

**1. 22PR0020 ESTATE OF BERG**

**Status of Administration**

Letters of Administration were issued on May 4, 2022. A Final Inventory and Appraisal was filed December 2, 2022. Decedent was survived by parents and siblings. Decedent's domestic partner was appointed as Administrator.

On September 18, 2023, the Administrator filed an ex parte Petition for final discharge and Order which was not signed by the court. The ex parte Petition indicates that the Administrator is the sole distributee as the domestic partner of the decedent and states that all property has been distributed.

The real property was held in joint tenancy and Petitioner acquired title by right of survivorship.

Probate was opened in order to determine distribution of a stock portfolio held in decedent's name alone. There was also a bank account, and these two accounts were designated as "community property" in the inventory and appraisal. The combined value of the two accounts is \$161,932.94.

There are no proofs of service of the proposed Order of Final Discharge. Although decedent's parents filed waivers of notice there is nothing to indicate that they have waived their interest in their intestate share of the estate.

**TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 11, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 10, 2025, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**2. 22PR0235 ESTATE OF PEAK**

**Status of Administration**

Letters of Administration were issued on March 13, 2023.

**TENTATIVE RULING #2: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 11, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 10, 2025, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**3. 21PR0056 ESTATE OF VERRY**

**Status of Administration**

Letters of Administration were issued on July 27, 2022. An Inventory and Appraisal was filed on January 18, 2024.

**TENTATIVE RULING #3: AN INVENTORY AND APPRAISAL HAVING BEEN FILED WITH THE COURT, THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, MARCH 10, 2025, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**4. 21PR0026 ESTATE OF MCKENNA**

**Status of Administration**

An Order for Final Distribution was entered on January 30, 2023.

**TENTATIVE RULING #4: A STATUS OF ADMINISTRATION HEARING HAVING BEEN SET AT 8:30 A.M. ON MONDAY, JANUARY 6, 2025, IN DEPARTMENT NINE TO GIVE THE ADMINISTRATOR AN OPPORTUNITY TO FILE RECEIPTS OF FINAL DISTRIBUTION AND AN EX PARTE ORDER FOR FINAL DISCHARGE (JUDICIAL COUNCIL FORM DE-295) WITH THE COURT, THIS MATTER IS DROPPED FROM CALENDAR.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**5. 23PR0302 ESTATE OF SHINNICK**

**Spousal Property Petition**

Petitioner is the surviving spouse of decedent, who died intestate October 13, 2018, survived by Petitioner and an adult child.

Probate Code § 100(a) provides that “[u]pon the death of a person who is married or in a registered domestic partnership, one-half of the community property belongs to the surviving spouse and the other one-half belongs to the decedent.”

Probate Code § 6401(a) states: “As to community property, the intestate share of the surviving spouse is the one-half of the community property that belongs to the decedent under Section 100.”

Probate Code § 13500 provides that “when a spouse dies intestate leaving property that passes to the surviving spouse under Section 6401, . . . the property passes to the survivor . . . , and no administration is necessary.”

Probate Code 13650 authorizes a surviving spouse to file a petition requesting an order that administration of all or part of an estate is not necessary because all or part of the estate is property passing to the surviving spouse.

The Petition in this case identifies residential real property that is the subject of the Petition.

Notice of the hearing on the Petition was served on decedent’s children and proof of service was filed with the court on January 8, 2024.

**TENTATIVE RULING #5: ABSENT OBJECTION THE MOTION IS GRANTED AS REQUESTED.**

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**6. 23PR0320 ESTATE OF EARLE**

**Petition for Letters Testamentary**

A Petition to administer decedent's estate was filed on December 21, 2023.

The Petition requests full authority under the Independent Administration of Estates Act.

Decedent died testate on October 20, 2023, survived by four adult nieces and nephews. Petitioner is decedent's niece.

The Will was lodged with the court on December 21, 2023, as an attachment to the Petition, and is admitted to probate.

Petitioner was named as executor in the Will. The Will waives bond.

A Duties/Liabilities Statement (DE 147) was filed on December 21, 2023, but there is no DE-147s form on file with the court, as required by Local Rules of El Dorado County Superior Court, Rule 10.02.10.

