

Department 5 Probate Notes for Friday, April 5, 2024

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8:30 a.m.

- 1. Conservatorship of Kipper (PR10894).** No appearance is necessary. Although the Court and received and reviewed the investigative report, and finds by clear and convincing evidence that the conservatorship remains necessary, that there are no less-restrictive options available, and that the conservator is acting in the conservatee's best interests, this Court intends to continue this matter to 05/31/24 to coordinate the reporting and review requirements between these siblings (see PR10683). A temporary general conservatorship shall remain in place until further court order. The conservatee's attendance is waived.
- 2. Conservatorship of Heiny (PR11780).** No appearance is necessary. This Court finds by clear and convincing evidence that the conservatorship remains necessary, that there may not be less-restrictive options available, and that the conservator is acting in the conservatee's best interests. Court will set annual review date.
- 3. Conservatorship of Martin (PR11890).** No appearance is necessary. This Court has received and reviewed the investigative report, and finds by clear and convincing evidence that the conservatorship remains necessary, that there are no less-restrictive options available, and that the conservators are acting in the conservatee's best interests. Court will set an annual review date.
- 4. Conservatorship of Mansfield (PR11576).** This Court has received and reviewed the investigative report, and finds by clear and convincing evidence that some level of conservatorship remains necessary, and that the conservator appears to be acting in the conservatee's best interests. The Court has concerns regarding the current placement, any relations the conservatee is permitted to have with his biological/adoptive parents, and whether the conservatee should be educated and trained with an eye toward a limited conservatorship. Parties to discuss.
- 5. Estate of Williams (PR12292).** No appearance is necessary, as a complete and final I&A is presently on file.
- 6. Estate of Jensen (PR12416).** No appearance is necessary. The Court, having reviewed the petition and supporting filings, concludes that the Petition for Letters of Administration is proper in all respects and shall be granted. Court will set §8800 and §12200 review dates. Administrator is ordered to submit the §8573 statement within 30 days. Since all heirs waived bond, this Court will not require a nonresident bond per §8571.
- 7. Estate of Dungan (PR12240).** No appearance is necessary. This was to be the §12200 review hearing, which is unnecessary since a petition for Final Distribution is already on file.
- 8. Estate of Nichols (PR12411).** No appearance is necessary. The Petition for Letters of Administration 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."

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§8121(a); TCSC Rule 5.05.0.b.2. There is no proof of publication. Petitioner also neglected to lodge the original will. See Prob. Code §8225 and TCSC Rule 5.12.0. Court intends to set continued hearing for 05/03/24 at 8:30am, with supplemental papers due on or before 04/25/24.

9. **In re Wick 2011 Trust (PR12418).** This is a petition for instructions seeking orders relating to assets held in trust, but which the trustor may have sought to remove prior to her passing consistent with Family Code §761 and Probate Code §6101 (sometimes referred to as a reverse *Heggstad*). At issue is whether the acting trustee (and co-settlor) must comply with a 2020 amendment to the family trust carving out the decedent's separate property from the communal trust. As yet there is no proof of service, written responses, or objections filed thereto. Only Victoria Heifner has made a gratuitous general appearance. Petitioner to advise regarding status of service, responses from those negatively impacted by the Petition, and whether this is the type of dispute that can be resolved utilizing the summary procedures in §§ 1022 and 9620, with briefing consistent with CCP §§ 437c, 1010, 1005(b), 1005.5, and CRC 3.1306. If not, parties may be asked to select trial date(s), and to advise whether either party is of the opinion that Cal. Const. Art. 1 §16 provides any right to a jury regarding any factual dispute involving a question of law herein. See, e.g., §§ 825, 17006.
10. **Conservatorship of Ramirez (PR11700).** No appearance is necessary. After reviewing the Final Petition, this Court concludes that since the conservatorship terminated more than two years prior, petitioner and counsel agreed to waive statutory compensation, and since the factors set forth in §2628 have been satisfied, no formal accounting is required and the request for discharge is proper in all respects. The Court intends to enter the proposed order thereon.

9:30 a.m.

11. **Guardianship of Jones (PR10409).** No appearance is necessary. The Court, having reviewed the GC-251, finds by a preponderance of the evidence that the guardianship remains necessary or convenient, and that the guardians are acting in the ward's best interests. Court will set annual review date. Court would like to see academic reports with the next GC-251.
12. **Guardianship of Bunow (PR10432).** No appearance is necessary. The Court, having reviewed the GC-251, finds by a preponderance of the evidence that the guardianship remains necessary or convenient, and that the guardians are acting in the ward's best interests. Court will set annual review date. Court appreciates guardian's accommodation of biological mother, but intends to keep guardianship in place absent motion to terminate or child's relocation from home.
13. **Guardianship of High (PR11902).** No appearance is necessary. The Court, having reviewed the GC-251, finds by a preponderance of the evidence that the guardianship remains necessary or convenient, and that the guardians are acting in the ward's best interests. Court will set annual review date. Court appreciates guardian's accommodation of biological mother, but reminds guardian that parenting visits must be in ward's best interests.

