

## Department 5 Probate Notes for Friday, May 10, 2024

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### 8:30 a.m.

- 1. Estate of Babbitt (PR12375).** Before the Court this day is what can best be described as either an objection to a future I&A, or a petition for instructions, by kin Daniel Babbitt. Either way, the “motion” is premature. “Family heirlooms” are at issue. According to Daniel, William Babbitt had them in his possession when he died on 01/02/22. The I&A filed in Williams’ estate does not show any family heirlooms. Following resolution of a will contest, 50% of William’s estate went to Brandon, and the other 50% to Angela. Brandon died on 12/01/23, but his I&A has not yet been filed. If Brandon does have “family heirlooms,” he apparently intended by will to leave those to Patricia rather than pass them down the family line. Perhaps Angela has the family heirlooms? Perhaps somebody else has them? Tracing ownership and possession back before William will be necessary. However, since Daniel has a creditor claim on file, he has adequately preserved his claim to the family heirlooms without a separate motion seeking an order that items (which may or may not even be in decedent’s possession) belong to someone other than his devisee. Parties to discuss location of “family heirlooms” and resolution options.
- 2. Estate of Parreira (PR12058).** Before the Court this day is a styled ex parte application to amend the order for final distribution of the subject estate, though in some respects the motion resembles one made pursuant to Probate Code §11642. Either way, the issue has now been fully briefed. All that remains is the stipulation of the parties to proceed by way of summary resolution consistent with Probate Code §9620, or a traditional evidentiary hearing. Parties to discuss.
- 3. Estate of Felber (PR12427).** No appearance is necessary. This petition for administration is not ready for approval. There is no proof of publication in the file. See §8124. There is no proof of notice in the file. See §8110. There is no nomination to serve from the heir with priority. See §§ 8462, 8465. There is no bond waiver, as alleged. See §8481. Court intends to continue the hearing to 05/31/24, and require supplemental papers to be filed/served on or before 05/23/24.
- 4. Estate of Bacon (PR12329).** No appearance is necessary, as a final I&A is on file.
- 5. Estate of Campbell (PR12439).** No appearance is necessary. This petition for administration is not ready for approval. There is still no nomination to serve from the heirs with higher priority. See §§ 8462, 8465. There is still no §8573 residence attestation from petitioner. Without nominations, counsel for petitioner will need to brief the issue of waiver (§8468) by those with higher priority and whether the reputed oral nomination with drafted instrument (§8421) can suffice. Court intends to continue the hearing to 06/07/24, and require supplemental papers to be filed/served on or before 05/29/24.
- 6. Estate of McGee (PR12228).** No appearance is necessary. The Court, having reviewed petitioner’s §12201 status report, finds by a preponderance of the evidence that good cause exists to extend administration of the estate (§12202) for a brief period. Court intends to set a review hearing for 07/12/24 at 8:30 a.m. No interim distributions or advances are being approved at this time. Petitioner shall file and serve an updated 12201 report prior to the next hearing; however,

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petitioner is cautioned that further administrative extensions are unlikely. If a petition for final distribution is on file prior to the next hearing date, failure to appear at this review hearing will have no adverse consequences.

7. **Estate of Pacheco (PR12438).** No appearance is necessary. This petition for administration is sufficiently ready for approval, provided that petitioner submit to this Court within five days the §8573 residence attestation. Court intends to enter the order for probate and set §8800 and §12200 review hearing dates.
8. **Estate of Beniot (PR12133).** Pursuant to §12200, the personal representative shall have on file within one year from the issuance of Letters either a Petition for Allowance and Distribution or a Status Report. Letters were issued 09/09/22. A Status Report was filed 12/26/23, indicating that said Petition was forthcoming. There is still no petition, and no updated Status Report on file. Counsel to advise whether sanctions per §§ 12202, 12204 and 12205 should be considered.
9. **Estate of Higgins (PR12328).** No appearance is necessary. Petitioner's supplemental filings have cured the previous probate notes. Although there is a slight imperfection regarding publication (see §8121(a)), this Court finds that based on the totality of the circumstances there has been substantial compliance therewith (§8122). Court intends to enter the order for probate and set §8800 and §12200 review hearing dates.
10. **Estate of Thorson (PR12190).** No appearance is necessary. Court will review the lodged proposed order and enter if it correctly sets forth the amended findings/orders.
11. **In re Gardella 1993 Revocable trust (PR12426).** No appearance is necessary. Petitioner seeks an order declaring an undivided 1/12 interest in APN 056-570-009, 056-570-010 and 056-570-013 as assets of the subject trust dtd 06/15/93. A court may make the requested transfer under §856 if the settlor presently owns the subject property, the settlor created a trust with him/herself as trustor, and there exists sufficient evidence from which to conclude that the settlor intended said property to be held in that trust. See *Carne v. Worthington* (2016) 246 Cal.App.4th 548, 558-560; *Ukkestad v. RBS Asset Finance, Inc.* (2015) 235 Cal.App.4th 156, 160-161; *Estate of Powell* (2000) 83 Cal.App.4th 1434, 1443; *Estate of Heggstad* (1993) 16 Cal.App.4th 943, 950-951. The fully restated instrument provides at Art. I that "the property listed on the original Exhibit A" shall be held in trust, but petitioner failed to include a copy of the original Exhibit 'A'. Nevertheless, since both the pour-over will and general assignment indicate settlor's clear intention to hold all of his assets in trust, and the sworn petition incorporating the evidence provided by the County Transfer Specialist supports that the parcels remain in the settlor's personal name (rather than as trustee), it does appear that a basis exists for making the requested order for transfer. See Evid. Code §702; *Forest Lawn Memorial-Park Ass'n v. Superior Court* (2021) 70 Cal.App.5th 1, 8-12. The petition is approved. Counsel to submit a proposed order consistent herewith.

