

Department 5 Probate Notes for Friday, November 14, 2025

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8:30 a.m.

- 1. Marriage of Billiet (FL18739).** This is a petition to dissolve a long-term (32.5 yr) marriage with one minor child. Both parties have served preliminary disclosures. The parties resolved Mother's RFO for temporary spousal support with a written stipulation filed back in January of this year for \$1,155/month. Since that time, the attorneys have repeatedly appeared at review hearings asking for more time to button up the balance of the financial entanglements. As this is the probate calendar, a close review of the file was needed to see just why this case was on calendar this date – and it appears that it is set for another review hearing. Since this Court does not have a TUO-FL-125, the actual FL-142/FL-160, an FL-157, or an FL-315, it seems that this fourth “review” hearing should be the last.
- 2. County of Tuolumne v. Sullivant (FL12336).** This is a Title IV-D child support case which has seen no activity since 2014. On 10/13/2025, Father filed an RFO seeking some adjustment in the custody/visitation arrangement, and perhaps some concomitant adjustment to the existing support obligation. This is not the correct calendar to have this matter addressed, and it is unclear how this matter was set on the probate calendar. Nevertheless, Father will be referred to Self-Help or the family law facilitator for assistance with a proper parentage petition, set on the proper calendar(s). In the interim, the allegations contained in the RFO inform this Court that a referral to CWS is warranted. See Family Code §3027(b). Court intends to appoint the matter to the court investigator to trigger the referral.
- 3. Estate of Phipps (PR12493).** No appearance is needed. Before the Court this day is the final petition to close this intestate estate and approve the proposed distribution to three heirs with allowance of fees and costs. In light of the beneficiary accounting waivers on file, this Court elects not to raise too large a flag regarding counsel's facially-excessive hourly rate tethered to the request for extraordinary fees. In this community, the going hourly rate for extraordinary probate service rarely exceeds \$425, and few attorneys request that rate for garden-variety assistance with a residential purchase agreement – especially one that sells for 14% below the I&A. However, since it appears that the beneficiaries are at peace with this request, so too shall this Court be. The petition will be approved as prayed.
- 4. Estate of Campbell (PR12439).** Before the Court this day is the final petition to close this intestate estate and approve the proposed distribution to four heirs with allowance of fees and costs. There are a few moving parts with this petition. First, the statutory fee available to both the administrator and the attorney is based on “the total amount of the appraisal value of property in the inventory, plus gains over the appraisal value on sales, plus receipts, less losses from the appraisal value on sales.” Probate Code §10800(b). Based on the DE-160s on file, the value of this estate is \$163,721.91; however, they both seek a statutory fee based upon \$266,477.65. Fortunately, this Court can read between the lines and see that the difference represents an inheritance into the estate, but that should have been identified with precision in a

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DE-160. Second, there is an assignment from petitioner to one of the other heirs of a specific portion of petitioner's inheritance. Although the assignee is a beneficiary, this assignment is still subject to §11604 since this assignor is a transferee. See sub (a)(1). Although this Court does not intend to "inquire into the circumstances surrounding the execution of, and the consideration for, the transfer, agreement, request, or instructions, and the amount of any fees, charges, or consideration paid or agreed to be paid" for the assignment, it is notable that this administrator is requesting a statutory fee of \$8,329.55 (taxable as income) and making a gift of \$25,688.94 (arguably taxable), when it seems a straight disclaimer against the proposed surcharge could accomplish the same (if not safer) outcome. Third, the proposed surcharge. Petitioner asks this Court to surcharge Vickie for allegedly stealing cash and property from decedent's residence, and for forcing the estate to incur additional legal fees trying to unravel Vickie's shenanigans. The choice to keep those "missing" assets in the estate created a higher statutory fee base, but resulted in a higher net gain to the beneficiaries by creating a sizable hair cut for Vickie. This is an acceptable approach. Query whether Vickie will object.

