

TENTATIVE RULINGS

FOR: June 28, 2018

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 – Pursuant to the restrictions in Code of Civil Procedure section 1161.2, no tentative rulings are posted for unlawful detainer cases and appearances are required.

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.

CIVIL LAW & MOTION CALENDAR – Hon. Cynthia Smith, Dept. F (Criminal Courts Bldg.-1111 Third St.) at 2:00 p.m.

Mauro Gumpal v. Queen of the Valley Medical Center, et al.

17CV001391

1) DEFENDANT QUEEN OF THE VALLEY MEDICAL CENTER’S DEMURRER TO PLAINTIFF’S COMPLAINT AND MOTION TO STRIKE

TENTATIVE RULING: Defendant’s Demurrer is SUSTAINED WITHOUT LEAVE TO AMEND. Plaintiff’s Complaint is barred by Code of Civil Procedure section 340.5, which provides: “[i]n an action for injury or death against a health care provider based upon such person’s alleged professional negligence, the time for the commencement of action shall be three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first.” (Emphasis added.) In Plaintiff’s Complaint, Plaintiff alleges that the injury occurred between August 2009 and August 2010, which would require Plaintiff to file his complaint by August 2013 at the latest. Even if the statute of limitations was tolled by Code of Civil Procedure section 352.1, subdivision (a), that would extend the time period for Plaintiff to file his complaint to August 2015. Plaintiff’s Complaint was filed on December 8, 2017, and is therefore time-barred.

In light of the Court’s ruling above, Defendant’s Motion to Strike is moot. The Motion to Compel set for July 12, 2018 is dropped from calendar.

2) DEMURRER AND MOTION TO STRIKE PORTIONS OF PLAINTIFF’S COMPLAINT ON BEHALF OF DEFENDANTS ALI S. VAZIRI, M.D. AND MICHAEL C. MERWIN, M.D.

TENTATIVE RULING: Defendants’ Request for Judicial Notice is GRANTED. Defendants’ Demurrer is SUSTAINED WITHOUT LEAVE TO AMEND. Plaintiff’s Complaint is barred by Code of Civil Procedure section 340.5, which provides: “[i]n an action for injury or death against a health care provider based upon such person’s alleged professional negligence,

the time for the commencement of action shall be three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first.” (Emphasis added.) In Plaintiff’s Complaint, Plaintiff alleges that the injury occurred between August 2009 and August 2010, which would require Plaintiff to file his complaint by August 2013 at the latest. Even if the statute of limitations was further extended by Code of Civil Procedure section 352.1, subdivision (a), Plaintiff would have had to file his complaint by August 2015. Plaintiff’s Complaint was filed on December 8, 2017, and is therefore time-barred.

In light of the Court’s ruling above, Defendants’ Motion to Strike is moot.

**PROBATE CALENDAR – Hon. Victoria Wood, Dept. I (Criminal Courts Bldg.-
1111 Third St.) at 2:00 p.m.**

Estate of Julia E. Jones

18PR000142

PETITION FOR PROBATE OF WILL AND FOR LETTERS TESTAMENTARY AND
AUTHORIZATION TO ADMINISTER UNDER THE INDEPENDENT ADMINISTRATION
OF ESTATES ACT

TENTATIVE RULING: GRANT petition.

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Conservatorship of Sandoval, Bruce E.

26-43006

REVIEW HEARING

TENTATIVE RULING: After a review of the matter, the Court finds the Conservator is acting in the best interest of the Conservatee. Thus, the case is set for a biennial review hearing in two years, on May 14, 2020 at 8:30 a.m. in Dept. C. The court investigator shall prepare a biennial investigator report for the next hearing date. The clerk is directed to send notice to the parties.

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In The Matter of the Bruce Sandoval Trust

26-60272

VERIFIED THIRD ACCOUNT OF SPECIAL NEEDS TRUST AND PETITION FOR ITS
APPROVAL, FOR ALLOWANCE OF COMPENSATION TO TRUSTEE AND
ALLOWANCE OF COMPENSATION TO TRUSTEE’S ATTORNEYS AND BOND FEES

TENTATIVE RULING: The Petition is GRANTED. Based on the review of the court investigator’s report in case number 26-43006, it appears this trust is still appropriate pursuant to Probate Code section 3604, subdivision (b). The matter is set for an accounting on May 14, 2020 at 8:30 a.m. in Dept. C. All accounting documents must be filed at least 30 days prior to the hearing. The clerk is directed to send notice to the parties.

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Conservatorship of Sanchez, Margarita

26-46533

REVIEW HEARING

TENTATIVE RULING: After a review of the matter, the Court finds the Conservator is acting in the best interest of the Conservatee. Thus, the case is set for a biennial review hearing in two years, on June 25, 2020 at 8:30 a.m. in Dept. I. The court investigator shall prepare a biennial investigator report for the next hearing date. The clerk is directed to send notice to the parties.

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Conservatorship of Navarro, Alejandro

26-55660

REVIEW HEARING

TENTATIVE RULING: After a review of the matter, the Court finds the Conservator is acting in the best interest of the Conservatee. Thus, the case is set for a biennial review hearing in two years, on June 25, 2020 at 8:30 a.m. in Dept. C. The court investigator shall prepare a biennial investigator report for the next hearing date. The clerk is directed to send notice to the parties.

CIVIL LAW & MOTION CALENDAR – Hon. Victoria Wood, Dept. I (Criminal Courts Bldg.-1111 Third St.) at 2:00 p.m.

Stop Syar Expansion, et al. v. Syar Industries, Inc.

16CV001015

(1) CONTINUED HEARING FROM JUNE 8, 2018, REGARDING REQUEST FOR PRODUCTION OF DOCUMENT NUMBERS 12-20, 25, 27-29, AND 30

(2) PLAINTIFF’S SECOND MOTION TO CONTINUE THE TRIAL DATE

TENTATIVE RULING: The matters are taken off-calendar and all dates are vacated, including the July 11, 2018 motion, in light of the settlement. An OSC re: Dismissal is set for August 17, 2018, at 2:00 p.m. in Dept. C, which will allow the Attorney General’s Office an opportunity to weigh in on the settlement if it so wishes. The Court will entertain entering judgment of dismissal at that time.