

Department 5 Probate Notes for Friday, March 22, 2024

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.

NOTE: D.5 is dark this week. If immediate judicial intervention is necessary to avoid a miscarriage of justice, please contact D.2. Otherwise, feel free to file a brief declaration and the matter will be addressed upon the Commissioner's return.

8:30 a.m.

- 1. Conservatorship of Merz (PR11254).** No appearance is necessary. Although this Court did not receive an updated §1850 investigative report or GC-355, the history of this case is such that this Court can easily find 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 conservator is providing appropriate care for the conservatee. Court will set date for annual review hearing.
- 2. Estate of Thornton (PR12237).** No appearance is necessary. The Court, having reviewed petitioner's 12201 report, finds by a preponderance of the evidence that good cause exists to extend administration (12202) a few months. Although petitioner has sought a lengthier extension of time, the time to go to market is now, or in the coming few months, so if the property cannot be sold in this window, the property will have to be distributed in kind. Court intends to set a review hearing for 06/21/24 at 8:30 a.m. The petition for final distribution must be on file by then. §12201(c)(2).
- 3. Estate of Higgins (PR12328).** No appearance is necessary. The Petition for Letters with Will Annexed is not ready for approval. There is no proof of publication. §8124. Petitioner failed to indicate *in the caption* her desire for IAEA authority. §10450. There are no declinations to serve from nominated executors included with the petition. §8440. The original of the will has not been lodged. TCSC Rule 5.12.0. The will is not perfectly self-authenticating (§§ 6100, 6104), and will require DE-131 or petitioner's declaration. Court intends to continue the hearing to 05/10/24 at 8:30 a.m., and requests that any supplemental papers be on file for review by 05/01/24.
- 4. Estate of Keller (PR12402).** No appearance is necessary. Although the publication does not strictly comport with §8121, because the balance of the petition is proper in all other respects, this Court will exercise its discretion and find for present purposes only that the publication provided is substantially compliant. §8122. Court will enter the order, issue the Letters, and set 8800 and 12200 review dates.

9:30 a.m.

- 5. Guardianship of Taylor (PR11259).** No appearance is necessary. Although petitioner neglected to complete the GC-251 (see Para 2), this Court finds by a preponderance of the evidence, based on the balance of the report, that the guardianship remains necessary/convenient, and that the guardian is serving the ward's needs. Court will set date for annual review hearing.

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6. **Guardianship of Cortez (PR12196)**. No appearance is necessary. This Court finds by a preponderance of the evidence that the guardianship remains necessary/convenient, and that the guardian is serving the ward's needs. Court will set date for annual review hearing.
7. **Guardianship of Smith (PR11605)**. No appearance is necessary. This Court finds by a preponderance of the evidence that the guardianship remains necessary/convenient, and that the guardian is serving the ward's needs. Court will set date for annual review hearing.
8. **Guardianship of Hamilton (PR12233)**. No appearance is necessary. This Court finds by a preponderance of the evidence that the guardianship remains necessary/convenient, and that the guardian is serving the ward's needs. Court will set date for annual review hearing.

10:00 a.m.

9. **Conservatorship of Friedman (PR12182)**. No appearance is necessary. The Minute Order from 01/19/24 is not yet complete, so the matter must be continued to 04/05/24 at 10:00 a.m. The Court extends its apologies to the parties.