5. **Estate of James Walsh (PR12267).** This administration is stuck in limbo awaiting movement in the related action, PR12140 (see #7).
6. **Estate of Ferles (PR12608).** On 06/13/2025, this Court granted the petition to open probate and appoint petitioner to serve as the administrator. Although petitioner elected not to appear for the hearing, the order was signed. The Letters, however, were never signed by petitioner, and remain here in the court file. Nevertheless, an §8800 review hearing was set for this day, and it was assumed that petitioner would begin the process of preparing the Inventory & Appraisal. Therein lies the rub: the I&A is due within four months after letters "are first issued," and letters are not considered to be "issued" until they have been signed, endorsed and filed (see Govt. Code §§ 69843 et seq). See *St. John v. Superior Court* (1978) 87 Cal.App.3d 30, 39; *Tate v. Superior Court* (1975) 45 Cal.App.3d 925, 929. Of course, it was over 150 years ago that our Supreme Court made plain that "it is not the duty of the clerk to issue process until it is applied for." *Pimental v. City of San Francisco* (1863) 21 Cal. 351, 353. Even though petitioner technically applied for letters by virtue of his petition filed back in February, and he did appear for the initial hearing on 04/18/2025, there was a question posed at that time where there were any assets subject to probate. Probate Code §12251(a) provides that "at any time after appointment of a personal representative and whether or not letters have been issued, if it appears there is no property of any kind belonging to the estate and subject to administration, the personal representative may petition for the termination of further proceedings and for discharge of the personal representative." Although this statute conflicts with §8400(a), which provides that "a person has no power to administer the estate until the person is appointed personal representative and the appointment becomes effective [and] appointment of a personal representative becomes effective when the person appointed is issued letters," who cares. If the estate has no assets, and the only other heir agrees, we can go ahead and have the case dismissed. Petitioner to advise.

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- 7. Estate of John Walsh (PR12140).** This is a probate action, currently encumbered by a related civil dispute (CV65497) over real property inventoried in the decedent's probate estate. The dispute involves equitable ownership of certain real property located on Lynn Lane here in Sonora. The property was owned by decedent, who passed in May of 2021. Seven months after his passing, decedent's non-relative live-in caregiver Christi lodged with this Court an instrument purporting to be John's Last Will & Testament (see PR12029) – created one week before his passing, leaving his entire estate to Christi. She never commenced probate proceedings. However, in July of 2022, decedent's brother James did commence this probate action via intestacy (asserting his own 25% heirship), seeking appointment as administrator. Given the passage of time, this Court required waivers/nominations from decedent's other siblings before appointing James as administrator, completely unaware that Christi had lodged with the Court an instrument purporting to be decedent's will. There was no notice to, or appearance by, Christi – and James never disclosed to this Court the existence of a related action (PR12029), despite the statewide requirement to do so (see CRC 3.300). In March of 2023, James passed away (see PR12267), causing decedent's sister Caroline to step into his place as administrator. Although there is no record of Caroline giving Christi notice of the ongoing proceedings in decedent's probate, Christi appeared on 07/21/2023 and informed the bench officer that decedent had a will leaving everything to her. Despite this revelation, the bench officer issued Caroline letters to proceed via intestate administration. Immediately thereafter, Christi filed a civil action (CV65497) seeking damages and equitable ownership of the subject property based on a myriad of theories – most notably a promise by decedent to gift her the residence if she agreed to forego wages and assist him around the house for the balance of his life. The civil action did not seek specific performance of the proffered will, but the will was certainly evidence of the claimed promise. Three weeks later, Caroline filed an unlawful detainer action against Christi, seeking to have her removed from the residence (see CVL65554). Christi moved for a stay in the UD action, which in this Court's mind was a "slamdunk winner." That motion was denied, and the estate was awarded possession without addressing Christi's proffered will. Thereafter, numerous friends of Christi filed claims for possession, all of which were summarily rejected at a hearing on 12/26/2023. The subsequent request for a stay of eviction was denied, effectively ending the UD action in favor of the estate. Meanwhile, the civil action has been plodding along, with a trial currently set for April of 2026 in the same department which handled the UD case.

