

Department 5 Probate Notes for Friday, March 15, 2024

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8:30 a.m.

- 1. Conservatorship of Strum (PR12235).** No appearance is necessary. The Court, having reviewed the file, the GC-355, and the updated investigative report, finds by clear and convincing evidence that a conservatorship remains necessary; that a general conservatorship represents the least restrictive viable option for the conservatee; and that the conservators are providing appropriate care for the conservatee. Court will set date for annual review hearing.
- 2. Conservatorship of Gillette (PR11986).** No appearance is necessary. This was to be the hearing on the 2nd accounting, covering the period 10/14/22 – 10/13/23. Although §2620 does not prescribe the time period in which the conservator is to “present the accounting of the assets of the estate of the conservatee to the court for settlement and allowance,” (nor does CRC 7.575 or TCSC Rule 5.17.1), the ordinary rule of thumb is four months. The accounting is tardy. Court intends to continue the hearing to 05/24/24 at 10:00 a.m., and to set an OSC re Sanctions per §2620.2(b) and (c)(2) for the transgression.
- 3. Estate of Carlson (PR12303).** No appearance is necessary. Pursuant to §8800, petitioner was to have a final I&A on file within four months of the issuance of Letters. Letters issued 10/20/23. Although a “partial and final” was filed 10/27/23, there is no such thing as a “partial” and a “final.” This Court will look past the anomaly and proceed as if APN 065-144-011 and APN 075-130-018 comprise the entirety of the estate assets.
- 4. Estate of McGee (PR12228).** No appearance is necessary. The Court, having reviewed petitioner’s §12201 status report, finds by a preponderance of the evidence that good cause exists to extend administration of the estate (§12202) for a period of 60 days. Court intends to set a review hearing for 05/10/24 at 8:30 a.m. No interim distributions or advances are being approved at this time. Petitioner shall file and serve an updated 12201 report on or before 05/02/24, and is welcome to use this Court’s new local form for that.
- 5. Estate of Hayes (PR11917).** Petitioner and counsel shall appear for arraignment/discussion on the OSC issued 01/10/24 regarding the failure to appear at prior hearings or to provide an updated status report. See §§ 12202 and 12205.
- 6. Estate of Mills (PR12394).** No appearance is necessary. The Court, having reviewed counsel’s supplement to the petition, with attached exhibits, finds by a preponderance of the evidence that the elements necessary to grant the §13650 petition have now been satisfied. Court intends to execute and enter the proposed order.
- 7. Estate of Richesin (PR12136).** Pursuant to §12200, there exists a statutory presumption that all estates will be ready to close within 12 months from the issuance of Letters. In this matter, Letters were issued 11/10/22, and but for a report filed 11/02/23, this Court has no satisfactory explanation for the ongoing delays. The petition is overdue. Petitioner and counsel are invited to review §§ 12202-12205 before the hearing.

