

PROBATE NOTES: Friday, February 1, 2019

These notes are not updated based on subsequent filings once they are posted.

**PR10863                      LPS Conservatorship**

Hearing type:                      Further review re sixth accounting  
Conservator:                      Tuolumne County Public Guardian  
Conservator's counsel:      County Counsel

At the time of the Court's review of this case on January 30, 2019, the file still did not reflect that the accounting had been filed. Appearance required if it is not filed prior to the hearing.

**PR10908                      Estate of Robert Klein**

Hearing type:                      Petition for order confirming sale of real property  
Executors:                      John Klein and Roy Klein  
Executors' counsel:              Gary P. Dambacher

The Court has read and considered the petition filed on December 18, 2018; what it deems to be an objection filed by Robert P. "Bobby" Klein on November 26, 2018; and the "status report" filed on January 29, 2019. Appearance required.

Aside from the objection, the Court notes issues with the following items:

1. Failure to post notice of the hearing at the courthouse.
2. Failure to file the referenced declaration from the probate referee re reappraisal.
3. Inconsistent information in the instant petition re the number of buyers.
4. Allegations in the instant petition that the sale is authorized by the will and that the mode of sale is specified in the will.

**PR11001                      Estate of Laura Walker**

Hearing type:                      Review re inventory and appraisal  
Administrator:                      Tuolumne County Public Administrator  
Administrator's counsel:      County Counsel

As it has not been four months since letters of administration with will annexed were issued, the instant hearing will be continued to March 1, 2019, at 8:30 a.m. Similarly, the review hearing pursuant to Probate Code section 12200 currently set for September 27, 2019, will be continued to November 1, 2019, at 8:30 a.m. Appearance not required on February 1, 2019.

It appears the proposed order submitted by Administrator and filed on October 19, 2018, bears an incorrect date of death at item 2b. Administrator shall submit an amended proposed order of appointment that corrects this error, unless Administrator has evidence that the petition for probate filed on October 25, 2013, was incorrect as to Decedent's date of death.

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**PR11054**

**Estate of John Jay Winkler**

Hearing type: Further hearing re petition for final distribution and fees

Administrator: Sheena Winkler

Administrator's counsel: Paul S. Bunt

The Court has read and considered the amendment filed on January 16, 2019, to the petition filed on November 27, 2018. The only remaining issue is Administrator's nonpayment of Decedent's outstanding balance of \$1,715.00 on the restitution fine and penalty assessment imposed by this Court by order dated March 26, 2012, in Case No. CRF36567. Decedent was ordered to pay the fine and assessment to the Tuolumne County Office of Revenue Recovery (hereafter Revenue Recovery).

On July 8, 2014, Collections Officer Josephine Costa from Revenue Recovery filed a creditor claim in the instant case. Administrator argues that the claim is invalid pursuant to Probate Code section 9150 because the proof-of-service portion of the creditor-claim form does not reflect that a copy was served on her. Administrator is correct that Revenue Recovery did not complete the proof of service on the form filed on July 8, 2014, with respect to Administrator. However, Administrator has not filed evidence that she was not *in fact* served with a copy of the claim.

In addition, Administrator argues that, pursuant to Probate Code section 9256, Revenue Recovery's claim was deemed rejected 30 days after the claim was filed because Administrator refused or neglected to act on it. Administrator misreads section 9256, which provides that a *creditor* has the *option* to deem a personal representative's refusal or neglect to act on the claim as the equivalent of giving notice of rejection on the thirtieth day. There is no evidence that *Revenue Recovery* exercised the option to deem Administrator's refusal or neglect as a rejection of the claim.

Assuming for the sake of argument that the regular creditor-claim requirements and procedures apply to an order that a now-deceased defendant pay fines in a criminal case, the court file does not reflect that Administrator gave notice to Revenue Recovery of her apparent intention to reject the claim. Mandatory Judicial Council form DE-174 is required to be used in allowing or rejecting creditor claims. In the absence of this form, Revenue Recovery was not on notice of Administrator's rejection of the claim, and the Court notes neither Revenue Recovery nor its counsel appears to have been given notice of the instant petition for final distribution and the amendment thereto.

The Court also notes that claims by public entities are treated differently from other creditor claims in the statutory scheme. (See Prob. Code, § 9200 et seq.) For example, with certain exceptions, a claim by a public entity that is not *filed* within the time otherwise provided in this part of the code is barred. (*Id.*, § 9200, subd. (a).) Revenue Recovery's claim was filed within two weeks of issuance of letters of administration, so it is not barred. Unlike section 9150, section 9200 does not provide that a claim not *served* on the personal representative is invalid.