With this primer in mind, it should come as little surprise that that Court does not intend to grant Caroline's recently-filed petition for extraordinary fees and costs. Although this Court is certainly empowered to do so when (1) it appears likely that administration of the estate will continue for an unusually long time; (2) payment will benefit the estate or the beneficiaries of the estate; or (3) other good cause is shown (see Probate Code §10832), the request for an interim distribution to the lawyers of \$60,000 (> 10% of this estate) is unsupported for two reasons. First, there was no notice provided to Christi about this request – which seems an

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obvious ethical obligation under the circumstances. Second, although Christi is apparently not sophisticated enough to actually commence a probate action to have decedent's proffered will tested for admission, and too stubborn to hire a lawyer, this Court is not ethically authorized to turn a blind eye to the fact that Christi claims a testate right to 100% of decedent's estate – not just the residence. If the will is ever proven to be valid, all the money spent by Caroline trying to put Christi on the street will not be payable from the estate. Nothing from this estate will be distributed until the petition for final distribution is approved.

At the earlier hearing, this Court proposed options for the administrator to distribute the estate, including the pending litigation, to a single individual to safeguard on behalf of all. That would permit the estate to close and the parties to work out the civil dispute in a matter would benefit everyone. For example, perhaps the subject property should be sold and the proceeds split in some pro rata share amongst the interested parties, each thereby taking something in the process and going about the balance of their lives grateful to have received any inheritance gift at all. Just food for thought. Seems a *Breslin* mediation would be a perfect way to end this dispute. In the interim, this Court was anticipating declarations from the other beneficiaries confirming no objection to Caroline's requests for reimbursement.

8. **Estate of Bratcher (PR12436).** Based on previous discussions with the personal representative, including the claim that the brother and the bank “took it all” from the estate, this Court anticipated a petition seeking permission to dismiss this petition pursuant to §12251. Nothing is (yet) on file.
9. **Estate of Benoit (PR12133).** This was to be the review hearing to confirm compliance with §8800. A review of the court file reveals a vacancy where the I&A is supposed to be, so perhaps counsel will provide a bona fide explanation for the delay.
10. **Estate of Kincaid (PR12205).** No appearance is necessary. Based on the previous TUO-PR-125 reports on file, and the current acknowledgement regarding the sale of the estate's primary asset, this Court sees no reason to reach the merits of the pending petition to approve a preliminary interim distribution. Although preliminary distributions are presumptively authorized when “the distribution may be made without injury to the estate or any interested person” (§11621(a)), and assuming that all of the Kinecta accounts were closed and moved into a single estate account at Wells Fargo, the fact that we currently have a few heirs identified does not mean, in the words of the immortal 80's rock band Survivor, the search is over. Why? Because the will itself still exists. Pursuant to Probate Code §§ 21102 and 21111, a valid will does not become invalid simply because the transfer (in this case, to an defective trust) fails. Instead, the administrator with will annexed must figure out if any devise can be saved, and only then do we go to intestacy. The decedent was clearly fond of Ray Menefee and David Evans, and it reasonably appears to this Court that had decedent been faced with the prospect of his sizable estate going to proverbial strangers or to people he actually knew and trusted with

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his estate, he would have empowered them to make some judgments (see, *e.g.*, §15205(b)(2)). In other words, it is premature to conclude that only Carla, Clive and Eric should inherit here. An argument can be made that Ray and David should share.

11. **Estate of Correa (PR12097).** Before the Court this day is the final petition to close this intestate estate and approve the proposed distribution to four heirs with allowance of fees and costs. Although the seller's closing statement for the property is not included, which would assist this Court confirming some of the numbers, the primary ingredient in this particular petition is the sheer amusement of the cerebral gymnastics required to track the credits, debits and offsets proposed to land at the final numbers proffered. While there is no waiver of accounting, to the extent the parties are all in agreement that the distribution is what everyone agreed to, this Court is in no position to challenge that. Most of the beneficiaries have agreed to anomalous assignments or in-kind conversions that were made "under the table" which this Court has no intention of exploring substantively under §11604. This Court has spent enough time with these parties to trust that they have come to this proposal with clear intentions.
12. **Estate of Nichols (PR12411).** This case is on calendar, but for what is unclear. The court calendar states "temporary restraining order – trial setting" but it is believed that the parties are trying to settle a pending petition to recover property and create a constructive trust.
13. **In re Bonnie Patton Separate Property Trust (PR12477).** No appearance is necessary. In what has become the poster child for perseverance and mature reflection, this (and the related) case have recently settled in a manner which (hopefully) will stand the test of time (or at least survive the next few weeks). Although it is nice to see Willima's signature thereon, at various times in the past parties have suggested that William "lacks legal capacity to make decisions." CCP §§ 372(a)(1), 373(c). Without poking the bear, this Court did not see any provision in the settlement agreement barring parties thereto from raising at any time William's capacity as a basis for any collateral challenge to the settlement agreement. Since a previous settlement agreement did not stick, it would be a shame to see another fall apart for an issue that has already reared its head. Just food for thought.
14. **In re Patton Family Trust (PR12460).** See #13.
15. **Estate of St. Andre (PR12706).** No appearance is necessary. This is a petition to admit decedent's lost will to probate, and to appoint his surviving spouse to serve in her nominated role as executor. Notice and publication have been satisfied. The will is sufficiently authenticated by virtue of the recent re-signing and notary acknowledgement to rebut the presumption of rescission. Moreover, the laws of intestacy – should the will be denied admission – could lead to the same distribution. See Probate Code §6401(a). It will be for the disinherited kin to challenge this. At present, the Court intends to grant the petition and to make the appointment as prayed.

