hill, Adriane v Hat Creek Constructions & Materials

Tentative Ruling: Defendant California Department of Transportation (hereinafter referred to as “Caltrans”) has filed a general demurrer to the Complaint and the second cause of action of the Complaint. Defendant maintains that the demurrer to that cause of action should be granted without leave to amend on the basis that (1) Plaintiff has failed to allege the presentation and rejection of a claim per the Tort Claims Act; (2) Government Code 815 prohibits public entity liability for common law negligence and (3) the Second Cause of Action fails to identify a statutory basis for public entity liability under Government Code §§ 810 and 815.

Defendant Caltrans also filed an Objection to Evidence submitted by Plaintiff in support of Opposition to Demurrer. In deciding a demurrer, there is no question that it is well established that a demurrer tests the sufficiency of the Complaint **on its face**, or upon any matter of which this Court can take judicial notice. Code of Civil Procedure §430.30(a); *Blank v. Kirwan* (1985) 39 Cal 3d 311, 318. Moreover, it has long been held that a court cannot consider extrinsic evidence or facts which have not been alleged in this Complaint or nor matters which are not proper subjects of judicial notice. *Rea v. Blue Shield of Cal.* (1994) 226 CA4th 1209, 1223.) Therefore, this Court sustains the Defendant’s Objections to facts stated in the Declaration of Zachariah D. Hanson in deciding whether the Defendant’s Demurrer is to be sustained. However, this Court can consider the facts alleged in that Declaration in deciding whether the Plaintiff is entitled to leave to amend if the demurrer is sustained. *Physicians Committee for Responsible Medicine v. Los Angeles Unified School District* (2019) 43 Cal5th 175, 193. Therefore, as to the Court’s determination of the issue of whether leave to amend is appropriate, the Objections are overruled and this Court will consider the evidence set forth in the Hanson Declaration to decide whether to grant leave to amend.

The Court has reviewed the factual allegations set forth in the Complaint as a whole, and those set forth in the second cause of action. The Court does not consider any factual allegations set forth in the declaration of Plaintiff’s counsel nor in Plaintiff’s Memorandum of Points and Authorities filed in opposition to the Demurrer. The Court sustains Defendant Caltrans Demurrer to the Complaint on the grounds that it fails to state facts alleging the claim presentation against a public entity, fails to state facts sufficient to constitute a cause of action against Defendant Caltrans for common law negligence, and further that in this Complaint, Plaintiff has failed to plead with particularity a statutory cause of action against Caltrans, a public entity.

As to the question of whether Plaintiff should be granted leave to amend this initial Complaint, leave to amend is liberally allowed as a matter of fairness, and upon a showing by the Plaintiff how an amendment may cure the defects in an initial complaint. *Thornton v. California Unemployment Ins. Appeals Bd.* (2012) 204 CA4th 1403, 1423. The Court has reviewed the Declaration of Zachariah D. Hanson and the Memorandum of Points and Authorities submitted by the parties on this issue. This Court does grant Plaintiff Adriane Hill leave to amend this Complaint and any amended complaint is to be filed within twenty days of notice of entry of this Court’s Order sustaining Defendant’s Demurrer.

Defendant Caltrans is to prepare the proposed order sustaining the Defendant Caltrans Demurrer to the Complaint.

Case No. LC21-00248 Petition of Quiring, Savannah

Tentative Ruling: **No appearance required.** Petitioner has filed for a name change. Notice has been given as required by this Court's Administrative order for Publication. No opposition has been received. The Court will grant the Petition and sign an order submitted by Petitioner.

FAMILY LAW CALENDAR - 10:30 a.m.

Case No. FL12-00248 Ahearn, S. Michelle v Sanchez, Thomas

Tentative Ruling: **Appearance required.** Petitioner has filed a request for modification of custody and visitation. There is no proof of service for the Request. No opposition has been filed. The Court will discuss whether mediation will be scheduled.

Case No. FL16-00017 Ford, Cynthia v Ford, Earl

Tentative Ruling: **Appearance required.** The Court will discuss the status of the sale of Vancouver residence. Respondent was previously ordered to personally appear if the sale of the residence has not been completed.

Case No. FL121-00059 Osbourn, Kollin v Pettit, Haley

Tentative Ruling: **Appearance required.** The Court will discuss the results of mediation.

