

## Department 5 Probate Notes for Friday, April 11, 2025

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**8:30 a.m.**

1. **Claim of BH (PR12596).** Before the Court this day is a petition to approve a compromise and release of a minor's claim for the wrongful death of his mother, Janelle Hall, following a head-on collision on Bonds Flat Road.

Standing. There are only three persons authorized by law to compromise a minor's injury claim: (1) the minor's legal guardian (Prob. Code §§ 2401, 2451, 2462); (2) the minor's appointed guardian ad litem (CCP §372(a)(2)); and (3) a parent having primary care, custody, or control of the minor (Prob. Code §3500). The petition here was filed by the minor's maternal grandmother, who previously secured an ex parte appointment as GAL. Although the GAL has authority to settle this claim, notice is required to be provided to any parent having custodial rights to avoid a collateral attack. There is no POS confirming notice to the bio dad, but since he is a claimant herein, he clearly is aware of the petition.

Merits. The settlement reached on behalf of a minor is not effective without court approval. Prob. Code §§ 2504(b), 3500(b). The petition must be verified, presented using the Judicial Council forms, signed by an attorney of record, and include a full disclosure of all information that has any bearing on the reasonableness of the settlement reached. See CRC 7.950; in accord, *Chui v. Chui* (2022) 75 Cal.App.5th 873, 903-904; *Pearson v. Superior Court* (2012) 202 Cal.App.4th 1333, 1337; *Espericueta v. Shewry* (2008) 164 Cal.App.4th 615, 627.

According to the petition, the at-fault driver had a total liability policy of \$300,000, which was to be split equally between the three persons he killed that day (even though two of the three were in the car with the at-fault driver). That gave this family \$100,000, which the attorneys decided to split \$50,000 to the widow and \$25,000 to each minor child. Para 17 is incomplete as it appears that no fee is being taken from the father's portion either. The real concern for this Court is where is the UIM position for the family, and why are the two individuals who rode with the at-fault driver receiving an equal share of the limited proceeds when it is conceivable they could have been partially at fault for his erratic driving?

Fees and Costs. The trial court may make orders relating to the reimbursement of medical expenses, litigation expenses, and reasonable legal fees – with the balance presumably delivered to the petitioner for deposit into various secured accounts. See Probate Code §§ 3601-3604. None is sought.

2. **Claim of JH (PR12597).** See #1.
3. **Estate of Baker (PR12587).** No appearance is necessary. Before the Court this day is a petition for Letters of Administration. The petition is proper in all respects. Court intends to issue the order, Letters, and set §§ 880/1220 review dates.

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4. **Estate of Herell (PR12109).** Counsel to report on status of administration.
5. **Estate of Bettridge (PR12404).** Counsel to report on status of related civil action and whether this probate case will be subject to dismissal per §12251.
6. **Estate of Jordan (PR12527).** No appearance is necessary. Before the Court this day is a review hearing to confirm filing of the required I&A. This has already been completed.
7. **Estate of Richesin (PR12136).** Court awaiting revised final order. If there is no appearance again, matter will be deemed off-calendar.
8. **Estate of Hatler (PR12449).** No appearance is necessary. Before the Court this day is a review hearing to confirm filing of the required I&A. This has already been completed.
9. **Estate of Nichols (PR12411).** This is related to #11. Before the Court this day is an §850 petition relating to certain real property, and rental income associated therewith, in the probate estate William Nichols, but alleged to properly be part of the Leslie Nichols Trust. This being a probate petition, the parties are entitled to discovery if needed. §17201.1. Once discovery commences, it proceeds just like normal civil actions (see §1000(b)). This Court does not pretend to foretell the need, or scope, of discovery herein, but Executor should consider filing a response and the parties should advise whether this can be resolved as a summary proceeding under §§ 1000 (§437c, 1010, 1005 et seq, CRC 3.1306), 1022, 1046 and 9620, or if live testimony from parties will be needed.
10. **Estate of Jenkins-Bushart (PR12455).** No appearance is necessary. Before the Court this day is a review hearing to confirm filing of the required I&A. This has already been completed.
11. **In re Nichols Trust (PR12602).** This is related to #9. Before the Court this day is an §850 petition relating to certain real property, and rental income associated therewith, alleged to properly be part of the Leslie Nichols Trust. Court intends to relate case to PR12411 and consolidate the two for discovery only.
12. **In re Hardin Trust (PR12351).** This Court has indicated in prior hearings, both expressly and by clear implication, that the net res of this trust does not warrant the costs associated with a full 4-5 day evidentiary trial on the “breach” issues raised in the petitions filed 10/30/23 and 12/13/23, and that alternate provisional steps make more sense. The first such step was a limited-purpose receiver, which it appears all sides agree has paid tremendous dividends. The receiver’s recent report notes that some favorable steps have taken place, but others still languish. The Court has now received second-tier proposals to install on an interim basis (without actual findings of breach) Deryk Walcott, John Hardin or Timothy Trujillo as a successor trustee ad litem. The interim installation is usually tethered to a pending trial for