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8. **In re Vincent Resident Trust (PR12395).** This is an inverse §850 petition, wherein petitioner contends that assets identified as belonging to the trust actually belong to her. Petitioner to confirm all interested parties have been served. Parties to advise whether petition can be resolved using the summary procedures in §§ 1022 and 9620, with briefing consistent with CCP §§ 437c, 1010, 1005(b), 1005.5, and CRC 3.1306. If not, parties may be asked to select trial date(s), and to advise whether either party is of the opinion that Cal. Const. Art. 1 §16 provides any right to a jury regarding any factual dispute involving a question of law herein. See, e.g., §§ 825, 17006.
9. **In re Ylimaki Trust (PR12370).** Although the petition lacks sufficient averments relating to §§ 15620, 15622, 15642(b), 16012 and/or 16013, both trustees now confirm that a deadlock exists and a neutral is needed. There being no formal written response to the petition from Respondent (see §1043), the petition is ready for approval. A question remains whether this ought to be an order appointing a third trustee to break ties or an order suspending the powers of both co-trustees and appointing a neutral trustee in their place. See, e.g., §17206 and *Copley v. Copley* (1981) 126 Cal.App.3d 248, 288; *Winter v. Winter* (2018) WL1045169 at *6-7; *Stephens v. Johnson* (2001) WL1243957 at *7-8. The proposed order is ambiguous in this regard. Parties to discuss.
10. **In re Personius Trust (PR12326).** No appearance is necessary. Although counsel contends that proof of contemporaneous ownership is unnecessary absent opposition, this Court respectfully disagrees. See Probate Code §§ 850(a)(2)(C), 850(a)(3)(B), 850(b), and 856; in accord, *Ukkestad v. RBS Asset Finance, Inc.* (2015) 235 Cal.App.4th 156 at 159. Since orders hereunder are conclusive (see §§ 857 and 7262), the best practice to avoid clouding title (let alone unwittingly slandering title) is to ensure that an interested person's *assumption* of the decedent's current ownership (see Petition Para 8) is actually *correct*. Since petitioner has both objected *and* supplied the requested evidence by way of a Record Owner Guarantee, this Court finds that the factual predicate for the requested order has been met. Petitioner to submit proposed order (see TCSC Rule 5.06.0).
11. **Estate of Thode (PR12379).** No appearance is necessary. The Court, having reviewed petitioner's supplemental filing, finds by a preponderance of the evidence that the elements necessary for the summary succession have been met. Court intends to execute and enter the proposed order.
12. **Conservatorship of Highfill (PR11639).** The Court, having reviewed the investigative report, finds by clear and convincing evidence that some degree of conservatorship is warranted, but is unclear whether a general conservatorship is the least restrictive option. Conservators are asked to complete and submit a GC-355. Parties to discuss. Court will extend the conservatorship as needed until the issue is resolved.
13. **Guardianship of Solano (PR11900).** No appearance is necessary. The Court, having reviewed the GC-251 with attachments, finds by a preponderance of the evidence that the guardianship remains necessary/convenient, and that the guardian is adequately serving the ward's needs. Court intends to set the annual review hearing.

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14. **Guardianship of Cesco (PR12041).** No appearance is necessary. The Court, having reviewed the GC-251 with attachments, finds by a preponderance of the evidence that the guardianship remains necessary/convenient, and that the guardian is adequately serving the ward's needs. Court notes some concerns with bio parents, and invites the guardians to seek judicial intervention if needed. Court intends to set the annual review hearing.
15. **Guardianship of McGrew (PR12035).** The Court, having reviewed the GC-251 with attachments, requires additional information relative to Para 1.e. and Para 2, as well as the age-out date. Court will extend the guardianship as needed until the issue is resolved.
16. **Guardianship of Webb (PR11467).** No reports are on file for review.
17. **Guardianship of Smith (PR11898).** No appearance is necessary. The Court, having reviewed the GC-251 with attachments, finds by a preponderance of the evidence that the guardianship remains necessary/convenient, and that the guardian is adequately serving the ward's needs. Court notes some concerns with bio parents, and invites the guardians to seek judicial intervention if needed.. Court intends to set the annual review hearing.

10:00 am

18. **Conservatorship of McClintock-Cole (PR12057).** No appearance is necessary. Court has reviewed, and intends to approve, the accounting as presented.
19. **Guardianship of Leonard (PR12347).** No objections have been received in the Court file yet.
20. **In re Garner (PR12361).** Parties to advise status of FL17944.
21. **Conservatorship of Hawn (PR11530).** No appearance is necessary. Court has reviewed, and intends to approve, the accounting as presented, and intends to execute and enter the proposed order thereon.
22. **Guardianship of Okelsrud (PR12397).** The Court, having reviewed the petition for temporary guardianship, finds by a preponderance of the evidence that a guardianship is necessary/convenient and that the petitioner has been meeting the ward's needs as de facto parent. Parties to update Court on status of parental objections. See §3041.

1:30 p.m.

23. **In re Schaffernoth (PR12337).** Closed proceeding.

3:00 p.m.

24. **In re Bachilla (CV65840).** Confidential proceeding.