

## Department 5 Probate Notes for Friday, March 1, 2024

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### 8:30 a.m.

- 1. Estate of Neubaumer (PR11671).** No appearance is necessary. The Petition for Allowance and Distribution is not ready for approval. There is no CRC 7.702-7.703 declaration supporting the request for extraordinary compensation, which must be complete as no interim allowances were made in this proceeding. There is no explanation for the sudden change from CV61560 being a hinderance to finality, to not (given that is remains pending). The proposed reimbursement for litigation costs is quite high, and not supported by the requisite declaration of necessity (§11004 and TCSC 5.22.0). Finally, given that the only assets herein are real property interests (see Para 32 and CRC 7.651), there must be an explanation as to how service fees are being covered. See §10831, and *Estate of Wong* (2012) 207 Cal.App.4th 366, 375. Hearing will be continued to 04/26/24 at 8:30 a.m.; all papers to consider in advance thereof must be filed and served on or before 04/18/24.
- 2. Estate of Moreno (PR12151).** The Petition for Allowance and Distribution is not yet ready for approval. On 02/09/24, an estate creditor filed an objection hereto based upon petitioner's alleged fraud regarding the estate assets (see §9254). Although petitioner has repeatedly referred to the estate as having only \$6,777.00 (see Para 10), accounting for the loss of personal property items in storage, the estate apparently has \$6,777.00 in cash and a PT Cruiser valued at \$8,000.00. In addition, there is no CRC 7.702-7.703 declaration supporting the request for extraordinary compensation, and counsel's request for \$5,737.03 is outside the allowable statutory amount. See §10810, and *Estate of Gilkison* (1998) 65 Cal.App.4th 1443, 1446. Parties to advise whether objection can be resolved using the summary procedures in §§ 1022 and 9620, with briefing consistent with CCP §§ 437c, 1010, 1005(b), 1005.5, and CRC 3.1306.
- 3. Estate of Mills (PR12394).** No appearance is necessary. The Spousal Property Petition (§13500) is not ready for approval. Since a §13656 order is conclusive (§13657), "the facts" supporting the petition (§13651(a)(3)) include proof of decedent's contemporary ownership of the subject property. Although petitioner was unable to secure a formal title report, County records reveal two recorded instruments (10/19/20 and 02/25/21) which are available online and could implicate decedent's ownership interest. Property tax records or a letter from the Forest Service should further suffice, along with petitioner's declaration. Hearing will be continued to 04/26/24 at 8:30 a.m.; all papers to consider in advance thereof must be filed and served on or before 04/18/24.
- 4. Estate of Benoit (PR12133).** No appearance is necessary. 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 no petition, and no updated Status Report on file. Hearing continued to 04/12/24 at 8:30 a.m. Counsel is encouraged to review §§ 1202, 12204 and 12205 in the interim.
- 5. Estate of Correa (PR12097).** No appearance is necessary. This Court is in receipt of petitioner's §12201 report and finds that good cause exists to extend the period for administration. However,

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the parties cannot expect to simply wait out the natural end of the permissive life estate, and should give serious thought to a distributive plan. Hearing continued to 05/24/24 at 8:30 am. Petitioner to file updated State Report on or before 05/15/24.

