

## Department 5 Probate Notes for Friday, August 22, 2025

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**8:30 a.m.**

1. **Estate of Jardine (PR12679).** This is a petition to administer an intestate estate filed by decedent's sole heir. Although there is an apparent "typo" with the petition (petitioner checked the "special administration" box though it is clear she intended regular administration), that typo is harmless error since publication took place and did not limit notice to special powers. Notice was provided to other kin, and all other aspects of the petition are proper in form and content. In fact, petition has already completed the final I&A. This Court intends to grant the petition, issue Letters, and schedule a §12200 review hearing (only).
2. **Estate of Thomas (PR12469).** This probate action was released into the wild on 03/21/2025. Pursuant to Probate Code §8800, petitioner had four (4) months from then to file a final Inventory & Appraisal. A review of the court file reveals a vacancy where the DE-160 should be. Petitioner to advise.
3. **Estate of Cordero (PR12627).** Related to #4. Before the Court this day is a petition to administer an intestate estate by Michelle's adult brother Joseph. Based on the petition, Michelle left no descendants and is survived only by two siblings - one of whom seeks appointment as a personal representative. Under such circumstances, it is this Court's custom and practice to request nomination papers from the other (James) to avoid challenges down the road. See Probate Code §§ 8461, 8465, 8467. That is particularly apt here where there is only one bond waiver on file and this Court cannot tell if that waiver is from petitioner or the other brother. See Probate Code §8481(a)(2). Attorney Batto and Attorney Dambacher were to have met and conferred to exchange information of assets.
4. **Estate of Elam (PR12629).** Related to #3. This is a petition to admit Michelle's putative will to probate, and for Letters Testamentary with IAEA authority to her nominated executor Danielle. Based on this petition, decedent is survived by two children - one of whom is nominated to serve as executor, and both of whom are devised equal shares of the estate. The will is not self-proving, and would require clear and convincing proof of its authenticity before its admission. The Court previously advised that, as a nonresident personal representative, petitioner would be required to have on file a permanent address statement (§8573). The Court granted special administrative powers just to keep the real property out of default and to avoid loss of the only estate asset. A final I&A has been filed with the Court under the special administrative letters.
5. **Estate of Ward (PR12198).** No appearance is necessary. The Court, having received and reviewed the TUO-PR-125, understands that petitioner is not in a position to take a

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distribution of the distressed property in kind and that the sizable encumbrance renders the estate effectively insolvent. Given counsel's willingness to proceed via §12251 if need be rather than follow a foreclosure sale and seek fees thereafter, this Court is happy to grant the request for an additional six months of administration. Court intends to set another §12200 review hearing for 02/13/2026 at 8:30 a.m.

6. **Estate of Jordan (PR12527).** Before the Court is a petition to approve the plan for final distribution, with a waiver of formal accounting. There was only one asset in the estate: a parcel of real property, which petitioner elected to take in kind. There being no liquidity to this estate, petitioner has reportedly agreed to cover the file costs and statutory fees out of her own pocket. Since the amounts set forth as the statutory fee and costs recoverable are appropriate, this Court intends to enter the requested order on condition that counsel submit a revised order including a precise §11424 notice.
7. **Estate of Wright (PR12675).** This is a probate by-pass petition seeking an order determining intestate succession to decedent's primary residence. The petition is not ready for approval. The petition is devoid of "facts upon which the petitioner bases the allegation that the described real property was the decedent's primary residence." §13152(a)(3). The conclusory *unsworn* reference in the supplement is insufficient. The petition is further devoid of "facts upon which the petitioner bases the allegation that the described property is property passing to the petitioner" (§13152(a)(4)) or that the subject property "is property of the decedent" (§13154(b)(4)), as opposed to property decedent acquired 25 years ago. While a sworn declaration from petition could resolve the first two, some concurrent title search/confirmation will be needed to satisfy the third (current ownership). Court is amenable to a continuance to 10/03/2025 at 8:30 am.
8. **Estate of Meadows (PR12485).** This probate action was released into the wild on 07/26/2024. Pursuant to Probate Code §§ 12200-12201, petitioner had twelve (12) months from then to file a petition for final distribution or a status report explaining the condition of the estate, the reasons why the estate cannot be distributed and closed, and an estimate of the time needed to close administration of the estate. For those needing to file a status report, this Court has created a very fine local form (TUO-PR-125) to ease the effort. A review of the court file reveals a glaring absence of either the final petition or a status report.
9. **Estate of Larson (PR12422).** Court eagerly awaits the in-person arrival of Donna, Nancy and Karl to confirm their voluntary willingness to assign their inheritance to Judy. See §11604. Absent a satisfactory response from all three, this Court intends to enter the order without any assignments and leave beneficiaries to execute post-distribution gifts to one another on their own accord.

