

## Department 5 Probate Notes for Friday, October 3, 2025

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### 8:30 a.m.

- 1. Conservatorship of Kuffler (PR12289).** This is a limited conservatorship of the estate of a missing adult male with presumed cognitive impairments impacting his ability to manage his financial affairs or resist undue influence. The conservatorship was established without notice to the conservatee, despite this Court's extensive efforts to locate the conservatee. The petition was ultimately allowed because there was no known opposition and because its sole limited purpose was to safeguard a monetary settlement reportedly brokered on his behalf in a related personal injury lawsuit (CV64893). The conservator was empowered to negotiate whatever documents were needed to consummate that settlement, and protect those funds. Over the past 18 months, it has come to light that no settlement in fact took place (see Minute Order dtd 06/13/25), and that the conservatee's attorney will either need to litigate that claim against a backdrop of serious discovery sanctions, or allow that claim to disintegrate. Either way, the express purpose behind this limited conservatorship of the estate has failed, and the conservator has not filed a supplemental petition seeking authority to pursue the civil litigation further on behalf of the conservatee. In fact, there has been no effort made in the civil action to augment plaintiff's status with either the conservator or a guardian ad litem – further suggesting that this particular conservatorship is now pretextual. Absent a bona fide proffer, this Court intends to find no good cause for the continuation of this conservatorship and will enter an order terminating the conservatorship forthwith.
- 2. Estate of Castanon (PR12635).** Before the Court this day was to be the continued hearing on a probate avoidance by-pass petition to determine testate succession to real property. Since its inception, petitioner has retained counsel, and now believes that the will is not entitled to admission to probate. As such, petitioner has elected to proceed with the same probate avoidance by-pass petition, but this time relying on the rules of intestacy succession to real property. Petitioner has now supplied sufficient evidence from which to conclude by a preponderance of the evidence that the subject property was the decedent primary residence and that it has remained in her estate up to the time of this petition. Petitioner still must confirm that Habitat For Humanity does not retain any residual ownership interest, which is best established with a preliminary title report from any reasonable time period. As for standing, although the Court has not yet received consents from the heirs as to who should serve as the personal representative, it appears clear to this Court that notice to the others, followed by silence, is a tacit confession by the others that the petitioner – the only one working to make this transfer a reality – should be appointed to serve in that capacity. All that remains then is the proposed order to all three siblings, which the law would presume to be as tenants in common, though a strong argument can be made that under the circumstances the decedent would have intended a joint tenancy with right of survivorship. Parties to discuss.
- 3. Estate of Titchenal (PR12614).** No appearance is necessary. This is the §8800 review hearing to confirm compliance with submission of a final I&A, which has indeed occurred.

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4. **Estate of Spraggins (PR12680).** No appearance is necessary. This is a petition for letters filed by an individual seeking full IAEA authority to administer his father's intestate estate. All forms of notice have been completed, and any required waivers have been supplied. Jurisdiction and venue are confirmed. Court intends to grant the petition, issue the letters, and set §§ 8800/12200 review dates.
5. **Estate of DiRubio (PR12673).** No appearance is necessary. Based on counsel's declaration, this Court finds good cause to accept the Request for Dismissal and order that it be filed immediately. In addition, this Court accepts counsel's mea culpa and, to the extent this Court has the authority to do so, authorizes the clerk's office to refund counsel's original filing fee. To the extent additional paperwork is required, that is a matter between counsel and the clerk's office to deal with. The case shall be dismissed without prejudice and any future dates vacated.
6. **Estate of Areias (PR12478).** No appearance is necessary. This is the §12200 review hearing, but a petition for final distribution is on file and set for hearing later this month.
7. **Estate of Higgins (PR12328).** No appearance is necessary. The Court, having received and reviewed petitioner's TUO-PR-125, finds good cause to extend the period of administration for 60 days and will continue the §12200 review hearing to 12/05/2025 at 8:30 a.m. Counsel may use this date for the final petition if it is timely filed prior thereto.
8. **Estate of Light (PR12495).** No appearance is necessary. This was to be the §12200 review hearing, but the final petition was already approved so this should have been taken off calendar.
9. **Estate of Nichols (PR12411).** No appearance is necessary. This is the §8800 review hearing to confirm compliance with submission of a final I&A, which has indeed occurred.
10. **Estate of Jenkins-Bushart (PR12455).** No appearance is necessary. Petitioner has submitted sufficient information to satisfy this Court's previous concern regarding the characterization of the two financial accounts being the separate property of the decedent. As such, the proposal to distribute those financial accounts to the acting trustee of the Wilma H. Bushart 2017 Trust will be approved. The petition filed 06/16/2025 does not include any request for statutory or extraordinary legal fees, and there is no CRC 7.702 declaration from counsel explaining her stand-alone request for \$2,500 (although this Court has no doubt she earned that fee). Since the trust beneficiaries have already waived accountings and objection to the existing petition, this Court proposes that the path of least resistance going forward would be for counsel to submit her billing to the trustee of the Wilma H. Bushart 2017 Trust, which is soon to be quite well-funded as a direct result of her legal services. An amended proposed order for distribution in this case to the trustee, with only that and the omnibus verbiage, will be required. If one is not received, this Court can mark up the proposed order in its file.

