

Department 5 Probate Notes for Friday, March 8, 2024

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8:30 a.m.

- 1. Conservatorship of Mathis (PR11891).** The Court, having reviewed the investigative report, finds by clear and convincing evidence that a conservatorship remains necessary; however, the report permits an inference that a general conservatorship is not the least restrictive option, and that a limited conservatorship with regional center input might be more appropriate. Parties to discuss.
- 2. Estate of Williams (PR12385).** No appearance is necessary. The Petition for Letters of Administration with full IAEA authority, while imperfect in minor respects, will be approved. Court will set §8800 and §12200 review dates.
- 3. Estate of Schneider (PR12306).** Pursuant to §8800, petitioner was to have a final I&A on file within four months of the issuance of Letters. Letters issued 10/20/23. Petitioner to advise.
- 4. Estate of Rossman (PR12391).** No appearance is necessary. The Petition for Letters Testamentary with full IAEA authority is not ready for approval. Notice is to be published “with at least five days intervening between the first and last publication dates, not counting the publication dates.” §8121(a); TCSC Rule 5.05.0.b.2. Publication occurred on 01/30, 02/01, and 02/03 – which is an insufficient period. In addition, without trust instrument Court is unable to confirm compliance with §1208. Finally, the proffered will is not self-authenticating. See §§ 6100(a), 6100.5(a), 6104, 6110(c). This can be cured via declaration. As to 6110(c), the attestation clause refers to an instrument “bearing on the margin the initials of the Testator,” but the original will lodged does not contain said initials. This can be cured via DE-131. Court intends to set continued hearing for 05/03/24 at 8:30am, with supplemental papers due on or before 04/25/24.
- 5. Estate of Vochatzer (PR12382).** The Petition for Letters of Administration with full IAEA authority is not ready for approval. Although petitioner is entitled to appointment (§8461(b)), since there are others with equal priority, Court prefers to have nominations in hand (§§ 8465, 8467). In addition, petitioner is required to submit an address oath (§8573). If petitioner can secure nominations and bond waivers, Court will consider waiving bond (§8571). Court intends to set continued hearing for 05/03/24 at 8:30am, with supplemental papers due on or before 04/25/24.
- 6. Estate of Murphy (PR11732).** No appearance is necessary. Prior probate notes have been successfully cleared, and the Petition for Final Distribution will be approved. In addition, since the receipts have been filed, petitioner is free to submit the DE-295.
- 7. Estate of Babbitt (PR12125).** No appearance is necessary. Prior probate notes have been successfully cleared, and the Petition for Final Distribution will be approved. In addition, since it appears that all receipts have been filed, petitioner is free to submit the DE-295.
- 8. In re Diaghilev Trust (PR12393).** No appearance is necessary. This case is related to PR11626. The *Heggstad Petition* is not ready for approval. Petitioner seeks an order declaring three bank accounts and items of personal property as assets of the subject trust. Although California permits

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such transfers (see §853 and *Ukkestad v. RBS Asset Finance, Inc.* (2015) 235 Cal.App.4th 156, 160-161), this trust is governed by Oregon law (see Para 8.4): petitioner must provide points and authorities regarding the power of successor trustees to transfer assets into an irrevocable trust, post-mortem. Assuming Oregon would permit this transfer, petitioner must provide evidence of decedent's current ownership of said bank accounts and personal items. Court intends to set continued hearing for 05/03/24 at 8:30am, with supplemental papers due on or before 04/25/24.

10:00 a.m.

9. **Conservatorship of Spangler (PR11131).** No appearance is necessary. According to a recent filing, the conservatee passed away 06/02/22. As this was not a conservatorship of the estate, no final accounting is needed and the matter may be closed.
10. **Conservatorship of Harris (PR11200).** Counsel to provide new orders and Letters for conservator following co-conservator's resignation.
11. **Conservatorship of Krasner (PR12365).** No appearance is necessary. The Court, having reviewed the investigative report, finds by clear and convincing evidence that a conservatorship remains necessary, that a general conservatorship is the least restrictive option, and that the conservators – while generally absent – are meeting the conservatee's needs. Court will set an annual review hearing.
12. **Conservatorship of Bellah (PR12316).** Court to receive reports/objections, if any, from regional center and conservatee's counsel.
13. **Guardianship of Wondra (PR12399).** Maternal great-grandmother's Petition for Temporary Guardian Letters w/o parental consent is not yet ready for approval. Only 1 of 2 proposed co-guardians signed the GC-110 or GC-248. No admissible evidence or facts subject to judicial notice submitted to show that guardianship is necessary or convenient.
14. **Guardianship of Okelsrud (PR12397).** This case is related to PR10660 and F110299. Paternal grandmother's Petition for Permanent Guardianship with partial consent (1 parent) is not yet ready for approval. Petition missing attachment 4 to GC-212. Service attempts on biological mother insufficient. Service to be made on half-sibling Kayde (§1460.1). No admissible evidence or facts subject to judicial notice submitted to show that guardianship is necessary or convenient (vis-a-vis bio mom). Because Mother objects (see Investigative Report), petitions must satisfy additional requirements. See Family Code §3041; *Guardianship of Vaughan* (2012) 207 Cal.App.4th 1055, 1070. Court considering appointment of counsel for ward (§1470).
15. **Guardianship of Cox (PR12392).** Petitioner to appear and advise regarding value of proposed estate for purposes of bond (§2320(c)).

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1:30 p.m.

16. **In re Cicero and Medina (FL12012).** No appearance is necessary. Mediator reports that parties reached full agreement; proposed Stip/Order submitted for Court's review.
17. **Guardianship of Rivera (PR11862).** Closed proceeding (Family Code §7884). Declaration of due diligence filed 03/05/24 is not sufficient to satisfy §7882 as to bio mother, and no mention re bio father. Court to consider appointment of counsel for ward (§7861) and bio parents (§7862). Investigative report not yet on file, but parties have yet to submit proof sufficient to demonstrate by clear and convincing evidence the requisite elements. See Probate Code §1516.5; Family Code §§ 7822, 7825; *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.
18. **In re Olsen (FL18011).** See Family Code §2081.
19. **In re Thomas (FL10805).** See Family Code §2081.

2:30 p.m.

20. **Marriage of Mutzner (FL16548).** Settlement conference (day 2).