

Department 5 Probate Notes for Friday, July 26, 2024

Probate Notes are not tentative rulings. Parties and counsel are still expected to appear for the hearings unless the Probate Note specifies otherwise. Unless indicated otherwise, all parties and counsel are authorized to appear via Zoom using this link: <https://tuolumne-courts-ca-gov.zoomgov.com/j/1615813960?pwd=NTRMT0NwMDg5cnlYdzZ6VnBXWWFsUT09>. [Meeting ID: 161 581 3960; Passcode: 123456]. All matters set for hearing in Department 5 are presumptively assigned to that department for all purposes. Parties retain the right under Cal. Const. art VI §21 to decline consent to the Commissioner serving as a Judge Pro Tem by so stating clearly at the outset of the first hearing in the case. By participating in the hearing, or electing not to attend after due notice thereof, parties are deemed to have stipulated to the Commissioner serving as a Judge Pro Tem for the entirety of the case. See CRC 2.816.

8:30 a.m.

1. **Estate of Antonich (PR12155).** No appearance is necessary. The supplemental declarations provided by the next of kin satisfies this Court's previous concerns. Court intends to grant the petition and enter the order thereon.
2. **Estate of Babbitt (PR12375).** No appearance is necessary. The report filed 07/18/24 *appears* to resolve the creditor claims filed 03/13/24 and 05/14/24, at least to the extent that no further hearing is required at this time. The claimants' right to object to the Final I&A and any petition for accounting/distribution is expressly reserved.
3. **Estate of Meadows (PR12485).** No appearance is necessary. The Court, having reviewed the petition for probate and letters testamentary finds by a preponderance of the evidence that the will is valid/authentic, that petitioner has the superior right to seek appointment as personal representative, that testator waived the bond requirement, and that notice (direct and general) has been provided. Court intends to grant the petition, enter the order, issue the Letters, and set §§ 8800, 12200 dates.
4. **Guardianship of Hernandez (PR12472).** This is a petition by the paternal grandmother to establish a guardianship over a 14 yr-old girl. There is no consent from bio mom or maternal grandmother, both of whom filed objections. Bio dad lives with guardian and consents. This proceeding is related to FL10822, wherein the Court removed the proposed ward from the care of both parents and made a non-probate family placement with petitioner herein. Although the family court did not make express findings under Family Code §3041, many of the required findings have been made inferentially. Nevertheless, the objectors are entitled to a hearing herein. Bio mom apparently awarded custody in FL10822, but "subject to" PR12472. Bio dad is entitled to §3044 rebuttal hearing. Court intends to appoint counsel and interview ward.
5. **Marriage of Hernandez (FL10822).** On 06/21/24, Mother filed RFO seeking order that child reside with maternal grandfather during summer, and attend boarding school thereafter. Court needs FL-320, workshops and mediation.
6. **In re Riley Family Trust (PR11848).** Court remains ready, willing and able should counsel wish to comply with previous orders to submit a proposed order to complete this trust administration. If no appearance (or explanation) should be forthcoming, this Court may elect to dismiss the matter.
7. **In re Farren Living Trust (PR12110).** Review hearing to determine final accounting of assets, satisfaction of the sanction award of \$552.00, and a step-up plan toward resolution of this trust dispute.

10:00 a.m.

8. **Guardianship of Millis (PR12440).** This is a single petition by the maternal grandmother for permanent guardianship over two individual wards (siblings, aged 10 and 12). The biological father

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is reportedly deceased. The biological mother has reportedly abandoned the wards with petitioner, but is understood to be incarcerated. There are numerous concerns, most notably petitioner's confession that she "would prefer to have the boys with their mother" if she can course-correct. Court appointed an investigator, but the report is not available for review. There is a question of native American ancestry. Court may consider interviewing the wards to determine what is in their best interests. Court intends to maintain temporary guardianship (assuming no tribe objection) and revisit upon bio mom's release.

9. **Guardianship of Hartzell (PR11369).** This is a long-term guardianship of three minors being cared for by an elderly family member. Although this is set for annual reviews, this Court has not heard from the guardian since 12/01/22. Most recently, the guardian complied with her reporting obligation, and appeared in court with the biological father – who requested that the guardianship remain in place. Bio mom has pending motion to terminate guardianship, triggering right to minor's counsel. What is current Family Safety Plan?
10. **Guardianship of Garner (PR12361).** This is a newly-established temporary guardianship, the product of herculean efforts made by the paternal grandparents to liberate the minor child from a sporadic and unsettled life "on the run" with her biological mother and half-siblings. In conjunction with a hearing on the permanence of said guardianship, there is pending a petition to terminate the guardianship filed by the biological father – who was just released from prison (following his failure to comply with a simple obligation to stay at home and not get into bar fights). The bio mom appeared at the recent hearing to state her objection to the termination of the guardianship, noting that the guardians are better suited to care for the child for the time being. Court intends to provide update to parties regarding child interview in chambers.
11. **In re Pahukoa and DeLeon (FL14495).** Review hearing regarding status of temporary guardianship in Washington.

1:30 p.m.

12. **Petition of Chipponeri (CV66088).** Nonconfidential petition to change last name to conform to legal status for Real ID. Related to FL17624?
13. **Marriage of Pfeiffer (FL18186).** Settlement conference with possible entry of bifurcated or final judgment.
14. **Marriage of VanDenburgh (FL18428).** Review hearing post-mediation and trial setting for RFO filed 05/29/24, if needed.
15. **Petition of Carder (CV66183).** Nonconfidential petition to change last name.