6. **Estate of Thorson (PR12190).** No appearance is necessary. The Court has reviewed petitioner's supplemental filing, and concludes that all prior notes have been cleared. For counsel's edification only, no copy of the trust was previously submitted (see Para 1). With the adjustments made, petitioner must file a revised Order for signature (see TCSC 5.06.0). Hearing continued to 04/12/24 at 8:30 a.m. Assuming a proper order has been submitted prior thereto, failure to appear thereat shall have no adverse consequences.
7. **In re Riley Family Trust (PR11848).** On 09/14/20, noncontingent beneficiary J.R. filed petition for accounting. On 05/21/21 trustee L.B. filed accounting and petition to settle. On 07/14/21, J.R. filed objections to petition. Matter was continued by stipulation for two years. On 11/03/23, parties agreed to summary resolution (§9620); Court set briefing schedule. No briefs have been filed, and J.R. has gone MIA. On 01/26/24, Court issued OSC to J.R.'s counsel, with a deadline to respond. No response was provided. Court is prepared to overrule objections, grant petition to settle, and thereafter dismiss petition for accounting. Parties to discuss.
8. **In re Hahn Trust (PR12384).** No appearance is necessary. The *Heggstad Petition* is not ready for approval. Petitioner seeks an order declaring APN 036-082-008 an asset of the subject trust dtd 11/11/10. Notice to the nominated contingent trustee is required, but absent. §17203(a). The trust instrument did not identify any real property assets. A court may make the requested transfer under §856 if the settlor owned the real property in question, the settlor created a trust for the property with him/herself as trustor, and there exists a written instrument signed by the settlor confirming the same. 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 petitioner does not include any recorded instruments or evidence regarding the settlor's intentions, let alone proof of contemporaneous ownership. Hearing will be continued to 04/26/24 at 8:30 a.m.; all papers to consider in advance thereof must be filed and served on or before 04/18/24.
9. **In re Bayers (PR12270).** No appearance is necessary. The Petition to Determine Succession remains incomplete. There must be an Inventory & Appraisal completed by a probate referee (§§ 13152, 13154). Proper notice must be provided to each heir at law (§§ 13152(a)(7), 13153), and stating "address unknown" is inadequate. There must be evidence of decedent's current ownership (§13152(a)(4)), not just a deed from 2005. Petitioner may also wish to engage counsel to determine whether a §13150 petition is necessary given the manner in which title was taken in 2005. Hearing will be continued to 04/26/24 at 8:30 a.m.; all papers to consider in advance thereof must be filed and served on or before 04/18/24. If no papers are filed in advance thereof, the petition will be dismissed without prejudice.

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### 10:00 a.m.

10. **Conservatorship of Stevenson (PR11972).** This was to be the hearing on the 1<sup>st</sup> accounting, covering the period 01/01/23 – 08/30/23, and the Final accounting covering 09/01/23 through present day. 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), by local rule the First accounting “shall be filed and noticed for a hearing to be held within sixty (60) days after the anniversary date of the appointment.” TCSC 6.14.0. Since this represents an arguably impossible deadline (given §1460(a)), the ordinary rule of thumb is four months. The 1<sup>st</sup> accounting was filed, but contained errors. In the intervening time between hearings thereon, the conservatee passed away. Counsel indicated that the final accounting was ready to file. Counsel to advise.
11. **Guardianship of Mellott (PR11905).** This matter must await closure of the courtroom. §7884. A court investigator has been appointed, and a report received. §§ 7850-7851. There is no proof of service or excuse therefor. §§ 7881(a), 7882. Counsel is ordinarily appointed for the petitioner (§7861), and must be appointed for the affected parent(s) if indigent (§7862). The preliminary §1516.5 conditions appear to have been satisfied, except that there are no admissible (verified) facts showing §3042, §7822, §7825, or §1516.5(a)(3). See *In re Charlotte D.* (2009) 45 Cal.4th 1140, 1149; *Adoption of Myah M.* (2011) 201 Cal.App.4th 1518, 1538-1539; *In re Noreen G.* (2010) 181 Cal.App.4th 1359, 1393.
12. **Conservatorship of Aydelott (PR10450).** This was to be the hearing on the 12th accounting, covering the period 05/01/21 – 04/30/23. 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. Petitioner to advise.

### 10:30 a.m.

13. **Guardianship of Hike (PR10819).** There is no §1513.2 report.

### 1:30 p.m.

14. **In re Munsee (PR12336).** Confidential hearing on restoration of firearm rights.
15. **Jones v. Vogt (CV65525).** Settlement Conference.
16. **In re Thomas (FL10805).** Confidential name change.