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**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 was successful ... perhaps.

- 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 today.
- 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 (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).
- Attorney Stidham may withdraw as counsel of record for William if proper grounds are shown. 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. This was to have been resolved before today's hearing.

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- 12. In re Leffingwell Trust (PR12677).** Before the Court this day is the continued hearing on a petition to declare one real property in Jamestown, and four financial accounts at Bank of America, assets of decedent's inter vivos trust established in 2017. A trial court may make a transfer of assets into a trust pursuant to §856 if (1) the settlor presently owns the asset(s) in question, (2) the settlor created a trust with herself as trustor, and there exists sufficient evidence to find by a preponderance of the evidence that the settlor (3) intended said property to be held in that trust and (4) failed to make the transfer by mistake, surprise, excusable neglect or innocent omission. 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. Since there is often little objection to a Heggstad petition, the quantum of evidence needed to prevail on an unopposed petition is said to be "fairly light" and "just enough to do equity."

In January of 2017, decedent created an estate plan consisting of three instruments: a Last Will & Testament; an Assignment (which she called a Comprehensive Transfer Document); and a Declaration of Trust. She directed via the Will that "all of the rest, residue and remainder of my estate owned by me at the time of my death ... be added to the assets held in" her inter vivos trust. See Third Recital. She further declared via Assignment that she "will hold, solely and exclusively for and on behalf of such trust, any and all properties of all kinds, whether presently owned or hereafter acquired (regardless of the names by which acquired) including, without limitation bank accounts [and] real estate. All such property is hereby transferred to and the same shall be owned by such trust." Finally, within the Trust itself, she declared her intention to "hold, solely and exclusively for and on behalf of such trust, any and all properties of all kinds, whether presently owned or hereafter acquired, including bank accounts [and] real estate wherever located ... this declaration shall apply even though record ownership or title, in some instances, may, presently or in the future, be registered in my individual name, in which event such record ownership shall hereafter be deemed held in trust." See Art. III.A.

There is no question that elements (2) and (3) have been met. As for the bank accounts, the statements are contemporaneous enough to satisfy element (1). As for the real property, additional information will be needed to prove element (1). As to element (4), this Court would consider proof that she placed other real properties within the trust as proof of her forgetfulness vis-à-vis the real property, or some evidence from one of her kids attesting to the fact that decedent mentioned a plan to transfer the property and forgot. This is needed because decedent had a curious phrase in her Trust at Art III.(A), to wit: "I will execute and deliver all deeds [etc] necessary to convey and register all of my assets that I choose to place in trust under this trust to be owned by the trustee(s)," meaning she left room for the possibility that she made an election not to put this in trust on purpose. As for the bank accounts, petitioner will need to provide evidence that the accounts did not have POD or designated beneficiaries attached to the accounts before they can be assigned to the trust. Court intends to continue, and petitioner presumably requires more time to gather the necessary documentation.