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16. **In re Edison Trust (PR12711).** No appearance is necessary. This is related to PR12616. Before the Court this day is a petition to declare APN 001-072-002-000 an asset of the Mary Jane Edison Revocable Living Trust dtd 03/08/99. A trial court may make a transfer of assets into an irrevocable trust beyond the life of the surviving settlor, pursuant to §856, if the settlor(s) presently own(s) the asset in question, the settlor(s) created a trust with themselves as trustor, and there exists sufficient evidence to find by a preponderance of the evidence that the settlor(s) intended said property to be held in that trust but 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 if any objection to what practitioners colloquially refer to as 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.”

As this court pointed out that last time petitioner tried this, the trust instrument at issue here “shall be construed and governed in all respects by the laws of the Commonwealth of Virginia” (see Art. XV) and the petition provides no caselaw to support the notion that the laws of Virginia support the concept of funding an irrevocable trust after the last of the settlors has passed. This Court invited petitioner to consider a §§ 15403/15409 petition instead, which counsel has elected to try. All of the beneficiaries have filed a generic “consent” to the petition and the prayer for relief. Pursuant to §15403(a), “if all beneficiaries of an irrevocable trust consent, they may petition the court for modification or termination of the trust.” Here, all of the beneficiaries give their consent to adjust the choice of law provision included in the trust from Virginia to California. There is no material purpose served by the choice of law. As previously noted, Exhibits B and C to the trust reference only real property assets in California – which begs the question why Virginia was ever selected for choice of law. If it was selected because he settlor once lived there, this is an “administrative or dispositive provision owing to circumstances not known to the settlor and not anticipated by the settlor, the continuation of the trust under its terms would defeat or substantially impair the accomplishment of the purposes of the trust” (§15409(a)) because the settlor clearly wanted the subject property placed into the trust, which can occur if California law applies. The petition shall be GRANTED.

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10:00 a.m.

17. **Conservatorship of Casner (PR10398).** This is the initial full hearing on a substantive request from the conservatee and the conservator to convert this limited conservatorship to a general conservatorship. At the last hearing, this Court re-appointed counsel, ordered a new investigation and ordered a VMRC reference report to ascertain why the conservatee was going “backwards.” Court is awaiting those reports.
18. **Conservatorship of Nelson (PR9010).** The Court, anticipating the §1850 report from the court investigator, expects there to be clear and convincing evidence that (1) the conservatee is unable to provide properly for 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. Court intends to set annual review.
19. **Conservatorship of McLaughlin (PR12309).** The Court, anticipating the §1850 report from the court investigator, expects there to be clear and convincing evidence that (1) the conservatee is unable to provide properly for her personal needs for physical health, food, clothing, or shelter; (2) the conservatee is substantially unable to manage her finances or resist 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. Court intends to set annual review.
20. **Conservatorship of Fueg (PR11626).** The Court, anticipating the §1850 report from the court investigator, expects there to be clear and convincing evidence that (1) the conservatee is unable to provide properly for her personal needs for physical health, food, clothing, or shelter; (2) the conservatee is substantially unable to manage her finances or resist 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. Court intends to set annual review.
21. **Conservatorship of Martinez (PR9787).** The Court, anticipating the §1850 report from the court investigator, expects there to be clear and convincing evidence that (1) the conservatee is unable to provide properly for her personal needs for physical health, food, clothing, or shelter; (2) the conservatee is substantially unable to manage her finances or resist 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. Court intends to set annual review.
22. **Conservatorship of Babros (PR10050).** The Court, having received and reviewed the court investigator’s report, intends to find by clear and convincing evidence that (1) the conservatee is

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unable to provide properly for her personal needs for physical health, food, clothing, or shelter; (2) the conservatee is substantially unable to manage her finances or resist 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. Court intends to set for biennial review.

