

Department 5 Probate Notes for Friday, September 5, 2025

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 Voorbij (PR12683).** Before the Court this day is the initial hearing on a probate avoidance by-pass petition to determine spousal succession to real property. The petition is incomplete. It references a written agreement between decedent and petitioner (see Para 8), and states that there are 35 pages attached to the petition. Neither are part of the court record. By-pass petitioner requires proof of a lawful and valid existing marriage, proof that the decedent continues to have an ownership interest in the subject property, and facts demonstrating a lawful basis (statutory, testamentary) for the proposed transfer. Court intends to continue the hearing to 10/10/2025 at 8:30 a.m.
- 2. Estate of DiRubio (PR12673).** This is a petition for Letters of Administration with general IAEA authority. At first blush, the petition appears to be properly noticed and formatted. However, there appears to be a venue concern. Per Probate Code §7501, “if the decedent was domiciled in this state at the time of death, the proper county for proceedings concerning administration of the decedent's estate is the county in which the decedent was domiciled, regardless of where the decedent died.” According to petitioner, decedent was domiciled in Santa Clara County (see Para 3.c.). As such, that appears to be where this petition should have been filed – which happens to be the county where the attorney who filed this petition has his main office. Even if decedent owned property here, venue is here he died if domiciled in California. Compare §7502. Counsel to advise.
- 3. Estate of Belletto (PR12442).** Before the Court this day is the petition to approve fees, costs and the plan for final distribution of this holographic testate estate. A close review of the petition and accompanying documentation confirms for this Court that notice, the simple accounting and summary of costs appears proper with one small exception: the fee basis is overstated by \$10,000. The closing statement from the sale of the real property includes a credit to the seller, which reduces the actual gain on the sale by the credit amount. Counsel shall either recalculate, or secure a waiver from petitioner of the difference.
- 4. Estate of Burman (PR12470).** This probate action was released into the wild on 05/15/2024. 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. Court intends to continue the hearing to 10/31/2025 at 8:30 a.m. and set an OSC re: reduction of statutory fees (§12205) for the same time to ascertain why an estate valued at \$200,000 remains unresolved after this much administrative time.
- 5. In re Berchtold Trust (PR12607).** Court is awaiting report from receiver. Meanwhile, Court received a report from co-trustee seeming to submit a creditor claim against the trust for personal services rendered to the trustor/decedent.

Department 5 Probate Notes for Friday, September 5, 2025

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.

6. **Estate of Thurman (PR12678).** Before the Court this day is the initial hearing on a probate avoidance by-pass petition to determine succession to decedent's primary residence. The Court intends to accept the disclaimer despite the mischaracterization in the petition of the superior heir have "predeceased" the decedent. However, the disclaimer (as opposed to an assignment) begs the question whether decedent had other children, and whether there are others who may be entitled to an intestate interest. Parties to discuss.
7. **Estate of Tufts (PR12671).** This is an ancillary probate petition to secure domiciliary Letters of Administration annexed to a will previously admitted to probate via summary proceeding in Idaho (see CV25-24-0482). Although petitioner herein contends that the proffered instrument would qualify in California as a self-proving will, it is unnecessary for this Court to make that finding since the order admitting the will to probate in Idaho substantially complies with §12522, thereby entitling the will to "automatic" interim admission here. However, despite Marian's obvious priority under §8441, before Marian can be appointed and receive her Letters, there must be actual evidence supporting the contention that Dennis has "declined" to serve as nominated executor here in California (see §8440).

10:00 a.m.

8. **Conservatorship of Casner (PR10398).** This is on for the annual §1850 review. Court must await receipt of the investigative report.
9. **Conservatorship of Zimmer (PR12145).** No appearance is necessary. This Court, having received and reviewed the court investigator's annual report, intends to find by a preponderance of the evidence that the conservatee continues to meet the statutory requirements for a general conservatorship of the person and estate, that a general conservatorship continues to be the least restrictive alternative for the conservatee's protection, and that the conservator is serving the conservatee's best interests. Court further intends to set the matter for an annual review.
10. **Conservatorship of Villasenor (PR9919).** This is a special set hearing (see §1850(b)) to determine the safety of the conservatee's current housing shortage (see §2352.5). Court investigator to report on any concerns regarding current conditions. Court intends to require a GC-355, GC-356 care plan from conservator (see §2351.2(b)) in the next 30 days.
11. **Conservatorship of Burk (PR11964).** This is on for the annual §1850 review. Court must await receipt of the investigative report.
12. **Guardianship of Ashlock (PR10926).** 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 for mid-March for termination.

Department 5 Probate Notes for Friday, September 5, 2025

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=NTRMT0NwMDg5cmlYdzZ6VnBXWWFsUT09>. [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.