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13. **In re Sagaser Trust (PR12667).** This is the continued hearing on a trust petition seeking a formal accounting, an inventory of trust assets, and “instructions” regarding the manner in which assets believed to be held in trust should be distributed (or clawed back if need be). There is a defect regarding notice to the trustee. Probate Code §1215(a) demands that delivery of notice by mail is to be via first-class, which “includes certified, registered, and express mail.” Moreover, the mail is to be directed “to the person at the person's place of business or place of residence.” Notice to Matthew – the successor trustee and the one to whom the alleged wrongdoing is directed – was notified via mail directed to a Post Office Box, which is generally frowned upon for new court actions. See CCP §415.20. Proof of notice is not yet to this Court’s satisfaction. Probate Code §§ 1202, 1260. Should Matthew nevertheless appear, he will be entitled to lodge his response/objections or seek a continuance at that time. See Probate Code §1043.
14. **Estate of Nicholls (PR12016).** This administration was released into the wild on 01/14/2022. At the time, it was postured as a “medium” intestate estate to be split evenly between decedent’s two adult children: Christina and Brenton. A dispute with their uncles came to light when Christina and Brenton inventoried in their father’s estate his unique ownership interest in APN 058-080-009-520 (the house he built) and APN 058-080-009 (the 164 acre parcel he built it on). The uncles do not dispute that decedent had a 1/3 interest in the whole of APN 058-080-009, but they contend that because he constructed what amounts to a fixture upon the family ranch, he did not acquire a separate interest in the house and the .75-acre beneath it – even though the local accessor’s office went through the trouble of assigning it a unique APN 058-080-009-520 so as to ensure that only decedent would be burdened by the additional taxes triggered by that improvement. By early 2024, the dispute was resolved and the parties agreed to a lot line adjustment. As a courtesy, this Court agreed to await the completion of that process even though it was technically not a requirement since the distribution order from this Court would simply be a directive to the personal representative to distribute to the beneficiary the cash and the real property – which already has an APN (unless that is changing). Surely the final petition can be completed and an order put in place? Counsel to advise.

Ex Parte Add-On:

**In re Decedent’s Fund Trust (PR12705).** This is an emergency ex parte application to fill a vacancy left in the office of trustee since at least 2023. The petition is ambiguous in that it describes the urgency as a real estate transaction set to close on 09/30/2025, which begs the question how the transaction came to form in the first place without a trustee in place. Nevertheless, the law provides that “if the trust instrument names the person to fill the vacancy, the vacancy shall be filled as provided in the trust instrument.” Probate Code §15660(b). The instrument named two individuals, both of whom have passed, and Bank of America – which counsel states has indirectly declined to serve. Under the circumstances presented here, this Court will accept counsel’s representation that the declination from Wells Fargo is the functional equivalent. That leaves no designated successor,

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which means that “on petition of any interested person, the court may, in its discretion, appoint a trustee to fill the vacancy.” §15660(d). The term “interested person” is defined as “any other person having a property right in or claim against a trust estate” and “shall be determined according to the particular purposes of, and matter involved in, any proceeding.” Probate Code §48. In other words, the person(s) with the most skin in the game. If there is a tie amongst interested persons, “the court may, in its discretion, appoint the original number or any lesser number of trustees.” §15660(d). In this instance, the settlors intended to have John serve as sole successor trustee, and then for Joyce to serve as sole successor trustee, and then for Bank of America to do the same. See Second Amendment Para 9. The settlors did not envision a world in which their trust would be managed by a “team” of administrators, and this Court sees no reason to appoint all four petitioners to serve in that role – especially where one lives in Florida and another lives in Southern California. Given the various time constraints, and the likely need to sign documents and be present for escrow things, the logical choice here is to appoint the interested party who resides most proximal, and that appears to be Anne from Stockton. So long as this is acceptable, that is this Court’s preferred approach – and it avoids possible deadlocks.

### 10:00 a.m.

15. **Conservatorship of Cattaneo (PR11563).** No appearance is necessary. The Court, having received and reviewed the §1850 report from the court investigator, intends to find by clear and convincing evidence that (1) the conservatee is unable to provide properly for his or her personal needs for physical health, food, clothing, or shelter; (2) the conservatee is substantially unable to manage his or her own financial resources or resist fraud or undue influence; and (3) a general conservatorship is the least restrictive alternative needed for the conservatee’s protection, taking into consideration the person’s abilities and capacities with current and possible supports. The Court further intends to set the matter for an annual review.
16. **Conservatorship of Carilli (PR12620).** Trial readiness conference, and filing deadline for WL, EL, TB and MIL.
17. **Conservatorship of Bonilla (PR11958).** Court intends to continue this matter on its own to 10/31/2025 at 10:00 a.m.
18. **Conservatorship of Hix (PR11561).** No appearance is necessary. The Court, having received and reviewed the §1850 report from the court investigator, intends to find by clear and convincing evidence that (1) the conservatee is unable to provide properly for his or her personal needs for physical health, food, clothing, or shelter; and (2) a general conservatorship is the least restrictive alternative needed for the conservatee’s protection, taking into consideration the person’s abilities and capacities with current and possible supports. The Court further intends to set the matter for an annual review.

