

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		<table><tr><td>File Tracking</td></tr><tr><td>11/14/2025 High Density</td></tr></table>	File Tracking	11/14/2025 High Density
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=NTRMT0NwMDg5cnlYdz6VnBXWWFsUT09>. [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.

Superior Court of California, County of Tuolumne**Consolidated Calendar****Hon: Steven Streger****Department 5****February 13, 2026 8:30 am****DA Case #****Date Filed****2 PR12198 Estate of Odes Bishop Ward 11/28/2022****Odes Ward Attorney: Judy Jensen****Odes Bishop Ward****Phillips & Cohen Associates, Ltd Pro Per****Review Hearing - Report - Probate Code 12200****Motion Hearing - Attorney Withdrawal****RESERVED****11/28/2022 Petition****File Tracking****02/26/2025 From Court-Probate on Calendar**

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This is the continued §12200 review hearing regarding the administration of an estate which appears to be insolvent due to a reverse mortgage encumbering the estate's only asset – an encumbrance which is reportedly increasing at a rate of \$53/day. At a previous hearing, counsel and this Court had a brief colloquy regarding the option to dismiss the petition and discharge the personal representative under §12251 if in fact no assets were left to probate. Since that time, counsel has been unable to secure any contact from the client, and has only learned from the reverse mortgage holder and realtor that the client no longer wishes to pursue a short sale. Since the property will need to be distributed to the sole heir, but the encumbrance cannot be released from the decedent, we are at an impasse. Counsel has stated more than adequate grounds for her motion to be relieved as counsel and has demonstrated adequate efforts to communicate with the client about that intention.

The motion to withdraw is GRANTED, effective immediately.

In addition, this Court will treat the TUO-PR-125 filed in this case as a de facto petition under §12251 to declare the absence of assets subject to probate because the gross value of the real property at the time of death (§13052) was \$175,000 (see DE-160) and yet the statutory allowance for small estate probate avoidance was \$184,500 (see §13100 and DE-300), so no petition for probate was ever actually needed. The petition for probate shall be dismissed.

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

Department 5 **February 13, 2026 10:00 am** **DA Case #** **Date Filed**

3 PR11388 Conservatorship of Griffin Webb Barela **11/15/2016**

Joaquin Garman Attorney: Jennifer Lothert

Deena Garman Attorney: Jennifer Lothert

Griffin Webb Barela

Review Hearing - Investigator Report - PR Code 1850

11/15/2016 Petition

File Tracking
02/14/2025 From Court-Probate on Calendar

This is the annual review of a limited conservatorship of the person, awaiting the investigator's report.

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

Department 5	February 13, 2026 10:00 am	DA Case #	Date Filed
4 PR12182	Conservatorship of Jana Friedman		10/18/2022
	Tuolumne County Public Guardian	Attorney: County Counsel	
	Jana Friedman	Attorney: Carrie McKernan	
	Review Hearing - Investigator Report - PR Code 1850		
10/18/2022 Petition		File Tracking	
10/18/2022 Petition		07/31/2025 High Density	

This is the annual review of a general conservatorship of the person and estate, awaiting the investigator's report.

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

Department 5	February 13, 2026 10:00 am	DA Case #	Date Filed
5 PR12552	Conservatorship of Marilyn Jones		11/27/2024
	Nerissa Colwell	Pro Per	
	Marilyn Jones	Pro Per	
	Review Hearing - Investigator Report - PR Code 1850		
	Accounting Hearing - 1 Year Review		
11/27/2024 Petition		File Tracking 05/08/2025 High Density	

This is the annual review of a general conservatorship of the person and estate, awaiting the investigator's report. Court is also awaiting the first annual report and a follow-up regarding the petition for substituted judgment to establish an estate plan – which was partially granted back in June of 2025.

Superior Court of California, County of Tuolumne**Consolidated Calendar****Hon: Steven Streger****Department 5****February 13, 2026 10:00 am****DA Case #****Date Filed**

6	PR12739	Conservatorship of Robert Horne	12/11/2025
Tuolumne County Public Guardian Attorney: County Counsel			
Robert Horne			
Appoint Conservator			
12/11/2025	Petition	File Tracking	
12/11/2025	Petition	12/24/2025	High Density

As a result of the proposed conservatee's recent passing, the temporary conservatorship of the person is hereby terminated and the hearing on the petition to establish a permanent conservatorship is vacated.

