

Department 5 Probate Notes for Friday, June 27, 2025

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8:30 a.m.

1. **Estate of Nies (PR12559).** No appearance is necessary. Before the Court this day is the §8800 review hearing, which will not be needed as petitioner has already complied by filing a final I&A.
2. **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 039010-032-000 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 have yet to establish that the property is still property of the decedent.
3. **Estate of Durbin (PR12647).** No appearance is necessary. Before the Court this day is a petition to admit a self-proving will to probate, and to appoint the nominated executor to serve as decedent's personal representative without bond. Notice to interested parties and the public has been provided as required by law, and the balance of the petition comports with the requirements for probate. Court intends to issue the Order/Letters and to set §§ 8800 and 12200 review dates.
4. **Estate of Bettridge (PR12404).** Before the Court this day is a petition for the termination of further proceedings and for discharge of the personal representative. Pursuant to Probate Code §12251(a), this petition "shall state the facts" sufficient to allow this Court to find them to be true. There is no sworn statement of facts accompanying this petition, only a pleading signed by counsel stating "petitioner determined that there are no assets in the estate." See Para 3. Since petitioner is the same individual who stated, under penalty of perjury on 02/02/2024, that the estate had a net value in excess of \$1.2M, this Court will require something more than what was provided for a discharge.

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5. **Estate of Conley (PR12563).** No appearance is necessary. Before the Court this day is the §8800 review hearing, which will not be needed as petitioner has already complied by filing a final I&A.
6. **Estate of Correa (PR12097).** This Court previously, and to some degree begrudgingly, authorized the administrator to complete an insider sale of decedent's residence upon terms and conditions which this Court understood were essentially completed, and which this Court understood would be finalized in due course. Soon thereafter this Court was informed that Gary assigned his interest to Probate Advance, suggesting to this Court that (1) the sale did not close and (2) perhaps Gary thought it never would. Counsel for petitioner gave this Court assurances that the sale was indeed proceeding along, belying the concerns this Court assumed Gary had. Now, it seems that Gary has rescinded his assignment to Probate Advance, perhaps deciding that gifting away 50% of his inheritance was indeed short-sighted. This Court ordered reports from both the listing and escrow agents in advance of this hearing to have a reliable sense of what was happening with the sale, but so far the court file is notably bare.
7. **Estate of DesGeorges (PR12566).** No appearance is necessary. Before the Court this day is the §8800 review hearing, which will not be needed as petitioner has already complied by filing a final I&A.
8. **Estate of Garrett (PR12432).** No appearance is necessary. The Court, having received and reviewed the TUO-PR-125 with attachment, intends to find by a preponderance of the evidence that good cause exists to extend the period of administration for this probate estate an additional 90 days, and to set a §12200 review hearing for 10/03/2025 @ 8:30 a.m.
9. **Estate of Larson (PR12422).** Before the Court this day is a petition for final distribution and approval of accounting fees and costs. The Notice of Hearing filed 06/09/2025 reflects timely notice to all interested parties, despite contentions to the contrary made at previous hearings. There were no creditor, administrative, or regulatory claims asserted against the estate. The inventoried and appraised size of the estate is \$448,642.23. Petitioner and counsel both seek statutory fees based on that base, with legal fees being split equally between the two law firms. In terms of the administrative expenses, there appear to be a few duplicates (filing fee, publication, certified letters), and it would be anomalous to reimburse petitioner 100% of costs advanced for the upkeep of the property since she intends to own 40% of the residence. Since Karl gave an assignment to petitioner with no explanation (which this Court is permitted to explore under §11604(b)), it seems that rather than engage in complex mathematics regarding the 40%, it would be most equitable for petitioner to waive her statutory fee, enrich all heirs equally, and proceed accordingly.