Proof of Service of Notice of the hearing on the Petition was filed on March 4, 2024.

There is no proof of publication on file with the court.

**TENTATIVE RULING #6: THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, APRIL 22, 2024, TO ALLOW PETITIONER AN OPPORUTNITY TO FILE PROOF OF PUBLICATION AND A DE-147S FORM WITH THE COURT.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**7. PP20180214 ESTATE OF WALLACE**

**Final Distribution and Account**

On April 13, 2022, the court approved the Final Account and Report, which indicated that there were no assets to distribute to the sole beneficiary of decedent's Will. No ex parte Petition for Final Discharge has been filed.

On August 24, 2022, and again on March 13, 2023, this matter was continued.

**TENTATIVE RULING #7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 11, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 10, 2025, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**8. 22PR0319 ESTATE OF DEFAZIO**

**Letters of Administration**

**TENTATIVE RULING #8: LETTERS OF ADMINISTRATION HAVING ISSUED ON JUNE 22, 2023, THIS MATTER IS DROPPED FROM CALENDAR. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 10, 2025, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**



**9. 23PR0009 ESTATE OF KODER**

**Final Distribution on Waiver of Account**

Letters of Administration were issued on May 9, 2023, granting Petitioner full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on October 20, 2023.

A Waiver of Account was executed by the other heir entitled to distributions under the estate.

Proof of Service of Notice of the hearing on the Petition was filed on January 22, 2024.

The proposed distribution of the estate distribution in equal shares to Petitioner and her sister, who are decedent's adult children.

The Petition requests:

1. The administration of the estate be brought to a close without the requirement of an account;
2. All acts and proceedings of the Administrator be confirmed and approved;
3. The Administrator be authorized to pay statutory attorney fees in the amount of \$9,342.53;
4. The Administrator be authorized to pay herself \$9,342.53 in statutory compensation;
5. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed as set forth in the Petition.

**TENTATIVE RULING #9: ABSENT OBJECTION THE MOTION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 10, 2025, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**10. 24PR0002 IN THE MATTER OF ELIZABETH NELSON**

**Petition for Letters Testamentary**

A Petition to administer decedent's estate was filed on January 5, 2024.

The Petition requests full authority under the Independent Administration of Estates Act.

Decedent died testate on March 2, 2023, survived by two adult children and a step-son. Petitioner is decedent's grandson.

The Will was lodged with the court on January 5, 2024, as an attachment to the Petition, and is admitted to probate.

The Will waives bond.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on January 5, 2024.

Proof of Service of Notice of the hearing on the Petition was filed on February 7, 2024.

Proof of publication was filed on February 7, 2024.

Petitioner was named as Executor in the Will.

**TENTATIVE RULING #10: ABSENT OBJECTION THE MOTION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 10, 2025, IN DEPARTMENT NINE.**

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**11. 23PR0259 IN THE MATTER OF JIMMY R. FOX**

**Letters of Administration**

This matter was heard and continued on December 4, 2023, because there was no proof of service of notice of the Petition or proof of publication filed with the court.

Proof of publication was filed on January 29, 2024.

Proof of service was filed on February 27, 2024.

**TENTATIVE RULING #11: ABSENT OBJECTION THE MOTION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 10, 2025, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**12. PP20210130 MATTER OF THE SADDLE ROAD TRUST**

**Review Hearing**

According to the Tentative Ruling dated January 12, 2022, declarations of unsuccessful due diligence attempts to personally serve the respondent trustee/beneficiary were filed on July 21, 2021. At the hearing on November 3, 2021, the court granted Petitioner's oral motion to serve the respondent by publication.

This matter was continued from January 9, 2023, and again from March 27, 2023. At the hearing of June 5, 2023, counsel for Petitioner appeared and was ordered by the court to submit an application and Order for publication, and the hearing date was continued.

At the hearing held on September 11, 2023, counsel for the Petitioner discussed amending the Petition to a civil complaint and the court scheduled this Review Hearing.