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- 10. Estate of Jenkins-Bushart (PR12455).** Before the Court this day is the continued hearing on a petition to allow fees/costs and approve the proposed distribution of a probate estate. Decedent passed away in October of 2023. Based on her cause of death, it seems fortuitous that she prepared – just six months prior – a Last Will & Testament. Although decedent was purportedly survived by a spouse (he died in the interim), one biological child, and three step-children, she left the entirety of her separate property to the Wilma H. Bushart 2017 Trust, and the balance of her estate to the Bushart 2017 Family Trust. The petition and proposed distribution permits the following inferences by deduction: (1) decedent’s biological child Brent left no next of kin; (2) decedent’s other biological child William left three next of kin (Kevin, Kaitlyn, Matthew); and (3) decedent’s step-children Danny, Randy and Debra did not receive any gift from either the Wilma H. Bushart 2017 Trust or the Bushart 2017 Family Trust. The petition cannot be approved yet. First, there is no proof that the subject financial accounts were assets of the decedent, particularly since financial accounts generally have designated beneficiaries other than the settlor of the account. Second, assuming that the accounts did indeed belong to the decedent, and therefore her estate, the order for distribution would only direct the accounts to be delivered to the trustee of the trust receiving the account, which means the account(s) must be characterized as separate property or otherwise. Once petitioner establishes to the Court’s satisfaction which trust the accounts go to, that is what the order for distribution entails. From there, the trustee makes the distribution out of the trust without judicial involvement. If petitioner is asking this Court to sanitize a further distribution out from the trust, a copy of the trust must be provided as part of the petition, and account waivers must be secured from all interested parties, not just decedent’s biological heirs. Petitioner was to have filed a supplement to the petition, but so far nothing is on file.
- 11. In re Patton Family Trust (PR12477).** Related to PR12460. This is a special proceeding to address alleged concerns regarding the existence and scope of competing trust instruments, pitting members of a blended family at odds with one another. An initial *Breslin* mediation took place, without success. A second *Breslin* mediation apparently bore fruit, as a settlement agreement was reached.
- On 04/24/2025, Lorna filed a motion to strike specific provisions from the settlement agreement. Bonnie then filed a petition to enforce the settlement agreement as is, which this Court deemed a partial response to Lorna’s motion to strike. Lorna then withdrew her motion to strike, and filed a separate response/objection to Bonnie’s petition to enforce the settlement. Trial setting will take place 10/03/2025 at 8:30.
  - Lorna has a new attorney. William is still represented by Attorney Stidham, who filed a motion to withdraw. Lorna’s new attorney does not wish to represent William as well, so William will likely be in pro per sometime soon. Lorna’s new attorney

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(Fernandez) suggested that this Court appoint William a GAL, but since William's "understanding" of the settlement is directly at issue herein, this Court will not appoint a GAL *sua sponte* absent a pre-existing conservatorship. Instead, this Court will require a noticed motion from an interested party to make the initial showing that William "lacks legal capacity to make decisions." CCP §§ 372(a)(1), 373(c).