Superior Court of California, County of Tuolumne

Consolidated Calendar

Hon: Steven Streger

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

Department 5	February 13, 2026 10:00 am	DA Case #	Date Filed
8 PR10432	Guardianship of Alicia Marie Bunow		03/05/2009
	Linda Alice Logan	Pro Per	
	Alicia Marie Bunow		
	Stephen Calvillo		
	Review Hearing		
	Terminate - Ward turns 18 2/9/26		
03/05/2009	Petition: Other	File Tracking	
03/05/2009	Petition	04/12/2024 Orders-Probate	
<u>Other Cases</u>			
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**Consolidated Calendar****Hon: Steven Streger****Department 5****February 13, 2026 10:00 am****DA Case #****Date Filed**

9	PR12748	Guardianship of Jeremy Twofeather Kerr	01/23/2026
		Sandra Aguilar	Pro Per
		Jeremy Twofeather Kerr	Pro Per
		Frank Aguilar	Pro Per
		John Aguilar	Pro Per
		Petition Hearing	
		for Appointment of Temporary Guardian	

01/23/2026 Petition

File Tracking

This is the initial hearing on a petition by three individuals (aunt, uncle, great grandfather) to establish a guardianship over one child who presently resides with one of the proposed guardians (great grandfather). The child appears to be a member of a federally-recognized tribe, triggered ICWA protections – including the obligation to voir dire both biological parents before accepting any consent from them to the guardianship. The petition indicates that the father is unknown, and the mother is incarcerated (see CRF78377).

There is presently a CPO issued against mother in the felony case protecting both the proposed guardian and the proposed ward.

There is also a partial DV-TRO issued in FL19372 barring mother from having any contact with the proposed guardian or proposed ward, but it only includes a “stay away” from the proposed guardian and not the proposed ward. That appears to be an oversight considering the allegations contained in the criminal complaint.

A major purpose of the ICWA is to protect children who are members of or are eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. See 25 USC §1903(4). The ICWA and its notice requirements apply to guardianships under the Probate Code. Probate Code §1459.5; CRC 5.480, 7.1015; in accord, *Guardianship of D.W.* (2013) 221 Cal.App.4th 242, 249. The statute imposes a duty of inquiry to ask all involved persons whether the child may be an Indian child. If that initial inquiry creates a ‘reason to believe’ the child is an Indian child, then the court shall make further inquiry regarding the possible Indian status of the child, and shall make that inquiry as soon as practicable. Third, if that further inquiry results in a reason to know the child is an Indian child, then the formal notice requirements of W&I Code §224.3 apply. See *In re D.S.* (2020) 46 Cal.App.5th 1041, 1052.

Before appointing a temporary guardian of the person for an Indian child over the objection of a parent, tribe, or Indian custodian, the court must: (1) advise the parent or Indian custodian that if they cannot afford counsel, the court will appoint counsel for them under section 1912(b) of the Indian Child Welfare Act; and (2) find, in addition to facts in the petition establishing good cause for the appointment and any other showing the court may require under Probate Code section 2250(b), that the appointment is necessary to prevent imminent physical damage or harm to the child.

Superior Court of California, County of Tuolumne**Consolidated Calendar****Hon: Steven Streger****Department 5****February 13, 2026 10:00 am****DA Case #****Date Filed**

10	PR12749	Guardianship of Joeseph Steven Ashlock	01/26/2026
		Haley Ferraro	Pro Per
		Joeseph Steven Ashlock	
		Linda Ashlock	Pro Per
		Appoint Guardian - Person	
		temp	
01/26/2026	Petition		File Tracking 01/29/2026 Cubicle 2

This is the initial hearing on a petition by two individuals (aunt, paternal grandmother) to establish a guardianship over one child who presently resides with the proposed guardians?

Bio mother – no consent

Bio father – apparent consent

The child appears to be a member of a federally-recognized tribe, triggered ICWA protections – including the obligation to voir dire both biological parents before accepting any consent from them to the guardianship. Proposed guardian denies ICWA.

Related to:

- JV8555: father was awarded sole legal and sole physical, with mother to receive limited supervised visits.
- FL19269: exit order but parties signed stip/order a few weeks ago converting to JOINT legal and physical custody and an equal 50/50 unsupervised timeshare with mid-week exchanges.

Father and Mother reached an agreement for joint custody and 50/50 before the petition for guardianship was filed, but their agreement was not entered as a court order until a few days after the guardianship petition was filed. Father signed his consent to the guardianship AFTER he went into Department 2 informing the court that he and mother would be jointly raising the child.

It does appear as though Father does not wish to have any parenting responsibilities, so perhaps Mother should be given sole custody instead. Refer back to Dept 2.

Superior Court of California, County of Tuolumne
Consolidated Calendar
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Department 5	February 13, 2026 10:00 am	DA Case #	Date Filed
11 PR11901	Guardianship of: Nathan Shrader, Austin Shrader and Jordan Shrader		01/27/2021
	Robert Patania	Pro Per	
	Nathan Shrader	Attorney: Jennifer Lothert	
	Austin Shrader	Attorney: Jennifer Lothert	
	Jordan Shrader	Attorney: Jennifer Lothert	
	Robin Grove	Pro Per	
	Johnathan Shrader	Pro Per	
	Motion Hearing - Visitation		
	Modify		
03/18/2025	Termination of Guardianship	File Tracking 03/24/2025 High Density	

On 03/28/2025, the parties agreed that Father would be entitled to visits with the boys as follows:

- Alternate weekends Sat 10am → Sun 2pm
- 4 hrs around each child's bday
- 4 hrs around his own bday

On 01/02/2026, the guardian filed a motion to change the visitation agreement from the above to supervised visits at 2-hrs each week. She provided no information in the motion to explain the request. POS is included. No opposition is on file.

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

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.