Nothing has been filed with the court since the June 5, 2023, hearing date. To date there is no proof of service by publication of the notice of hearing or service of a copy of the Petition on respondent in the court's file.

**TENTATIVE RULING #12: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 11, 2024, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**13. 23PR0311 MATTER OF WU-HSIUNG SU**

**Petition for Order Authorizing Transaction**

The Petition requests transfer of specified community property assets to Petitioner as her separate property so that she is able to access those assets to support herself and Respondent. Respondent, Petitioner's husband, lacks the capacity to manage his own affairs and petitioner need to be able to access the referenced assets in order to continue to support both of them. The Petition further seeks to increase certain statutory spousal allotments to facilitate the parties' financial support.

Petitioner has been married to Respondent for 26 years. Petitioner is 63 years old and Respondent is 83 years old. Respondent had been in a skilled nursing facility until he was transferred back to his home during COVID pandemic, and he is likely to need to return to a skilled nursing facility. Neither spouse has a conservator, and a conservator is not required by Probate Code § 3113, which authorizes this Petition. Petitioner has the legal capacity for the proposed transaction, but Respondent lacks capacity to consent to the proposed transaction because he suffers from dementia, panic disorder, anxiety and Parkinsons. See Declaration of Tet Toe, M.D., dated November 17, 2023, on file with the court. Respondent is not a patient of or on leave of absence from any state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services.

Neither party owns any separate property. The Petition lists certain assets that are exempt property for the purpose of determining Medi-Cal eligibility, and also lists non-exempt assets. Respondent has an estate plan that provides for distribution of the residue of his estate to Petitioner.

The Petition seeks to enlarge Petitioners Minimum Monthly Maintenance Needs Allowance (MMMNA) to equal the full amount of Respondent's monthly income, which is still less than their monthly expenses. Currently the limit for the MMMNA is set by Welfare and Institutions Code § 14005.12(d)(5) as the maximum allowed by 42 U.S.C. § 1396R-5(d)(L)(B), which is \$3,854.00 for the year 2023. The Spousal Income Allowance may be increased by court order. 42 U.S.C. § 1396R-5(d)(5), which is implemented by state regulation through 22 Cal. Code Regulations § 50605(f)(3)(a). Family Code § 4320 provides additional support for the court to make an order against a spouse for the support of the other spouse. The factors cited in that statute all support the Order requested in this case.

Probate Code § 3101, et seq. further provides that where, as here, one of the spouses lacks legal capacity for the proposed transactions and the other spouse has legal capacity for the proposed transaction, the court may authorize such transaction.

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Without the transfer of community assets to Petitioner, Petitioner would be restricted by the need to sell or liquidate such assets without appointing a conservator for Respondent, and half of the assets produced would not be available to Petitioner as they would belong to Respondent as his community property share.

As to elements off Probate Code § 2850 et seq., and Probate Code § 3122, Petitioner submits that the parties have been in a long-term caring relationship for 26 years, and petitioner is the natural object o Respondent's bounty. Respondent, as a reasonably prudent person, would take the proposed action if he had the legal capacity to do so. Petitioner is not a person described by Probate Code § 21350.

The Petition requests an Order:

1. Finding that notice has been given as required by law;
2. Finding that Petitioner and Respondent are husband and wife, and that the property described in the Petition is community property;
3. Finding that Respondent lacks legal capacity to transfer property to Petitioner;
4. Finding that Respondent is not a patient of or on leave of absence form a state institution;
5. Finding that Petitioner has legal capacity for thee proposed transactions and joins and consents to the proposed transactions, and that Respondent is substantially unable to manage his own financial affairs or resist fraud or undue influence;
6. Finding that the proposed transaction is authorized by the law governing proceedings for a particular transaction, commencing with Probate Code § 3100, and a transaction that would be authorized under Article 10, commencing with Probate Code § 2580, in the event of a conservatorship;
7. Finding that the proposed transfer is in the best interests of Petitioner and her spouse;
8. Ordering that the property listed in the Petition, and any unknown or later-acquired assets of Respondent shall be transferred to Petitioner as her separate property for support of Petitioner and as against Respondent;
9. Ordering Respondent to support Petitioner pursuant to Family Code § 4320 in the amount of \$8,522.50 or his entire income, whichever is greater, retroactive to the date of filing or three months prior to the application and to be increased without further court order in the amount of cost of living adjustments awarded to the parties from all sources;
10. Finding that there is good cause to dispense with a band;
11. Ordering that the Minimum Monthly Maintenance Needs Allowance be enlarged to \$8,522.50 per month and increased be increased annually without further court order in the amount of cost of living adjustments awarded to the parties from all sources;