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removal, unless administration is far enough along to be concluded with the interim appointee. From the recent report, it appears to this Court that trust administration should be concluded in the coming 120 days. Thus, it would appear to this Court that there are only two sensible options: leave the current trustees in place and set an expedited trial for their removal; or make an interim substitution with someone so deep in the trenches of this administration that completion within 120 days is still feasible (ie, Mr. Trujillo). Since the beneficiaries have not surrendered their right to seek surcharge against the current trustees for any financial losses caused during their tenure, and that a surcharge claim is ordinarily handled as a summary proceeding with oral argument (see §§ 1000, 1022, 1046 and 9620), it seems that everyone benefits financially from this course of action. Parties to discuss. In addition, trustees shall advise what interim cash distributions have been made, and what cash is presently being held in an interest-bearing account for the benefit of the beneficiaries.

13. **In re Cameo Trust (PR12613).** No appearance is necessary. Court intends to take the matter under submission for further consideration and will reset the matter for 05/02/25 with the expectation that a decision will be issued beforehand.

**10:00 a.m.**

14. **Guardianship of Bunow (PR10432).** No appearance is necessary. The Court, having received and reviewed the GC-251 with attachments, intends to find by a preponderance of the evidence that the guardianship remains necessary/convenient, and that the guardian continues to serve the ward's best interests. Court intends to set an annual review date to align with the ward aging out next year.
15. **Conservatorship of LaKamp (PR10681).** No appearance is necessary. This Court, having received and reviewed the court's investigative report, intends to find by clear and convincing evidence that the conservatee still meets the statutory requirements for a general conservatorship, that a general conservatorship remains the least restrictive alternative for the conservatee's protection, and that the conservator continues to serve the conservatee's best interests. Court intends to set the annual review hearing date.
16. **Conservatorship of Villasenor (PR9919).** The petition to establish an *irrevocable* trust for the conservatee is generally permissible, except that substituted judgment trusts cannot reserve to the nominated trustee unfettered control over the trust res during and after the settlor's lifetime (see Para 11, 12, 22, 30). Moreover, Para 34 (compensation) is ambiguous. There is to be no compensation for trustee services of this kind.

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17. **Guardianship of Roberts (PR12554).** Review hearing to determine status of CWS/dependency.
18. **Guardianship of Hartzell (PR11369).** Pending petition to terminate guardianship filed by bio mother. Guardians appears ready to consent. Minors counsel recently appointed at behest of court investigator. Awaiting update.
19. **Guardianship of Garner (PR12361).** This is a paternal grandparent guardianship involving one child, established via consent, and the subject of numerous court hearings over the past year. Before the Court this day remain the following matters: (a) Guardians' TECO filed 12/11/24 seeking an emergency order suspending bio dad's visits until further order; (b) Guardians' RFO filed 12/11/24 to change the visitation schedule agreed to with bio dad as part of the 09/13/24 global settlement; (c) Bio dad's second petition to terminate guardianship, filed 12/11/24; (d) Bio dad's third petition to terminate guardianship, filed 12/16/24; (e) Guardians' TECO filed 01/03/25 seeking an emergency order suspending bio dad's visits based on DV with new wife; and (f) Bio dad's OSC re Contempt filed against guardians for allegedly failing to facilitate agreed-upon visits, filed 01/20/25. The Court intends to re-interview the child, utilizing a vetted list of questions provided by the parties, and to secure a formal recommendation from minor's counsel regarding the petition to terminate. A full evidentiary hearing is already on calendar for next month.
20. **Thomson v. Grogan (FL18372).** Parties to confirm status of early visits, and whether minors counsel has been given access to the child and records.

**1:30 p.m.**

21. **Petition of HRB (CV66933).** Nonconfidential petition to change name.
22. **Petition of AB (CV66662).** Nonconfidential petition to change name. Technical defect with publication. Judgment in FL18295 shows last name as Renner.
23. **Petition of Gohl (CV66796).** Nonconfidential petition to change name.
24. **Marriage of Pearson (FL16809).** Off-calendar.
25. **Petition of KR (CV66892).** Confidential proceeding to change name of minor; consent from one putative parent only.