For the foregoing reasons, if Administrator does not file an allowance of Revenue Recovery's claim, she shall file and serve notice of rejection of the claim using Judicial Council form DE-

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174, and she shall provide notice to Revenue Recovery and county counsel for Tuolumne County of the next hearing date. The hearing will be continued to March 15, 2019, at 8:30 a.m. in order to allow sufficient time for Administrator to take these steps and, if necessary, for Revenue Recovery to determine its position on any rejection and prepare for the next hearing.

Appearance not required on February 1, 2019.

**PR11173                      Estate of Bryan S. Beenblossom**

Hearing type:                      Review re report on status of administration (Prob. Code, § 12200)  
Executor:                              Serena Beenblossom (Dehn)  
Executor's counsel:                Carrie M. McKernan

The Court notes that a petition for settlement of Executor's first and final report, as well as for fees and costs, was filed on January 28, 2019, and set for hearing on March 8, 2019. Appearance not required on February 1, 2019.

**PR11490                      Estate of Leslie Carlos Soria**

Hearing type:                      Amended petition for final distribution and fees  
Executor:                              Carlos Leslie Soria  
Executor's counsel:                Tamara M. Polley

The Court has not yet read the amended petition filed on January 10, 2019, because the "corrected" Inventory and Appraisal form filed on January 10, 2019, does not indicate whether Executor has inventoried and had appraised all or a portion of the estate that has come to his knowledge or possession. The hearing will be continued to March 8, 2019, at 8:30 a.m. in order to allow for further correction of the Inventory and Appraisal form or the filing of a truly final Inventory and Appraisal form, as well as time for the Court to review the instant petition in light of the further filing. Appearance not required on February 1, 2019.

**PR11553                      Conservatorship of Hubert F. Leaycraft**

Hearing types:                      (1) Amended account and report of conservators  
   (2) Further hearing re petition for attorney fees and costs  
Conservators:                        Diane L. Souders and Leland V. Souders, Jr.  
Conservators' counsel:            Michael R. Germain

The Court has not yet completed its review of the amended accounting filed on January 16, 2019, or the petition for attorney fees and costs filed on November 29, 2018. Appearance required.

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**PR11633                      Matter of Deloris Graham**

Hearing type:                      Amended petition to determine succession to real property  
Petitioners:                      Jesse Graham, Guy P. Graham, Roger L. Graham, Vernon Graham, G.  
Wayne Graham, and Donna G. Stasio  
Petitioners' counsel:              Michael R. Germain

The Court has read and considered the amended petition filed on January 16, 2018, which is recommended for approval. Appearance not required.

**PR11637                      In the Matter of the Cleatus and Carol Ledbetter Family Trust**

Hearing type:                      Petition for Order Confirming Trust Assets  
Petitioners:                      Clea Sampson and Dennis Ledbetter  
Petitioners' counsel:              William Broderick-Villa

The Court has read and considered the petition filed on January 10, 2019, which is recommended for approval. Appearance not required.

The Court notes that Petitioners and their counsel failed to comply with California Rules of Court, rule 1.201, subdivision (a)(1) with respect to papers attached to the petition.

**PR7726                      Conservatorship of Melissa R. Stone**

Hearing type:                      Further hearing re fourteenth account and report of conservators;  
petition for fees and costs  
Conservators:                      Michelle and Richard Stone  
Conservators' counsel:              Jennifer J. Lothert

The Court has not yet completed its review of the pleading filed on November 15, 2018. Appearance required.

**PR10041                      Conservatorship of Christopher Lott**

Hearing type:                      Review re court investigator's report (Prob. Code, § 1850)  
Conservator:                      Sherry Lott  
Conservator's counsel:              Jennifer J. Lothert

Because Conservatee has lived with Conservator in Alameda County for years and there is no indication Conservatee plans to change his residence to Tuolumne County, this case will be transferred to Alameda County. The Superior Court for the County of Alameda will require a first-appearance fee of \$435 or a Request to Waive Court Fees (Judicial Council form FW-001-GC); Conservator shall submit either the fee or a completed fee-waiver request to this Court no

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later than February 22, 2019, and this Court will transmit it, along with the file, to the Superior Court in Alameda County. Moreover, Conservator shall pay this Court's transfer fee of \$50. A review hearing re change of venue will be set for March 1, 2019, at 8:30 a.m. to ensure Conservator has submitted the first-appearance fee or completed fee-waiver request, as well as the transfer fee, as required. Appearance not required on February 1, 2019.

**PR11257**

**Guardianship of Kaelyn Rose Day**

Hearing type:	Review re Confidential Guardianship Status Report
Guardian:	Rebecca Lynn Day
Guardian's counsel:	None

The Court has read and considered the report filed on January 4, 2019. Appearance not required. A review hearing re the next annual Confidential Guardianship Status Report will be set for January 31, 2020, at 9:30 a.m.