Case No. FL18-000236 Peralta, Javier v Silva, Raquel

Tentative Ruling: **Appearance required.** The Court will discuss the results of mediation and the order entered in M20-00849.

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

Tentative Ruling: **Appearance required.** Case on calendar for arraignment of Respondent and appearance of counsel on OSC re: Contempt.

Case No. FL13-00133 Riggins, Laurel v Riggins, John

Tentative Ruling: **Appearance required.** Petitioner has filed a request for order regarding the Respondent's PERS account and her receipt of her benefits. Respondent has passed away. The Court will discuss the hold placed on her receipt of benefits.

Case No. FL21-00008 Shelton-Peterson, Haley v Governor, Christian

Tentative Ruling: **Appearance required.** This case is on calendar for a review hearing and the results of mediation to occur per 3/17/21 Mediation Agreement.

Case No. FL19-00210

Smith, Jeremiah v Smith, Brandy

Tentative Ruling: **Appearance required.** Respondent has filed a request for an order to modify custody and visitation. The Court will discuss whether the parties have scheduled mediation and the role of the child in this case. Respondent has also filed an Order to Show Cause re: Contempt regarding deductions being taken from Petitioner's paycheck for the Vanguard account after the 2020 Judgment awarded ½ of the community interest to each party. Any contributions deducted from Petitioner's paycheck are his separate property. There are no temporary orders prohibiting Petitioner from deducting monies from his paycheck to be deposited to the account. The Order to Show Cause re: Contempt is dismissed at this time.

Case No. FL18-00004

Swithenbank, Stephanie v Quintana, Federico

Tentative Ruling: **Appearance required.** This case is on calendar for a review hearing on custody and visitation.

Case No. FL19-00234

Tande, Karin v Tande, Mark

Tentative Ruling: **Appearance required.** The Court will discuss the status of the Petitioner's Request for Order.

ADOPTION CASES

11:30 A.M.

Case No. AD18-00008

CONFIDENTIAL

Tentative Ruling: **Appearance required.** The Court will discuss the status of the case and whether the Petition will be withdrawn and this case dismissed.

CASE MANAGEMENT CONFERENCE/OTHER CASES

1:30 p.m.

Case No. CV20-00163

Bielik, K. Ruby v Hickman, Robert

Tentative Ruling: **Appearance required.** The Court will discuss the status of the case and possible mediation. Counsel can appear telephonically by CourtCall.

Case No. CV21-00092

Matter of Shannon, Aracelia

Tentative Ruling: **No appearance required.** Notice has been given as required by law. No opposition has been filed. The Court will grant the Petition and sign a proposed Order.

CASE MANAGEMENT CONFERENCE/OTHER CASES
2:00 P.M.

Case No. FL16-00009 Duncan, Diane v Duncan, Peter

Tentative Ruling: **Appearance required.** The Court will discuss the status of the case and the request to set this case for hearing. Counsel can appear telephonically by CourtCall.

Case No. CV19-00138 Eckmeyer, Pamela v Girdner, James

Tentative Ruling: **Appearance required.** The Court will discuss the status of the case and mediation. . Counsel can appear telephonically by CourtCall.

Case No. LC20-00157 NBT Bank v Teague, Shelly

Tentative Ruling: **Appearance required.** At the previous CMC, counsel indicated the case had been settled and the stipulated judgment would be filed. However, there has not been any paperwork filed regarding settlement, other than a motion to seal the file now set for 7/12/21. Counsel can appear by CourtCall.

Case No. CV20-00121 New York Marin & General Insurance Company v Mylan Inc

Tentative Ruling: **Appearance required.** The Court will discuss the status of the case and possible resolution. Counsel can appear telephonically by CourtCall.

Case No. CV10-00225 Quigley, Rebecca v Aptos/La Selva Fire Protection

Tentative Ruling: **No appearance required.** This case was settled and Plaintiff's Request for Dismissal was entered.

Case No. CV19-00116 Sierra Cascade Aggregate v Lamon Constructions Corp.

Tentative Ruling: **Appearance required.** The Court will discuss the status of the case and mediation. Counsel can appear telephonically by CourtCall.

Tentative Ruling: **Appearance required.** The Court will discuss resetting this case for a two day court trial. Counsel can appear telephonically 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.