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10. **Estate of Nichols (PR12411).** Trial setting. 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 be part of the Leslie Nichols Trust. This being a probate petition, the parties are entitled to discovery if needed. §17201. 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 now that a response is on file, the parties are presumable in a position to advise whether this can be resolved as a summary proceeding using briefing, declarations, and argument (§437c, 1010, 1005 et seq, CRC 3.1306), 1022, 1046 and 9620, or if live witness testimony will be needed.
11. **Estate of Jenkins-Bushart (PR12455).** No appearance is necessary. Before the Court this day is the §12200 review hearing, which will not be needed as petitioner has already complied by filing a petition for final distribution.
12. **Marriage of Gates (FL18346).** Review hearing re mediation, in-chambers interview with child, and mother's recent OSC filing re support.
13. **In re Hardin Trust (PR12351).** Court file includes no updated report from receiver or trustees/objectors. What is left of this administration?
14. **In re Swasay 2016 Trust (PR12622).** Taking the operative pleading at face value, this promises to be a complex action involving claims of financial elder abuse, improper disinheritance, and a myriad of alleged transgressions by family members culminating in the ultimate theft of a family member's estate. The action could have been commenced in either the civil (D.1) or probate (D.5) departments here. Either way, the action has been here for three months with no service yet on the defendants/respondents. Additional time was granted for service to occur, but a review of the court file reveals no progress to date. Counsel to advise.
15. **Estate of Nicholls (PR12016).** No appearance is necessary. The Court, having received and reviewed the status report, intends to find by a preponderance of the evidence that good cause exists to extend the period of administration for this probate estate an additional 90 days, and to set a §12200 review hearing for 10/03/2025 @ 8:30 a.m.

10:00 a.m.

16. **Guardianship of McLeod (PR10676).** This is an annual guardianship review. Pursuant to Probate Code §1513.2(a), every year the guardian(s) shall complete and return to the court a status report (GC-251). The court clerk is required to provide a reminder to the guardian(s),

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along with a blank GC-251, which did occur herein on 04/18/2025. Based on the nature of the proceedings to date, this Court assumes that the guardianship is still needed, warranted and desired. Thus, the guardianship may be temporary carried over until a report and order are completed. Guardians to advise as to the status.

17. **Conservatorship of Stone (PR7726).** Counsel was appointed for the conservatee to address perceived anomalies with the accounting. The Court appreciates the detail provided in this accounting, and understands the unique circumstances present. Given that bonded/insured professionals handle most of the financial decision-making and those fees are not small if the conservators agreed to take as their stipend only the net profit each year (which appears to be fairly close to the current monthly amounts), that might eliminate the need for the \$2,500/yr bond premium and might also reduce the need for a formal accounting in favor of a simplified version. Since the conservators are already getting \$5,000/yr from coownership, it seems that the monthly fees are getting high. Most parents are not getting paid to care for a child. Since the annuities are no longer paying out, the monthly fee is hard to justify. The legal fees are, however, approved as is. The fees for conservatee's counsel will be allocated to either the conservatee or the conservators, depending on the audit.
18. **Conservatorship of Wine (PR12276).** Review hearing to confirm that parental visits are going well.
19. **Guardianship of Cuneo (PR12649).** This is the initial hearing on a petition to establish a guardianship over the estate of a minor (AC) set to inherit from an individual (possibly uncle) as a result of a probate action venued in Calaveras County. An investigation is required (§1513(a)), including a determination as to petitioner's qualifications to serve in this capacity (§2650) and any potential conflicts with the joint custody requirements set forth in FL16278. Is co-guardianship or a blocked account an option?
20. **Guardianship of Meek (PR11073).** Related to #24. This is the continued hearing on bio mom's petition to terminate the guardianship over her three children. Per the last investigative report, bio mom must still complete various programs and demonstrate appropriate stability and fitness. Parties update Court on mother's progress.
21. **Guardianship of Garcia (PR11487).** This is an annual guardianship review. Pursuant to Probate Code §1513.2(a), every year the guardian(s) shall complete and return to the court a status report (GC-251). The court clerk is required to provide a reminder to the guardian(s), along with a blank GC-251, which did occur herein on 04/18/2025. Based on the nature of the proceedings to date, this Court assumes that the guardianship is still needed, warranted

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and desired. Thus, the guardianship may be temporary carried over until a report and order are completed. Guardians to advise as to the status.

