

Superior Court of California, County of Tuolumne
Consolidated Calendar
Hon: Steven Streger

Department 5

February 13, 2026 8:30 am

DA Case #

Date Filed

1 PR12727 Estate of Bernard L. McDaniel II AKA Bernard L. McDaniel 11/05/2025

Kathleen McDaniel

Attorney: Richard Marchini

Determine Succ to Real Property

FURTHER

11/05/2025 Petition

File Tracking

11/14/2025 High Density

Probate Notes are not tentative rulings. Parties and counsel are expected to appear for the hearings unless this note indicates that "no appearance is necessary." Unless a personal appearance is required, all participants may appear via Zoom without first securing Court permission using this link: <https://tuolumne-courts-ca-gov.zoomgov.com/j/1615813960?pwd=NTRMT0NwMDg5cmlYdzZ6VnBXWWFsUT09>. [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 participating in the first 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 entire case. See CRC 2.816.

This is the continued hearing on a probate avoidance by-pass petition to determine automatic testate succession to decedent's purported primary residence.

Nothing has been filed since the last hearing, so the previous probate note is repeated:

Notice to all of the interested persons appears to be satisfied. See §§ 13151(b) and 13153. The stated legal basis for the putative succession (§13152(a)(4)) is via pour-over will to the acting trustee of decedent's inter vivos trust. The Declaration of Trust specifies that the trust res includes the property set forth in Schedule A, and Schedule A does not include the property that is the subject of this petition. However, Article 10.A. allows the trustee to add other property to the trust, and Article 11.D. empowers successor trustees to do the same. Thus, it does appear that the trust could be funded post-mortem. However, there are three concerns with the petition as framed.

First, effective 01/01/2025, §13151(a) was amended to limit the scope of these by-pass petitions to the decedent's primary residence. The property which is the subject of this petition is a 50% interest in commercial property on Washington Street, not the decedent's primary residence in Twain Harte. How does petitioner intend to circumvent the statutory change?

Second, although succession might arguably go through the will to the trustee of the decedent's 2007 trust, the petition does not provide sufficient evidence from which to conclude that decedent owns the 50% stake he claims. Katherine's recordation of a transfer deed does not alone sever the joint tenancy. See §683.2(c)(1) and (2). In addition, since it appears that decedent and Katherine were still married, Katherine may have independent rights to a greater share of decedent's alleged 50%. See Probate Code §§ 104, 21610; *Reich v. Reich* (2024) 105 Cal.App.5th 1282, 1288-1289; *Estate of Wall* (2021) 68 Cal.App.5th 168, 173-175; *Estate of Katleman* (1993) 13 Cal.App.4th 51, 60. There is an absence of competent proof that APN 001-201-004-000 belongs to decedent (§§ 13152(a)(3), 13154(b)(4)) in light of the aforementioned concerns. Katherine is free to disclaim any statutory or joint tenancy interest therein, but that is something she would need to secure independent legal counsel for. At present, she is bound to act in a fiduciary capacity for the benefit of all trust beneficiaries, not just herself. See Probate Code §§ 16002-16004, 16006.

Third, there is no evidence to show that the property is *currently* in decedent's name.

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Department 5	February 13, 2026 10:00 am	DA Case #	Date Filed
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7	PR12620	Conservatorship of Salvatore Vincent Carilli	03/24/2025
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Brian Carilli	Attorney: Jennifer Lothert
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Salvatore Vincent Carilli	Attorney: Brandon Meyer
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Review Hearing
from Statement of Decision

03/24/2025 Petition

File Tracking 04/11/2025 High Density

Review hearing to confirm Amy's compliance with:

- Clearing the warrant in CRM77398;
- Completing the terms of her DEJ;
- Validating her driver's license;
- Making sure she has a vehicle that is registered and insured to transport Sal;
- File/serve GC-348;
- Pay fair market rent or provide equal value services

If so, Attorney Meyer can be relieved.

Superior Court of California, County of Tuolumne
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Department 5	February 13, 2026 10:00 am	DA Case #	Date Filed
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8	PR10432	Guardianship of Alicia Marie Bunow	03/05/2009
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Linda Alice Logan Pro Per

Alicia Marie Bunow

Stephen Calvillo

Review Hearing

Terminate - Ward turns 18 2/9/26

03/05/2009 **Petition: Other**

03/05/2009 **Petition**

File Tracking

04/12/2024 Orders-Probate

Other Cases
FL8059

The ward having reached the age of majority, and there being no petition to extend the guardianship on file, this guardianship terminates by operation of law.

Superior Court of California, County of Tuolumne
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Department 5

February 13, 2026

1:30 pm

DA Case #

Date Filed

12 FL18336

Margaret Hardman and Kristofer Hardman

10/27/2023

Margaret Hardman

Attorney: Juley Salkeld

Kristofer Hardman

Attorney: Sally Chenault

Settlement Conference

OSC Hearing - Child Support

10/27/2023 Petition

File Tracking

04/29/2025 From Court-Family on Calendar

This is a petition for dissolution with the following salient data points:

- Duration: 17 yrs
- Children: 2 minor (1 major)
- Father: Superintendent, PG&E
- Mother: Server, Diamondback Grill; part-time breeder

Pertinent History:

- 02/29/2024: Petitioner non-stip
- 03/21/2024: Respondent ordered to pay \$4,536/month in family support
Respondent granted visitation 1st, 2nd, 3rd weekends Fri – Mon
- 09/26/2024: Parties file FL-355: joint legal/physical; older two visits at discretion;
younger child alternate weekends to Respondent Thurs- Mon
- 12/17/2024: Respondent ordered to pay \$3,929/month in family support (using
Santa Clara)
- 03/07/2025: Respondent ordered to pay \$3,517/month in family support (using
Santa Clara)
- 07/18/2025: Parties stip to Dept 5 serving as settlement conference judge

Issues to resolve:

- Increased parenting time for Respondent
- Liquidation vs equalization of the residence
- Equalization of the 401k and pension
- Permanent spousal support
- Ostler/Smith calculus, which refers to *Marriage of Ostler & Smith* (1990) 223 Cal.App.3d 33. An Ostler/Smith provision is an additional award, over and above guideline support, expressed as a fraction or percentage of any discretionary bonus actually received. Its purpose is to capture fluctuations in the supporting spouse's income that are not included in a flat rate amount of support. See *Marriage of Pletcher* (2021) 68 Cal.App.5th 906, 916; *Marriage of Minkin* (2017) 11 Cal.App.5th 939, 949; *Marriage of Khera & Sameer* (2012) 206 Cal.App.4th 1467, 1472-1473.