

Tentative Rulings

Law & Motion and Family Law Calendar for July 26, 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, July 23, 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. PR21-00032 Conservatorship of Hall, Jacob

Tentative Ruling: **Appearance required.** Notice has been given as required by law. The Court has reviewed pleadings and submitted forms. The Court will discuss the Court investigator status.

Case No. PR21-00034 Conservatorship of Hall, Joshua

Tentative Ruling: **Appearance required.** Notice has been given as required by law. The Court has reviewed pleadings and submitted forms. The Court will discuss the Court investigator status.

Case No. PR21-00035 Estate of Brown, Clifford

Tentative Ruling: **No appearance required.** It does not appear that posting of the Notice of Hearing pursuant to this Court's Administrative Order has been filed. The Court will continue the matter to 8/23/2021 at 9 a.m. for that to be completed.

Case No. PR21-00028

Estate of Church, Martha L.

Tentative Ruling: **No appearance required.** The Court has reviewed the Report and Petition for Final Distribution. Notice has been given as required and the no opposition has been filed. The Court grants the Petition for Final Distribution and counsel is to prepare a proposed Order for signature.

Case No. PR21-00028

Estate of Dill, Lucinda

Tentative Ruling: **No appearance required.** It does not appear that posting of the Notice of Hearing pursuant to this Court's Administrative Order has been filed. The Court will continue the matter to 8/23/2021 at 9 a.m. for that to be completed.

Case No. PR20-00064

Estate of Goings, Patsy Sue

Tentative Ruling: **No appearance required.** The Court has reviewed the First and Final Account and Report and the Petition for Settlement of Estate. Notice has been given as required by law. The Court will grant the Petition and sign the proposed order.

Case No. PR21-00011

Guardianship of Brown, Bret

Tentative ruling: **Appearance required.** This matter was continued for receipt of Ms. Dupont Stone's investigative report. No report has been filed to date. The Court will discuss the status of the report.

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

Case No. CV21-00016

California State Grange v Taylorsville Community Grange No.

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Tentative Ruling: Defendant Taylorsville Community Grange et al., (hereinafter referred to as "Taylorsville Hall") has brought the Motion to Strike the portions of Plaintiff California State Grange's (hereinafter referred to as "State Grange") Amended Complaint referring to a claim for punitive damages in paragraph 102 and item 13 of the Prayer for relief.

Motion to strike portions of the Complaint and prayer relating to punitive damages.

A court must grant a motion to strike a plaintiff's claim for punitive damages if the complaint fails to set forth the elements stated in the general punitive damage statute *Civil Code* §3294; *Turman v. Turning Point of Cent Cal., Inc.* (2010) 191 CA4th 53, 63-64.) Per §3294(c) (1), the element of malice "means conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others" or (2) the element of oppression "means despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights." *Civil Code* §3294(c)(3) also authorizes punitive damages for fraud. Lastly, it has long been held those facts warranting punitive damages must be alleged in the pleading to

put a defendant on notice as to the basis of the claim for punitive damages. *Grieves v. Superior Court*(1984) 157 CA3d 159, 166; *Blegen v. Superior Court* (1981) 125 CA3d 959, 963.

The Court has reviewed this 21 page Verified Complaint which has laid out in painstaking detail the allegations regarding conduct of Defendant Taylorsville Hall and its representatives. In those allegations, this Court does not find sufficient factual allegations of malice, oppression, or fraud as required by *Civil Code* §3294.

Accordingly, Defendant Taylorsville Hall's Motion to Strike Punitive Damages is granted with leave to amend. Plaintiff is to file any amended pleading within 15 days of notice of entry of this Order. Defendants' counsel is to prepare the proposed Order incorporating this Court's Ruling pursuant to Rule of Court 1312.

Case No. CV21-00131 In the Matter of Weaver, Tracy & Laurence

Tentative Ruling: **Appearance required.** The Court will discuss problems with the Petition which has been filed in this case and there is no proposed Form VS 122 Order Establishing Fact of Marriage.

Case No. CV19-00219 Mercer, David v Portola Junior/Senior High School

Tentative Ruling: **Appearance required.** The Court will hear argument of counsel.

FAMILY LAW CALENDAR - 10:30 a.m.

