

Department 5 Probate Notes for Friday, February 2, 2024

Probate Notes are not tentative rulings. Parties and counsel are still expected to appear for the hearings unless the Probate Note specifies otherwise. Unless indicated otherwise, all parties and counsel are authorized to appear via Zoom using this link: <https://tuolumne-courts-ca-gov.zoomgov.com/j/1615813960?pwd=NTRMT0NwMDg5cnlYdzZ6VnBXWWFsUT09>. [Meeting ID: 161 581 3960; Passcode: 123456]. All matters set for hearing in Department 5 are presumptively assigned to that department for all purposes. Parties retain the right under Cal. Const. art VI §21 to decline consent to the Commissioner serving as a Judge Pro Tem by so stating clearly at the outset of the first hearing in the case. By participating in the hearing, or electing not to attend after due notice thereof, parties are deemed to have stipulated to the Commissioner serving as a Judge Pro Tem for the entirety of the case. See CRC 2.816.

8:30 a.m.

1. **Conservatorship of Cattaneo (PR11563).** This was to be the hearing on the 3rd accounting, covering the period 07/19/21 – 07/18/23. Although §2620 does not prescribe the time period in which the conservator is to “present the accounting of the assets of the estate of the conservatee to the court for settlement and allowance,” (nor does CRC 7.575 or TCSC Rule 5.17.1), the ordinary rule of thumb is four months. The accounting is tardy. Petitioner to advise.
2. **Estate of Williams (PR12292).** Pursuant to §8800, a final inventory and appraisal “shall be filed within four months after letters are first issued.” Letters having been issued 08/23/23, and there being no I&A in the court file, the Court considers this matter tardy. Petitioner to advise.
3. **Estate of Peterson (PR12241).** No appearance is necessary. The Court having reviewed the petition for final distribution and to settle costs/fees, it will be approved absent objection made at the hearing. However, before final discharge can be granted, Petitioner will need to file not only a receipt for the property but (1) a full discharge and release of decedent’s preexisting note/deed and (2) satisfaction of legal fees/costs (as indicated at 6:7-14).
4. **Estate of Chapin (PR12151).** No appearance is necessary. A final I&A is on file.
5. **Estate of Vieira (PR12323).** No appearance is necessary. Petition for probate will be approved and order for probate will be signed. Court to set §8800 and §12200 dates.
6. **Estate of Pluta (PR12257).** Petition and counsel to address the following two questions: first, was there any consideration given to proceeding by way of *Heggstad* for the real property rather than probate; and second, how does it benefit the trust beneficiaries to encumber the real property with an attorney lien and no definitive timeline for liquidation? See Para 20 and Prayer 4. With satisfactory responses the petition will likely be approved.
7. **Estate of Brink (PR12183).** No appearance is necessary. The Court having reviewed the petition for final distribution and to settle costs/fees, it will be approved absent objection made at the hearing.
8. **Estate of Murphy (PR11732).** At the last hearing, petitioner agreed to file a declaration with proof showing that the loan had been assumed by the beneficiaries and was no longer in the name of the decedent. Nothing has been filed yet.

9:30 am

9. **Guardianship of Duncan (PR11768).** The Court has reviewed the GC-251 and cannot yet find that the guardianship remains necessary and convenient for the child given that both biological parents appear to be regularly involved in the ward’s life. Guardian to address.

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10:00 am

10. **Guardianship of Zwicker (PR11002).** There is no GC-251 on file to review. In addition, there remains outstanding the petition to terminate filed by the biological mother, which has yet to be served on the guardians. Parties to discuss.
11. **Guardianship of Underwood (PR10766).** Court previously reviewed the GC-251 and had questions regarding Para 2.c. and whether there has been discussion regarding a substitution of guardian. Guardians were requested to appear to discuss.
12. **Guardianship of West (PR12380).** Petition is not ready for approval yet as the court investigator needs additional time to complete the mandated written report. Court needs additional information regarding biological mother. Court will require nominations/consents from those willing. Although child resides here, venue could be sited in Contra Costa County, where the proposed guardian resides. See §2201(b). Court likely to appoint counsel for the ward. §1470. Who is caring for the child right now, and should CWS be involved in this?
13. **Guardianship of Hoisington (PR11230).** The Court has reviewed the GC-251 and has questions pertaining to the information provided (or sought) in Para 2, 3, 5, 6 and 7. Guardian to address.

10:30 am

14. **Guardianship of St. Paul (PR12390).** Petition for guardianship over two minor children, filed by paternal grandmother, in response to orders made in FL17276. Petition indicates nominations and co-guardians, but not provided. §1500. No consent filed. §1500.1 Insufficient notice to biological mother. §1511. Petitioner will need to separate wards into two distinct guardianships.
15. **Marriage of St. Paul (FL17276).** Parties to address underlying facts and status of CRF73657.

3:00 pm

16. **In re Ennis and Pedroza (FL14678).** Chambers interview.