

Department 5 Probate Notes for Friday, June 13, 2025

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8:30 a.m.

1. **Estate of Ruiz (PR12612).** The Probate Code provides for a number of unique summary procedures which by-pass traditional administration. Before the Court here is the continued hearing on a petition to obtain a judicial determination of succession to property pursuant to the statutory by-pass relating to decedent's primary residence. This narrow by-pass is codified at Probate Code §§ 13150 et seq, and provides that summary succession is available to transfer the decedent's primary residence provided that no administration is anticipated and that the value of the residence does not exceed \$750,000. See §13151(a). Petitioners here allege that decedent owned, and used as her primary residence, APN 039-010-032-000 until the time of her passing, and that they are entitled to inherit in equal amounts pursuant to Probate Code §6402 because decedent was unmarried and survived by only two natural children. What still remains to be established here is proof that the subject property "is property of the decedent." §13152(a)(3). Petitioners have established that the property was owned by decedent in 2021, but for some reason declined to explain how the mortgage and property taxes have been addressed since that time. Because "an order under this chapter determining that property is property passing to the petitioner is conclusive on all persons" (§13155), this Court proceeds with extreme caution before granting these petitions and will require proof that someone did not transfer away the property in the preceding four years.
2. **Estate of Ferles (PR12608).** No appearance is necessary. Court intends to grant the petition, set §§ 8800/12200 review dates, and issue the order and Letters.
3. **Estate of Myers-Bridle (PR12535).** No appearance is necessary. This hearing was set at the request of counsel as a placeholder for an early petition for final distribution, but a review of the court file reveals that no petition was yet filed. The hearing will go off-calendar, as a §12200 review hearing is already set for 01/16/2026.
4. **Estate of Benoit (PR12133).** No appearance is necessary. This Court notes that the bond for Ms. Jamison has been posted. Ms. Benoit's resignation has now been accepted, but her bond cannot be exonerated without the written agreement from all beneficiaries. The appointment of Ms. Jamison is complete, and her Letters shall issue forthwith.
5. **Estate of Palombi (PR12625).** No appearance is necessary. The Court, having received and reviewed the whole of the petition to admit the will and for issuance of letters testamentary, finds with relative ease that all of the procedural and substantive requirements

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regarding notice, standing, and authenticity have been fully satisfied. Court intends to grant the petition, issue the order/Letters, and set §§ 8800/12200 review dates.

6. **In re Berchtold Living Trust (PR12607).** Before the Court this day is the continued hearing on a trust petition to compel reporting/accounting, with possible suspension. At issue is trust administration for the better part of a decade by only one of two co-trustees, despite the statutory obligation that both must act (see §§ 15620 and 16402(b)). After limited colloquy with respondent, this Court concluded that his fundamental rights could be impaired if the right to object were not at least reserved pending time to retain counsel. See §1043. Since that time, respondent filed a hand-written response with attachments that appears to be his effort to respond to the request for an accounting. Respondent further indicates that the trust is represented by an attorney by the name of Shannon Seibert out of Oakland (respondent previously identified James Serpa as trust counsel, although there are no attorneys by that name in California).
7. **Claim of TS (PR12600). Also set at 10:00 a.m.** This is a petition to approve a proposed compromise and release of a personal injury claim belonging to a minor. The first concern is 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)); or (3) the parent having care, custody, or control of the minor (Prob. Code §3500). Since the settlement agreement was signed by bio dad, and the petition was run by bio mom, this Court did not focus much on the standing concern. However, it has since come to this Court's attention that bio mom secured sole legal custody of the minor child on 09/20/2024 (see FL18331), six days prior to bio dad signing the release and indemnity agreement. Since bio dad had no legal right to bind the child at that time, the signed release is of no legal effect. A new release will need to be signed by bio mom. As for the merit, a petition to compromise must 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* at 903-904; *Pearson v. Superior Court* (2012) 202 Cal.App.4th 1333, 1337; *Espericueta v. Shewry* (2008) 164 Cal.App.4th 615, 627. This is similar to the "ballpark" test for good faith settlements. Given that the minor did not sustain any treatable injuries and has fully recovered from this dog incident, this Court is convinced that the settlement amount of \$45,000 is well within the range of reasonable. Finally, trial courts are obliged to scrutinize requests for fees and costs. Because the petition is being run by insurance defense counsel, there are no fees or costs being sought. The petition will be granted once a new release is signed/submitted and bio mom confirms which bank the money will be deposited into. Since the parents are still fighting over custody (see FL18649), the bank will need to have a physical branch here locally just in case.