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### 9:30 a.m.

12. **Guardianship of Sanguinetti (PR11211).** No appearance is necessary. The Court, having received and reviewed the required GC-251 with attachments, finds by a preponderance of the evidence that a guardianship remains necessary and/or convenient, and that the guardian is serving the ward's best interests. There is no indication that the biological father objects. Court intends to set annual review date.
13. **Guardianship of Burdick (PR12254).** The Court, having received and reviewed the required GC-251 with attachments, finds by a preponderance of the evidence that a guardianship remains necessary and/or convenient, and that the guardian is serving the ward's best interests. There is no indication that the biological father objects. Court intends to set annual review date; however, the guardianship will terminate by operation of law prior to that date unless the guardians petition to extend the guardianship past her 18<sup>th</sup> birthday. Petitioners to discuss.
14. **Guardianship of Quinn (PR12243).** Matter continued to 1:30 p.m. by request of guardian.
15. **Guardianship of Debello (PR11598).** The Court, having received and reviewed an incomplete GC-251 with no attachments, is unable to find by a preponderance of the evidence that a guardianship remains necessary and/or convenient, or that the guardian is serving the ward's best interests. Matter set for hearing.

### 10:00 a.m.

16. **Conservatorship of McLaughlin (PR12309).** The petition to establish a conservatorship of the estate is not ready for approval, as the court investigator's report is not yet on file and the proposed conservator is presumptively disqualified (see §2650(d)).
17. **Conservatorship of Friedman (PR12182).** No appearance is necessary. Since the Minute Order from 01/19/24 was never completed, this Court notes the ruling as follows: "Based on the investigative report, this Court finds by clear and convincing evidence that the conservatee is unable to provide for herself or guard against abuse, that the conservatorship remains necessary and the least restrictive option for the conservatee, and that the conservator is doing the best it can – even though a secured memory care facility would be better than current living arrangements. See §1851(a). Annual review hearing set for 01/10/25 at 10:00 a.m." As it pertains to the First Accounting filed 04/25/24, this Court finds that the accounting is proper in all respect, that the fees sought by County Counsel and the Public guardian are approved as reasonable, and that the explanation for television purchases is understandable. Given the financial challenges, this Court elects to keep the conservatorship on an annual accounting cycle for the time being. Court intends to set annual review date.
18. **Conservatorship of Harris (PR11200).** No appearance is necessary. Court intends to set annual review date. Counsel indicated that conservator intended to submit revised Letters.

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19. **Guardianship of Mellott (PR11905).** Update regarding reunification therapy attendance. Court notes that the guardianship is still slated to end by operation of law before the next school year commences.
20. **Guardianship of Brinkman (PR10808).** Court to provide parties with overview order from in-chambers conference, and to set guardians' motion to modify visitation schedule for an evidentiary hearing (if need be).

### 10:30 a.m.

21. **Guardianship of Wever (PR10579).** No appearance is necessary. The ward having reached the age of majority without a petition to extend on file, this Court confirms that the guardianship has terminated by operation of law.

### 1:30 p.m.

22. **Belfield v. Buehner (FL17630).** Status on retention of professional supervisor and FL-324(P).
23. **Matter of Garibay (PR12417).** No appearance is necessary. The settlement reached on behalf of the minor is not effective without court approval. Prob. Code §§ 2504(b), 3500(b). The petition must be verified, and presented using the Judicial Council forms. The petition must be signed by an attorney of record, and must include a full disclosure of all information that has any bearing on the reasonableness of the settlement reached. See CRC 7.950; in accord, *Chui v. Chui* (2022) 75 Cal.App.5th 873, 903-904; *Pearson v. Superior Court* (2012) 202 Cal.App.4th 1333, 1337; *Espericueta v. Shewry* (2008) 164 Cal.App.4th 615, 627. In granting such approval, the trial court shall make orders relating to the reimbursement of medical expenses, litigation expenses, and reasonable legal fees – with the balance presumably delivered to the petitioner for deposit into a blocked or special needs account. See Probate Code §§ 3601-3604. This Court, having received and reviewed the MC-350 with attachments, finds that the settlement appears to be in the minor's best interests and in the reasonable range of what one might expect as settlement in the case of this nature. The proposed costs and fees are also reasonable. Court intends to approve the petition.
24. **Marriage of Olsen (FL18011).** Nonconfidential hearing on petition to restore prior name.
25. **Petition of Perkins (CV65949).** Nonconfidential hearing on petition to change middle name.
26. **Guardianship of Quinn (PR12243).** The Court, having received and reviewed the required GC-251 with attachments, finds by a preponderance of the evidence that a guardianship for both wards remains necessary and/or convenient, and that the guardian is serving the wards' best interests. There is no indication that the biological father (currently incarcerated) objects. Court does have some concerns about the guardians' ability given the mental health and school issues. However, the Court still intends to grant and set annual review date.