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14. **Guardianship of Quinn (PR12243).** The Court, having reviewed the GC-251, finds by a preponderance of the evidence that the guardianship remains necessary or convenient, but as yet cannot determine if the guardians are acting in the wards' best interests given the issues surrounding medical health and school attendance. Guardian to discuss. Guardianship shall remain temporarily until further order of the Court. Counsel may be appointed to intervene and address the SARB concerns. Court will consider interview of the wards in chambers.
15. **Guardianship of Debello (PR11598).** The Court, having reviewed the GC-251, is unable to make the requisite findings due in part to the GC-251 being incomplete (see Para 2), the regular involvement from the biological mother (see Para 6) and the absence of any school or health records. Guardian to discuss. Guardianship shall remain temporarily until further order of the Court.
16. **Guardianship of Shrader (PR11901).** There are no GC-251 reports on file to review. See §1513.2. However, based upon a review of earlier reports, this Court is likely to find by a preponderance of the evidence that the guardianship remains necessary or convenient, and that the guardian is acting in the wards' best interests. However, without updated reports and a status on involvement from biological father, guardianship can only be extended on a temporary basis until further order.

10:00 a.m.

17. **Conservatorship of Casner (PR10398).** Court awaiting report from appointed counsel, public administrator, current conservator, and/or proposed successor conservator, regarding status since last hearing. Proposed successor conservator has not filed any papers. Regional Center opposes conservatorship and requests consideration of termination. Court is not yet able to make the requisite findings to maintain conservatorship by clear and convincing evidence. In lieu of substituting new conservator, Court will consider terminating conservatorship altogether. See §1863(c). Parties to address conservatee's preference and mechanism for evidentiary hearing.
18. **Conservatorship of Kleier (PR12410).** No appearance is necessary. The petition for temporary general conservatorship is not ready for approval. This case is related to PR12120. Petitioners are "close family friends" and former guardians of the proposed conservatee. There is no nomination from conservatee. §§ 1802, 1810. Since the proposed conservatee "does not agree with the proposed conservatorship" (see GC-312, Para 8), notice must be provided to first-degree biological relatives (see §§ 1822(b)(2) and 1829(c)) to discharge the §1812 requirement for selecting even a temporary conservator that is in the best interests of the conservatee. There is no notice to biological father (he only waived notice as to guardianship of person). Notice must also be provided to the regional center. §1822(e). There is no Attachment 1C addressing the bond concern. Court to appoint investigator (§1826) to conduct the required investigation for temporary and permanent conservatorships (§2250.6), and attorney (§1471) for conservatee. Court requires clarification whether this is ought to be a limited conservatorship of a developmentally disabled adult (§1801(d)) or otherwise. There is also an issue regarding petitioner's background (see

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§2650(d)). Court intends to set continued hearing for 05/10/24 at 10:00am, with supplemental papers due on or before 05/01/24.

19. **Conservatorship of Fowles (PR12409).** No appearance is necessary. There is no nomination from conservatee (§§ 1802, 1810) and no indication as to whether the conservatee understands or desires/opposes the conservatorship. Counsel to confirm whether notice has been provided to first-degree biological relatives (see §§ 1822(b)(2) and 1829(c)) and to the regional center. §1822(e). There is no Attachment 1C addressing the bond concern. Court has already appointed investigator (§1826) to conduct the required investigation for temporary and permanent conservatorships (§2250.6). Court intends to appoint attorney for conservatee (§1471). Court requires clarification whether this is ought to be a limited conservatorship of a developmentally disabled adult (§1801(d)) or otherwise. There is also an issue regarding petitioner's background (see §2650(d)). Court is "on the fence" regarding the factual predicate for the conservatorship as there are no capacity declarations provided and the petition is rather anemic. Court intends to set continued hearing for 05/10/24 at 10:00am, with supplemental papers due on or before 05/01/24.
20. **Conservatorship of Friedman (PR12182).** No appearance is necessary. The Minute Order from 01/19/24 is still not complete, so the matter will be continued to 05/10/24 at 10:00 a.m. The Court extends its apologies to the parties. In the interim, petitioner is ordered to file a declaration at least 5 court days prior to the next hearing date regarding the status of these proceedings.
21. **Conservatorship of Cattaneo (PR11563).** No appearance is necessary. Having reviewed the accounting and the Petition to Approve/Allow, this Court finds that the petition is ready for approval, that the request for fees is reasonable/warranted, and that the proposed order therewith is satisfactory for entry. Court will enter order settling Second Account and set new review hearing date in late 2025 for biennial accounting covering the period 07/19/23 – 07/18/25.
22. **Guardianship of Ireland (PR11484).** There is no proof of service on the petition to remove and replace guardians. Parties to address service of the new petition, the court investigative report, and petitioner's genuine interest in serving as guardian. Court to consider appointment of counsel for the minor child.
23. **Guardianship of Renteria (PR10727).** No appearance is necessary. The Court, having reviewed the GC-251, finds by a preponderance of the evidence that the guardianship remains necessary or convenient, and that the guardians are acting in the ward's best interests. Court will set annual review date.
24. **Guardianship of Corne (PR12378).** The court investigator report permits a finding by a preponderance of the evidence that a permanent guardianship is both necessary and convenient, and that petitioners continue to satisfy the ward's best interests. Since bio mother apparently objects to the proceeding, Court will consider appointing counsel for the child. If permanent cannot be confirmed, the Court intends to extend temporary guardianship until further court order.

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1:30 p.m.

25. **In re Barber-Townsend (CV65846).** There is no proof of publication. Court to confirm via voir dire the §1279.5 conditions.
26. **Cathrein v. Johnson-Gonzalez (CV65515).** There are no *ex parte* papers for this Court's review.
27. **In re Seldon (CV65823).** Court to confirm via voir dire the §1279.5 conditions.
28. **Wagner v. Perkins (CV64725).**