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12. Ordering that the guardian ad litem appointed to represent Respondent's interest be paid from the property transferred, or by Petitioner directly;
13. Ordering that the court dispense with the requirement that Respondent personally attend the hearing on this Petition;
14. Ordering that all non exempt assets listed in the Petition be confirmed and transferred to Petitioner as her sole and separate property and as the total value of said assets shall be Petitioner's Community Spouse Resource Allowance for Medi-Cal eligibility purposes;
15. Ordering that the relief requested by the Petition for Medi-Cal eligibility purposes be effective including three months retroactive to the date of the application, or the date of filing the Petition, whichever is earlier;
16. Authorizing Petitioner to do and perform all acts and to execute and deliver all papers, document, and instruments necessary to effectuate the Court's Order.

**TENTATIVE RULING #13: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 11, 2024, IN DEPARTMENT NINE.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**14. 23PR0212 ESTATE OF STRICKLER**

**Petition for Letters Testamentary**

Decedent died testate on May 12, 2023, survived by two adult sons. Petitioner is decedent's son. The Petition requests full authority under the Independent Administration of Estates Act.

The Will was lodged with the court on September 5, 2023, as an attachment to the Petition, and is admitted to probate. The Will does not waive bond or appoint an executor. Petitioner filed a waiver of bond but there is no bond waiver on file for his brother Eli Strickler.

The matter was continued following hearing on October 16, 2023, to allow Petitioner an opportunity to file a Duties/Liabilities statement (DE 147/DE 147s) and proof of publication.

Proof of publication was filed on February 28, 2024. The Duties/Liabilities statement (DE 147/DE 147s) are not yet on file with the court.

**TENTATIVE RULING #14: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 11, 2024, IN DEPARTMENT NINE.**

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**15. 23PR0035 ESTATE OF STUART**

**Status Conference**

Petitioner is the Administrator of his father's intestate estate, and was issued letters of administration with full authority under the Independent Administration of Estates Act on June 5, 2023. On July 27, 2023, Petitioner filed this Petition seeking to invalidate a trust that was allegedly executed by the decedent, the existence of which Petitioner has never been formally notified and which he has never seen. Petitioner cites Probate Code § 17200(b)(3) as the court's authority to determine the validity of the provisions of a trust.

The Petition alleges that decedent's step-daughter, Shannon Velasquez, moved in with decedent and Sharon Stuart, his wife, who was also her mother. Velasquez acted as caregiver to her mother before her death in August, 2019. Velasquez remained on the property after her mother's death and, during COVID pandemic, the decedent was prevented from seeing his two sons. During this time, decedent allegedly executed a revocable trust into which his residential property was transferred by trust transfer deed on January 11, 2021. Petition, Exhibit A. Subsequently, the property was sold to third parties on June 30, 2022. Petition, Exhibit B. Decedent then purchased other real property and resided there until his death three months later, on October 5, 2022. A few days after purchasing this real property as trustee of his living trust, decedent transferred title to himself and Sharon Velasquez and her husband as joint tenants.

Petitioner alleges that this transfer of title occurred as a result of decedent's isolation and through the exercise of fraud and undue influence. Petitioner argues that because of his advanced age and infirmities, the decedent lacked testamentary capacity as of January 1, 2020, pursuant to the standards set forth in Probate Code § 811.