- An attorney may withdraw as counsel of record if the client breaches the agreement to pay fees, insists on pursuing invalid claims or an illegal course of conduct, or when other conduct by the client renders it unreasonably difficult for the attorney to do his job, including when there is a breakdown in the attorney-client relationship. Assuming proper service and notice, relief turns first on whether there are reasonable grounds for granting the request. Courts have a duty of inquiry regarding the grounds for the motion, and are not required to accept at face value vague, unsupported or uncertain representations as to reasons why an attorney wants out. Counsel has a corresponding duty to respond and to describe the general nature of the issue, within the confines of any privilege. The degree of detail is on a sliding scale against counsel's candor and trustworthiness. See *Flake v. Neumiller & Beardslee* (2017) 9 Cal.App.5th 223, 230; *Manfredi & Levine v. Superior Court* (1998) 66 Cal.App.4th 1128, 1134-1136; *Aceves v. Superior Court* (1996) 51 Cal.App.4th 584, 592-593. Separately, courts have a duty to ensure that the client will not suffer prejudice due to the timing of the withdrawal, such as when the unrepresented client would be unable to fairly respond to dispositive motions. See *Mossanen v. Monfared* (2000) 77 Cal.App.4th 1402, 1409. **Here**, the declaration provides no actual facts permitting this Court to conclude that a breakdown in the relationship exists – only counsel bald conclusion that one does. If the issue was a conflict between Lorna and William, that issue has been resolved with Lorna's departure. Providing *facts* does not necessarily infringe upon attorney-client *communications*. The notice is also suspect, as this Court cannot tell what boxes were intended to be checked on the MC-052 (see Para 3.b.). Finally, CRC 3.1362 requires that the MC-053 "must be lodged with the court with the moving papers" but there is no MC-053. A supplement will be required before the motion can be granted. Hearing continued to 10/03/25.

12. **In re Matz Trust (PR12569).** This is a petition involving the validity of a trust, accountings, elder abuse, removal and surcharge - to name a few central concerns. The trustee has since filed a written objection. The parties shall meet and confer and be prepared to advise the Court as to the anticipated scope of discovery needed (§17201.1), whether this dispute can be resolved utilizing the probate summary procedures in lieu of an evidentiary hearing (§§ 1046, 9620, 17206), and if not whether the parties will agree to use verified pleadings, sworn declarations and deposition transcripts (§1022) in lieu of live testimony. Parties had indicated that settlement might be in the works.

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13. **Estate of Mills (PR12599).** This is a petition for special administrative letters, intended solely to correct transfer deeds. As such, the need for a final I&A is purely academic, although a review hearing was scheduled for this purpose. Today is that review hearing, so counsel should be prepared to advise as to the status of this case and what remains of this special administration.
14. **In re Rebero Trust (PR12564).** This is a petition for a trust accounting, to contest the validity of a trust restatement, and to confirm pre-existing iterations of the subject trust from 2011 and 2014. The trustee has responded and objected. Since then, the parties have apparently been working toward a resolution. Parties to advise whether this matter can be resolved using the summary dispute resolution procedures (§§ 1022, 1046, 9620) with ordinary briefing (CCP §§ 437c, 1010, 1005(b), 1005.5, and CRC 3.1306). See *Dunlap v. Mayer* (2021) 63 Cal.App.5th 419, 426. Parties to advise anticipated scope/duration of discovery and when the matter will be ready for trial.

**10:00 a.m.**

15. **Conservatorship of Wright (PR9958).** Although an updated report is expected soon, the Court, having received and reviewed the 2024 investigative report, intends to find by clear and convincing evidence that a conservatorship of the person remains necessary, but that the time has come to start exploring the option of a limited conservatorship given what appears to be a high degree of self-sufficiency and the need to have a succession plan in place given the untimely passing of one of the co-conservators. A VMRC report would be of assistance. Court may need to set review hearing for 60-90 days.
16. **Conservatorship of Vincelet (PR9001).** The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that a limited conservatorship of the person remains necessary, and that the conservator is continuing to serve adequately in that role; however, this Court is concerned that there is no succession plan in place and it does appear from the report that the time has come to start putting a succession plan in place. Are there extended family members available to assist? Court will likely set a review hearing for 60-90 days to assess.
17. **Conservatorship of Thomas (PR11810).** The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that the conservatee continues to meet the statutory requirements for a general conservatorship of the person, that a general conservatorship of the person remains the least restrictive alternative for the



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person's protection, and that the conservators are serving the conservatee's best interests. The Court further intends to find by clear and convincing evidence that the conservatee's condition and circumstances are unlikely to change in any meaningful way in the next 12-18 months, that the State did not allocate additional funding for annual review requirements, and that this case is amenable to biennial reviews. Court will set the next review hearing for 2027, with a reminder to the conservators of their express affirmative obligation to notify the court of any material changes in the interim.