23. **Conservatorship of Darr (PR11109).** The Court, anticipating the §1850 report from the court investigator, expects there to be clear and convincing evidence that (1) the conservatee is unable to provide properly for 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. Court intends to set annual review.
24. **Conservatorship of Sotter (PR12652).** This is a recently-established general conservatorship over the person by consent. The matter is on calendar this day by request of counsel for the conservators and counsel for the conservatee to review the conservatorship in the early days and to make sure that the conservatee's placement is satisfactory before setting this case out for the traditional annual reviews.
25. **Conservatorship of Palmer (PR12657).** This is the third hearing on a petition to establish a general conservatorship over the person and estate of an adult with schizo-affective disorder and related mental health concerns, commenced by his mother and step-father. Notice has been provided to father and brother, with whom proposed conservatee had been residing prior to recent legal troubles and incarceration. See CRF77163. There is still no capacity declaration included with the petition, though his capacity concerns are front and center in the criminal case. The proposed conservatee was recently found not competent to stand trial, and has been recommended for placement in a state hospital. It is unclear at this juncture whether petitioners intend to pursue a civil conservatorship at this time given the changing landscape, but counsel has been appointed for the conservatee so an update will be anticipated.
26. **Guardianship of Stubbs (PR12648).** Related to #32. 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 whether 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. The parties have been encouraged to try and settle this.

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27. **Guardianship of Violet (PR12486)**. This was to have been the first annual review of a guardianship established in 2024 by the step-mother of a young teenage girl. When the ward was just 4 years old, the dependency court in Marin County terminated the parental rights of both her biological mother and father. Two years later, the ward was adopted by her maternal uncle. When the ward was 8 years old, her adoptive father married the current guardian. When the ward was 12 years old, the current guardian kicked the adoptive father out of the home following his lengthy bender and crime spree. See, e.g., CRM75700, CRM56310. She secured the current guardianship based on allegations that the adoptive father was abusing drugs, unstable, homeless, and unfit to parent. One year later, she failed to comply with the statutory reporting requirements for all guardians (Probate Code §1513.2(a)), and now reports to the court investigator that the adoptive father is back in the home and the guardianship is no longer needed. If only it were that simple. Guardian to appear in Court to answer questions. Court Investigator gives oral report that father is back in the home and further investigation is needed. Court intends to seek a report sufficient to make the CWS referral consistent with Probate Code §1513(b).
28. **Guardianship of Bisset et al (PR12210)**. No appearance is necessary. The Court, have received and reviewed the GC-251 reports with attachments, intends to find by a preponderance of the evidence that the guardianships remain necessary/convenient and that the guardians are continuing to serve the best interests of the wards. Court intends to set annual review date.
29. **Guardianship of Duncan (PR11768)**. This is the initial hearing on a petition by the biological father to terminate a guardianship currently in the hands of the paternal grandmother. The file does not contain any POS, consent or notice. The court investigator will need to be appointed to conduct a home study with background, and an interview with the ward will be required.
30. **JPMorgan Chase Bank v. Bohland (CVL66995)**. Collections case. No POS for Day 180. Set for post-Day 360 review with OSC re Tier I sanctions.
31. **LPS Conservatorship of Garness (PR10012)**. No appearance is necessary. Although this Court waived the requirement for a final accounting on 05/22/2025, and has allowed County Counsel to proceed using the GC-400-SUM approach for these types of cases, a traditional accounting has been submitted. The accounting is appropriate and approved in all respects.
32. **Stubbs v. Bodle (FL18128)**. This is the parentage case involving custody and visitation for the children involved in a related temporary guardianship case.

1:30 p.m.

33. **Marriage of Baca (FL13717)**. Restoration of Former Name.
34. **Munroe v. Sommerville (FL17016)**. Trial, Day 2.