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8. **In re Edison Trust (PR12616).** This is the continued hearing on a petition to declare certain real property an asset of a trust. Under normal circumstances, a request of this nature would be relatively simple, and governed almost exclusively by caselaw. See, e.g., *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. As noted previously, the trust instrument at issue here “shall be construed and governed in all respects by the laws of the Commonwealth of Virginia.” See Art. XV. The *Heggstad* rule is followed in other states, but not all. Petitioner was invited at the last hearing to supply this Court with points and authorities addressing the issue of whether post-mortem funding of a trust would be permissible in Virginia, or to pivot and run a §§ 15403/15409 petition instead. A review of the court file reveals no movement either way. If nothing is filed, and no appearance is made, the petition will simply be denied without prejudice – and counsel can have all the time needed to decide the next steps without the pressure of repeat review hearings. As a famous philosopher once said, *easy breezy, lemon squeezy*.

10:00 a.m.

9. **Conservatorship of Reel (PR11804).** No appearance is necessary. This Court, having received and reviewed the confidential investigative report, intends to find by clear and convincing evidence that the conservatee still meets the statutory requirements for a general conservatorship of the person and estate, that a general conservatorship continues to be the least restrictive alternative for this individual, and that the conservators continue to serve the conservatee's best interests. The court does question whether this individual can be evaluated for a limited conservatorship given his development and level of independence. Either way, court to set annual review date.
10. **Conservatorship of Hoskins (PR11904).** No appearance is necessary. This Court, having received and reviewed the confidential investigative report, intends to find by clear and convincing evidence that the conservatee still meets the statutory requirements for a general conservatorship of the person, that a general conservatorship of the person continues to be the least restrictive option for this individual, and that the conservators continue to serve the conservatee's best interests. Court intends to set annual review date.
11. **Conservatorship of Mathis (PR11891).** Before the Court this day is the continued hearing on the annual review for this conservatorship. Both this Court and the court's investigator have recently opined that the conservatee has acquired sufficient independence to be evaluated for a limited conservatorship. Assuming no objection from the conservators, this

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Court intends to seek an evaluation from VMRC and elicit proposed authority carve-outs from the conservators should a change in the conservatorship occur. Although a promotion does not mandate the appointment of counsel under §1471, the Court will consider a discretionary appointment under §1470 if the parties believe doing so would be helpful to the resolution of the matter or is necessary to protect the conservatee's interests.

12. **Guardianship of Wondra (PR12399).** 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 guardians continue to do the best they can – although the ward's grades and school behavior rank near the very worst this Court has seen in some time.
13. **Guardianship of Clement (PR11515).** Pursuant to Probate Code §2620(a), "at the expiration of one year from the time of appointment and thereafter not less frequently than biennially, unless otherwise ordered by the court to be more frequent, the guardian shall present the accounting of the assets of the estate of the ward to the court for settlement and allowance." On 04/26/2024, this Court approved the guardians' 6th accounting and scheduled a review of the 7th accounting for February of this year. The guardians missed the accounting and that hearing, prompting a continued setting of the hearing. To date, no accounting appears in the court file, despite a reminder notice from the Court on 05/08/2025. Guardians are reminded that failure to file an accounting may result in monetary sanctions, a contempt citation, suspension of powers, or outright removal as guardian. See §2620.2.
14. **Claim of TS (PR12600).** Repeated in error.

1:30 p.m.

15. **Marriage of Madewell (FL16357).** Trial Phase 3, day 2.