22. **Guardianship of Smith (PR12161).** Before the Court this day is the continued hearing on a petition by the biological father for parentage visitation. According to the FL-300 and opposing declaration, bio dad had been absent from the ward's life for a number of years but has made some effort in the past 12 months to reunify after serving time. The court investigator has provided an overview of the father's history, sufficient to understand the basis for the absence. A supervised visitation provider has supplied a declaration, and father has supplied character statements and evidence of employment and stable housing. Workshops and mediation were previously waived due to the apparent impasse, but perhaps it might be worth revisiting. Also, while there is no direct suggestion of the same in the papers before this Court, to the extent the guardians are concerned about father's apparent history with alcohol or substances, supervision plus Family Code §3041.5 could provide sufficient safeguards in the short run. Parties to report whether co-therapy sessions occurred. Parties to advise whether minor's counsel is warranted.
23. **Guardianship of Webb (PR11467).** This is an annual guardianship review. Pursuant to Probate Code §1513.2(a), every year the guardian(s) shall complete and return to the court a status report (GC-251). The court clerk is required to provide a reminder to the guardian(s), along with a blank GC-251, which did occur herein on 04/18/2025. Based on the nature of the proceedings to date, this Court assumes that the guardianship is still needed, warranted and desired. Thus, the guardianship may be temporary carried over until a report and order are completed. Guardian to advise as to the status.
24. **Guardianship of Jones (PR12098).** See #20.
25. **Guardianship of Clement (PR11515).** No appearance is necessary. This Court, having received and reviewed the 7th accounting, intends to approve the accounting in full and appreciates the advance notice provided by the guardian regarding the unusual expenditures set forth therein. The proposed order will be signed and an annual review hearing will be set in an effort to reduce the number of accountings remaining in this guardianship.
26. **Guardianship of Robertson (PR11282).** This is an annual guardianship review. Pursuant to Probate Code §1513.2(a), every year the guardian shall complete and return to the court a status report (GC-251). The court clerk is required to provide a reminder to the guardian, along with a blank GC-251, which did occur herein on 03/25/2025. Based on prior reporting, it does appear that the guardianship remains necessary/convenient, and may be temporary carried over until a report and order are completed. Guardian to advise.

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27. **Guardianship of Lima (PR12496).** Trial setting. This case is related to FL16854 (family) and FL18454 (child support). Bio dad has sole legal and physical. Bio mom had alternate weekends but those were suspended following positive test. Maternal grandmother filed for guardianship based on allegations of bio dad's unfitness and preferences of children to be in bio mom's care. No guardianship has been established as petitioner had yet to demonstrate best interests by clear and convincing evidence. Minor's counsel (NN) has been appointed for the proposed wards. Petitioner and bio dad agreed to scheduled visits for petitioner in the interim. Petitioner now alleges a new round of concerns. Court investigator to be re-dispatched, with possible referral to CWS.
28. **Guardianship of Cox (PR12392).** Inquiry whether a guardianship of the estate remains necessary or if the funds in the blocked account can remain there without access until the ward reached the age of 18. If the former, a permanent guardianship will need to be established, with annual reporting/accounting. Temporary letters expire 7/11/2025. The matter will be continued for Guardian to appear and determine if a permanent guardianship of the estate needs to be established.
29. **Claim of TS (PR12600).** 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

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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.

30. **CR v. BF (FL18907).** Confidential proceeding to determine parentage and set aside VDOP; awaiting test results.

1:30 p.m.

31. **Lee v. Musumeci (FL18823).** Trial, Day 2 (if needed).
32. **Petition of RT (CV67151).** Nonconfidential petition to change last name of minor child; no proof of publication; no consent from, or direct notice to, bio father. See CCP §1277(a)(4). No proffer as to best interests. CCP §1278.5