Case No. FL19-00072 Bereznak, Ryan v Hedrick, Seyonna

Tentative Ruling: **Appearance required.** The parties need to file a final judgment in case and CMC will be vacated.

Case No. FL14-00213 Luna, Christopher v Luna, DeAnna

Tentative Ruling: **Appearance required.** Respondent has filed Request for Order to modify spousal support and for attorney fees. No opposition has been filed by Petitioner.

Case No. FL21-00014 Overholt, Deniece v Munch, Christopher

Tentative Ruling: **No appearance required.** This case remains stayed because of pending CPS case. This case will be taken off-calendar for case management until at-issue memorandum is filed by either party.

Case No. FL13-00133

Riggins, Laurel v Riggins, John

Tentative Ruling: **Appearance required.** Petitioner had filed a Request for Order regarding PERS distribution and hold on community property claim. The Court will discuss status of PERS distribution and Request for Dismissal filed on 7/9/21 and whether Request for Order can be taken off-calendar.

Case No. FL19-00210

Smith, Jeremiah v Smith, Brandy

Tentative Ruling: **No appearance required.** This custody matter had been continued for execution of Stipulation and Order regarding their daughter. The Order has been filed and the Request for Order is taken off-calendar.

ADOPTION CALENDAR

11:30 a.m.

Case No. AD21-00002

In the Matter of B.

Tentative Ruling: **Appearance required.** The Court has received the investigator's report and will discuss the status of consent from biological father.

CASE MANAGEMENT CONFERENCE/OTHER CASES

1:30 p.m.

Case No. LC21-00016

California State Grange v Taylorsville Community Grange No.

439

Tentative Ruling: **Appearance required.** The Court will hear the Case Management Conference at the time of the hearing of Plaintiff's Motion to Strike Portions of Complaint at 9:30 a.m. on this date. Counsel can appear by Courtcall.

Case No. LC21-00019

Cavalry SVP I. LLC v Sather, Cory

Tentative Ruling: **No appearance required.** Default Judgment for Plaintiff was entered on 5/24/21 this case is taken off-calendar.

Case No. LC21-00014

JP Morgan Chase Bank N.A. v Ackley, Montel

Tentative Ruling: **Appearance required.** This case is on calendar for the first Case Management Conference. Plaintiff has failed to timely file a Case Management Statement as

required by Rule of Court 3.720. Plaintiff is to show cause why reasonable monetary sanctions should not be imposed. Counsel can appear telephonically by CourtCall.

Case No. LC21-00018 Midland Credit Management Inc. v King, Christina

Tentative Ruling: **Appearance required.** Plaintiff has failed to timely file a Case Management Statement as required by Rule of Court 3.720 and has not served the summons and Complaint in violation of Rule of Court 3.740. Plaintiff is show cause why reasonable monetary sanctions should be imposed. Counsel can appear telephonically by CourtCall.

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

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

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

Case No. LC20-00175 Capital One Bank (USA) N.A. v Seifert, Kathleen

Tentative Ruling: **No appearance required.** Plaintiff has dismissed the Complaint. OSC and Case Management Conference taken off-calendar.

Case No. CV20-00092 Labbe/Tomczak et al v Domestic Corp.

Tentative Ruling: **No appearance required.** This action remains stayed pending resolution of Federal case. Case is set for further Case Management Conference on December 13, 2021 at 2:00 p.m. for status of Federal action.

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

Tentative Ruling: **No appearance required.** Both counsel indicate in the CMC Statements that mediation is scheduled for August 11, 2021. This Case Management Conference will be continued to September 27, 2021, at 2 p.m. for results of mediation. Counsel can appear telephonically by Court Call.

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

Tentative Ruling: **Appearance required.** The Court will discuss the status of service on Cross-defendant. Counsel can appear telephonically by CourtCall.

Case No. CV18-00217 **Peterson, Richard v Shasta-Siskiyou Transport**

Tentative Ruling: **Appearance required.** The Court will discuss the status of discovery and setting the matter for a Mandatory Settlement Conference. Counsel can appear telephonically by CourtCall.

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

Tentative Ruling: **Appearance required.** The Court will discuss the status of discovery and setting the matter for mediation or a Mandatory Settlement Conference. Counsel can appear telephonically by CourtCall.

Case No. CV20-00098 **Stewart, Kathrine v Long, James**

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