18. **Conservatorship of Poe (PR11956).** The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that the conservatee continues to meet the statutory requirements for a general conservatorship of the person, that a general conservatorship of the person remains the least restrictive alternative for the person's protection, and that the conservators are serving the conservatee's best interests. The Court further intends to find by clear and convincing evidence that the conservatee's condition and circumstances are unlikely to change in any meaningful way in the next 12-18 months, that the State did not allocate additional funding for annual review requirements, and that this case is amenable to biennial reviews. Court will set the next review hearing for 2027, with a reminder to the conservators of their express affirmative obligation to notify the court of any material changes in the interim.
19. **Conservatorship of Dirubio (PR12643).** Before the Court this day is the continued hearing on a petition to accept a transfer in of an existing conservatorship out of Maine, as well as the establishment of a temporary general conservatorship of the person. A transfer shall include "a certified copy" of the other state's provisional transfer order, and must state facts sufficient for this Court to find that the transfer is in the best interests of the conservatee, that the conservator is eligible for appointment, and that the conservatee meets the statutory requirements of this state for a conservatorship. See Probate Code §2002. The court investigator has been appointed. Assuming the transfer is provisionally granted, a full evidentiary hearing must be concluded within 60 days. A transfer and a new petition are distinct and not dependent upon one another. See §2002(k). Assuming the conservator wishes to retain medical decision-making, there must still be a physician's capacity declaration submitted either way. Court has appointed counsel for the conservatee. See §1471(a)(1). Petitioner has secured a local capacity declaration, which enables this Court to proceed as if this were a new petition without the transfer file itself. Awaiting report and biological father consent. Counsel for conservatee to advise whether conservatee objects to proceeding anew without transfer status.
20. **Conservatorship of Schneider (PR8899).** The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that the conservatee

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continues to meet the statutory requirements for a general conservatorship of the person, that a general conservatorship of the person remains the least restrictive alternative for the person's protection, and that the conservators are serving the conservatee's best interests. Court intends to set annual review hearing date.

21. **Conservatorship of Dittman (PR11839).** The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that the conservatee continues to meet the statutory requirements for a general conservatorship of the person, that a general conservatorship of the person remains the least restrictive alternative for the person's protection, and that the conservators are serving the conservatee's best interests. Court intends to set annual review hearing date.
22. **Conservatorship of Moyle-Armbright (PR10119).** The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that the conservatee continues to meet the statutory requirements for a general conservatorship of the person, that a general conservatorship of the person remains the least restrictive alternative for the person's protection, and that the conservator is serving the conservatee's best interests. Court intends to set annual review hearing date.
23. **Conservatorship of Collie (PR10122).** The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that the conservatee continues to meet the statutory requirements for a limited conservatorship of the person, that a limited conservatorship of the person remains the least restrictive alternative for the person's protection, and that the conservators are serving the conservatee's best interests. Although the conservatee and conservators all seem to want a general conservatorship, the Legislature declares that those like the conservatee here are to "receive services resulting in more independent, productive, and normal lives" (§1801(d)), "set goals for increasing the conservatee's functional abilities to whatever extent possible" (§1800(b)), and "allow the conservatee to remain as independent and in the least restrictive setting as possible" (§1800(d)). How can this Court find by clear and convincing evidence that the conservatee "is unable to provide properly for his or her personal needs for physical health, food, clothing, or shelter" when he lives alone and uses the highest-level programming at VMRC? The Court will need a report from VMRC. Court will likely set a review hearing for 60-90 days to assess.
24. **Guardianship of Carvalho (PR11074).** 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.

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25. **Guardianship of Burns-Brown (PR10965).** 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.
26. **Guardianship of Violett (PR12486).** 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 06/03/2025. 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.
27. **Conservatorship of Wolff (PR12655).** This is the "review" hearing on a petition to establish a general conservatorship over the person and estate of Karran Wolff, who presently resides in both Stanislaus and Merced Counties, but most assuredly not in Tuolumne County. Petitioner resides in this county. It is alleged that the proposed conservatee suffers from dementia and is susceptible to financial abuse and undue influence. Objection was filed on behalf of the proposed conservatee (represented by private counsel), and separately by her other biological child. The fact that both children accuse one another of financial mismanagement more likely than not supports a co-conservatorship of the person, and a professional fiduciary as trustee to handle estate matters – not all the power over the person and estate in the hands of one direct beneficiary. Following a colloquy, all parties agreed to permit the action to be refiled in Stanislaus, and to thereafter dismiss the action here. No dismissal is on record yet. Parties to address.

**1:30 p.m.**

28. **Hess v. Bogolea (FL13991).** Trial, Day 2-3.