

**SUPERIOR COURT, STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**Department 2, Honorable Drew C. Takaichi, Presiding**  
Audrey Nakamoto, Courtroom Clerk

191 North First Street, San Jose, CA 95113  
Telephone 408.882-2120

**To contest the ruling, call (408) 808-6856 before 4:00 P.M.**

**PROBATE LAW AND MOTION TENTATIVE RULINGS**

**DATE: August 12, 2024**

**TIME: 10:00 A.M.**

**\*\*\*NOTICE\*\*\***

**APPEARANCES IN DEPT. 2 MAY BE IN PERSON OR  
REMOTE THROUGH MICROSOFT TEAMS**

**PLEASE GO TO:**

**[https://www.scsccourt.org/general\\_info/ra\\_teams/video\\_hearings\\_teams.shtml](https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml) to find the appropriate link.**

**State and local Court Rules prohibit recording of court proceedings without a Court order. This prohibition applies while on Microsoft Teams.**

**Prevailing party shall prepare the order by e-file, unless stated otherwise below**

**The court does not provide official court reporters for civil/probate law and motion hearings. See court website for policy and forms for court reporters at hearing**

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If do not see this week's tentative rulings, they have either not yet been posted or your web browser cache (temporary internet files) is accessing a prior week's rulings. "REFRESH" or "QUIT" your browser and reopen it, or adjust your internet settings to see only the current version of the web page. *Your browser will otherwise access old information from old cookies even after the current week's rulings have been posted.*

LINE #	CASE #	CASE TITLE	RULING
<a href="#">LINE 1</a>	23PR195963	<i>In re the Estate of William Estrada II</i>	Click or scroll to line 1 for tentative ruling.
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## **Calendar line 1**

**Case Name:** *In re the Estate of William Estrada II*

**Case No.:** 18PR183413

**Hearing date, time, and department:** August 12, 2024, 10:00 a.m., Dept. 2

### **INTRODUCTION**

In 2018 Ron Estrada was appointed as executor of the estate of William Estrada II. Thereafter, Rolan Estrada petitioned the Court for Ron Estrada's removal. A Mandatory Settlement Conference was held on June 27, 2024, in Department 2.

Ron Estrada failed to submit or serve a Mandatory Settlement Conference Statement in advance of the conference. Rolan Estrada as personal representative and through his counsel of record ("moving party"), filed a Motion for Sanctions on the grounds that Ron Estrada's failure to file a Mandatory Settlement Conference Statement before the conference did not allow counsel to engage in a meaningful settlement conference. No opposition has been filed to the Motion for Sanctions. An unconditional Notice of Settlement was filed on July 17, 2024.

Subsequently, counsel for Rolan Estrada filed a Declaration of Non-Opposition in support of the Motion for Sanctions on August 1, 2024. As such, moving party seeks monetary sanctions in the amount of \$1,280.00 in preparation for the Mandatory Settlement Conference and \$2,260.00 in attorneys' fees and costs for preparing and filing the Motion for Sanctions.

### **DISCUSSION**

California Rules of Court, rule 2.30 provides that the court may order monetary sanctions against a party for failure to comply with the applicable rules as well as reasonable attorneys' fees incurred in bringing a motion for sanctions.

As explained above, moving party contends that Ron Estrada has failed to comply with Cal. Rules of Court, rule 3.1380(c) requiring that "no later than five court days before the initial date set for the settlement conference, each party must submit to the court and serve on each party a mandatory settlement conference statement . . ." Local Rule 9(B) provides the same.

While sanctions are permissible under these circumstances, at issue is whether the Notice of Settlement filed on July 17, 2024, after the Motion for Sanctions, moots this request. The Notice of Settlement indicates that the settlement is unconditional but does not address the present hearing on the Motion for Sanctions.

Cal. Rules of Court, rule 3.1385(c)(3) provides that the court must vacate all hearings and other proceedings save for any proceedings relating to sanctions or for determination of good faith settlement with respect to conditional settlements. The California Rules of Court and Local Rules do not address whether the same procedure must be followed for unconditional settlements.

The Notice of Settlement does not condition dismissal on any specific terms, such as adjudicating the Motion for Sanctions. It is unclear whether the settlement reached between

the parties reflects the sanctions amount and attorneys' fees requested by the moving party. Counsel does not address these issues in the Declaration of Non-Opposition in support of the Motion for Sanctions. Although Ron Estrada has not filed an opposition to the Motion for Sanctions, the deadline to submit an opposition in any event would have been after the Notice of Settlement was filed per the moving party's own assessment. (Decl. of Non-Opp. of Simran Sekhon Offered in Support of Personal Representative's Motion for Sanctions at p. 2, ¶¶ 6, 7.); Code Civ. Proc. § 1005(b); Cal. Rules of Court, rule 8.54.) Thus, the intent of the parties with respect to the status of the Motion for Sanctions given the unconditional settlement is unclear to the Court.

Probate Rule 19 requires parties to attorney fee disputes to meet and confer at the outset of the dispute. Since moving party seeks attorneys' fees in connection with bringing the Motion for Sanctions, the parties are directed to meet and confer on these issues. The parties are further directed to file supplemental declarations addressing their meet and confer efforts to clarify whether the settlement resolves the Motion for Sanctions, whether the Court should vacate the hearing, or whether the Court should hear the Motion for Sanctions as a condition of dismissal. The supplemental declarations shall be filed and served at least 10 days prior to the status hearing set for October 14, 2024, at 10:00 A.M, in Department 2.

### **CONCLUSION**

The hearing on the Motion for Sanctions is continued for status on October 14, 2024, at 10:00 A.M. in Department 2 to allow the parties to meet and confer and file declarations addressing the issues raised by this motion.

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