Petitioner further challenges the failure of the successor trustee of decedent's trust to issue a notice pursuant to Probate Code § 16061.7, which Petitioner has never received. That statute, in pertinent part, sets forth the following requirements:

(a) A trustee shall serve a notification by the trustee as described in this section in the following events:

- (1) When a revocable trust or any portion thereof becomes irrevocable because of the death of one or more of the settlors of the trust, or because, by the express terms of the trust, the trust becomes irrevocable within one year of the death of a settlor because of a contingency related to the death of one or more of the settlors of the trust.
- (2) Whenever there is a change of trustee of an irrevocable trust.
- (3) Whenever a power of appointment retained by a settlor is effective or lapses upon death of the settlor with respect to an inter vivos trust which was, or was purported to

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be, irrevocable upon its creation. This paragraph shall not apply to a charitable remainder trust. For purposes of this paragraph, "charitable remainder trust" means a charitable remainder annuity trust or charitable remainder unitrust as defined in Section 664(d) of the Internal Revenue Code.

(4) The duty to serve the notification by the trustee pursuant to this subdivision is the duty of the continuing or successor trustee, and any one cotrustee may serve the notification.

(b) The notification by the trustee required by subdivision (a) shall be served on each of the following:

(1) Each beneficiary of the irrevocable trust or irrevocable portion of the trust, subject to the limitations of Section 15804. (2) Each heir of the deceased settlor, if the event that requires notification is the death of a settlor or irrevocability within one year of the death of the settlor of the trust by the express terms of the trust because of a contingency related to the death of a settlor.

\* \* \*

(e) The notification by trustee shall be served by any of the methods described in Section 1215 to the last known address.

(f) The notification by trustee shall be served not later than 60 days following the occurrence of the event requiring service of the notification by trustee, or 60 days after the trustee became aware of the existence of a person entitled to receive notification by trustee, if that person was not known to the trustee on the occurrence of the event requiring service of the notification. If there is a vacancy in the office of the trustee on the date of the occurrence of the event requiring service of the notification by trustee, or if that event causes a vacancy, then the 60-day period for service of the notification by trustee commences on the date the new trustee commences to serve as trustee.

(g) The notification by trustee shall contain the following information:

(1) The identity of the settlor or settlors of the trust and the date of execution of the trust instrument.

(2) The name, address, and telephone number of each trustee of the trust.

(3) The address of the physical location where the principal place of administration of the trust is located, pursuant to Section 17002.

(4) Any additional information that may be expressly required by the terms of the trust instrument.

(5) A notification that the recipient is entitled, upon reasonable request to the trustee, to receive from the trustee a true and complete copy of the terms of the trust.

(h) If the notification by the trustee is served because a revocable trust or any portion of it has become irrevocable because of the death of one or more settlors of the trust, or because, by the express terms of the trust, the trust becomes irrevocable within

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one year of the death of a settlor because of a contingency related to the death of one or more of the settlors of the trust, the notification by the trustee shall also include a warning, set out in a separate paragraph in not less than 10-point boldface type, or a reasonable equivalent thereof, that states as follows:

“You may not bring an action to contest the trust more than 120 days from the date this notification by the trustee is served upon you or 60 days from the date on which a copy of the terms of the trust is delivered to you during that 120-day period, whichever is later.”

(i) Any waiver by a settlor of the requirement of serving the notification by trustee required by this section is against public policy and shall be void.

\* \* \*

Petitioner further notes that no Will of decedent has been lodged with the court, which is a requirement of Probate Code § 8000 in order to initiate administration of the estate. A custodian of a Will who has knowledge of the death of the testator is required to deliver the Will to the appropriate superior court and to the person named as executor or beneficiary within 30 days. Probate Code § 8200(a). Failure to do so renders the custodian of the Will liable for damages to any person injured by that failure. Probate Code § 8200(b).

Petitioner alleges that as Administrator of decedent’s estate, he has standing pursuant to Probate Code § 9820 to contest the terms of the trust and of the Will, neither of which have been produced as required by law.

Petitioner seeks return of decedent’s property pursuant to Probate Code §§850 et seq.

At the hearing held on October 23, 2023, counsel for Petitioner requested an evidentiary hearing, and the court scheduled this Status Conference, a Settlement Conference and a date for trial.

**TENTATIVE RULING #15: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 11, 2024, IN DEPARTMENT NINE.**

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