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19. **Conservatorship of Smith (PR10905).** Court intends to continue this matter on its own to 10/31/2025 at 10:00 a.m.
20. **Guardianship of Stubbs (PR12648).** This is a petition involving the well-being of a three year old child. A temporary guardianship has already been established in favor of the child's maternal uncle, with whom the child has been residing per §3041. The biological father has reportedly consented to the guardianship, and has provided no resistance to mother's efforts to secure custody in the related family case (FL18128). The issue is where there are sufficient allegations of unfitness to move the guardianship into a permanent status over mother's objection, or whether the best interests of the child dictate a return to mother's care. Court investigator recommends guardianship. Mother to confirm desire for trial, which may require appointment of minor's counsel.
21. **Guardianship of Rivera (PR11862).** Trial re: parental termination previously vacated. Counsel was invited to investigate the service anomaly regarding bio mom and the bus depot. Parties to report status of ongoing settlement talks and whether visits have been fruitful.
22. **Guardianship of Millis (PR12440).** Matter continued by request of petitioner to 10/17/2024.
23. **Guardianship of Roberts (PR12554).** Related JV case still underway. Petitioner directed to file standing information in JV case. Query whether guardianship petition ought to be dismissed without prejudice for the time being.
24. **Guardianship of Green (PR11847).** Court intends to continue this matter on its own to 10/31/2025 at 10:00 a.m.
25. **Guardianship of Spengler (PR12467).** 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 continues to be necessary or convenient, and that the guardians continue to serve the ward's best interests (assuming of course that the ward continues to reside with the guardians – see Para 2). Courts intends to set annual review hearings.
26. **Guardianship of Garcia (PR12704).** This is the initial hearing on a petition to establish a guardianship over a newborn, filed by the paternal grandparents after receiving a short-term Family Safety Plan from Calaveras County CWS. Both applicants declined to check box 13 on the GC-212. Neither bio parent has provided consent to the guardianship outside of the Family Safety Plan. Court investigator has been appointed. Residency concerns will be addressed. Deciphering the safety plan will also be required.
27. **Guardianship of Lima (PR12496).** Trial readiness conference. Trial docs due by 10/10/25.

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28. **Guardianship of Gwin (PR11711).** 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 he guardianship continues to be necessary or convenient, and that the guardians continue to serve the ward's best interests. Courts intends to set annual review hearings.
29. **Guardianship of Garcia (PR12132).** This case involves a guardianship established in 2022 in favor of the child's grandmothers. For reasons that are not entirely clear, there have been no annual reviews, and no court oversight, of this guardianship since its inception. But for recent filings, it seems that perhaps this case would have continued to elude attention. Fortunately, that was not the case. On 07/25/2025, the ward's biological mother filed an RFO seeking visitation with the child. Co-guardian Sandra responded with a request that any visitation be supervised for the time being. Co-guardian Sandra also filed a request for a formal parenting allocation as between the co-guardians. Days later, co-guardian Gaylene filed a motion to remove Sandra as co-guardian based upon some reportedly disproven allegations of sexual abuse by a different minor child in Gaylene's home. Court investigator will need to be appointed to sort this out.
30. **Guardianship of Anderson (PR12690).** No appearance is necessary. This is the continued 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, and report is expected to be on file on or before next hearing. Matter likely to trail to 10/17/25.
31. **Conservatorship of Wolff (PR12655).** This case has been voluntarily dismissed.
32. **Conservatorship of Caywood (PR8920).** Nothing has been provided to the Court since the last hearing regarding the requirement advisement and preconditions for waiver, so this Court anticipates seeing the proposed conservatee via Zoom to receive the advisement and waiver.
33. **Meeks v. Dowling (FL13304).** Matter to be re-scheduled.

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**1:30 p.m.**

34. **Marriage of Engwer and Rutledge (FL17990).** Review hearing to ascertain status of final dissolution packet.
35. **Marriage of Guzman FL18447).** Settlement conference.
36. **Petition of EJS (CV67201).** Nonconfidential petition to change last name of child. Consent from both parents confirmed. Although a request to continue was presented this week, publication has already been concluded so at the very least the hearing must proceed to confirm no objections. A further hearing can occur, though it appears to the Court that the petition is ready to proceed as is.