13. **Guardianship of Marton (PR11333).** 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 serve the ward's best interests. Court intends to set for annual review.
14. **Guardianship of Abram (PR12633).** This is a transfer in case, awaiting court investigator report and CG-251.
15. **Guardianship of Hartzell (PR11369).** This is the further hearing on a petition to re-establish a guardianship over three children who were just recently emancipated from a guardianship with their maternal grandmother, who recently passed away. Their biological mother presented well-enough to the guardian, the wards, minor's counsel, the court investigator and this Court to convince everyone that returning the children to her care was a safe choice. We were all duped. Thankfully, a maternal aunt has surfaced and has agreed to take over the duties of guardian for these children. A temporary guardianship has been established. Court is awaiting consent from bio mom and a further report from the investigator.
16. **Guardianship of Cassettari (PR11440).** 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 for annual review.
17. **Guardianship of Sanchez (PR11572).** The Court, having received and reviewed the GC-251 with attachments, notes that the guardian does not indicate whether there is still a need for any guardianship. The ward does not reside with the guardian, and will be aging out of the guardianship in seven months. It is unclear to this Court what adult is presently responsible for this minor, though it appears to be an individual by the name of Crystal Sanchez out of Copperopolis. Given the proximity to its natural termination date, this Court will permit the guardianship to end by natural causes, and will set a review/terminate date in early April of 2026.
18. **Guardianship of Anderson (PR12690).** This is the initial hearing on a petition by the aunt of a child (age 12) to establish both a temporary and a permanent guardianship based upon allegations that both parents are presently unfit. The petition itself is incomplete, as there is no nomination form, no consent form, no UCCJEA declaration, and no GC-210(CA) attachment. Petitioner alluded to recent CWS involvement. There are related matters: JV7685, FL12701, FL14643. Father just secured via TECO a hearing in the family case with travel restrictions and an order requiring proof of enrollment in school. Court investigator already appointed.
19. **Guardianship of Madden (PR11827).** 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 for annual review.

Department 5 Probate Notes for Friday, September 5, 2025

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.

1:30 p.m.

20. **Petition of Hacket (CV67030).** Nonconfidential petition to change last name. Awaiting proof of publication. Voir dire needed.
21. **Petition of O.O. (PR12585). Confidential Hearing.**
- §8103(f)(1)(A): “A person who has been taken into custody, assessed, and admitted to a designated facility because that person is a danger to themselves or others shall not possess or attempt to possess a firearm, deadly weapon, or ammunition for a period of **five years** after the person is released from the facility.”
 - §8103(f)(1)(B): “A person who has been taken into custody, assessed, and admitted one or more times within a period of one year shall not possess or attempt to possess a firearm for the **remainder of their life.**”
 - §8103(f)(3): “The facility shall provide the person with a copy of the most recent “Patient Notification of Firearm Prohibition and Right to Hearing Form” prescribed by the DOJ. The form shall include information regarding how the person was referred to the facility. The form shall include an authorization for the release of the person's mental health records, upon request, to the appropriate court, solely for use in the hearing.”
 - §8103(f)(5), (6), (10): “The people of the State of California shall be the plaintiff in the proceeding. Within seven days after the request for a hearing, the DOJ shall file copies of the reports with the superior court. The DA may notify the county behavioral health director of the hearing who shall provide information about the detention of the person and shall file that information with the superior court. Declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code shall be admissible at the hearing. The people shall bear the burden of showing by a preponderance of the evidence that the person **would not be likely** to use a firearm, deadly weapon, or ammunition in a safe and lawful manner.”
 - §8103(g)(1), (4): “A person who has been certified for intensive treatment (5250) shall not possess or attempt to possess a firearm, deadly weapon, or ammunition for a period of five years. The people of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. If the court finds by a preponderance of the evidence that the person **would be likely** to use a firearm, deadly weapon, or ammunition in a safe and lawful manner, the court may order that the person may possess a firearm, deadly weapon, or ammunition.”

See *People v. Mary H.* (2016) 5 Cal.App.5th 246, 262-263 [overdose, depression, and desire to harm oneself sufficient to deny petition for relief from firearm prohibition]; in accord, *City of San Diego v. Boggess* (2013) 216 Cal.App.4th 1494, 1501-1502 [depressive disorder with “emerging stresses, some limited coping skills, a fairly distant support system, and impaired insight” sufficient to deny petition]; *People v. Jason K.* (2010) 188 Cal.App.4th 1545, 1549–1550 [single episode of sincere threat to commit suicide sufficient to deny petition]; *People v. Keil* (2008) 161 Cal.App.4th 34, 38 [depression and suicide ideation sufficient to deny petition].