

Department 5 Probate Notes for Friday, August 15, 2025

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8:30 a.m.

- 1. Estate of Thrall (PR12562).** No appearance is necessary. This was to be the review hearing to confirm compliance with §8800, but since a final Inventory & Appraisal is already here the review hearing will be unnecessary.
- 2. Estate of Correa (PR12097).** This Court previously, and to some degree begrudgingly, authorized the administrator to complete an insider sale of decedent's residence upon terms and conditions which this Court understood were essentially completed, and which this Court understood would be finalized in due course. Issues soon arose regarding consent, assignments (given and withdrawn), and funding. At the last hearing, counsel advised that the sale was consummated, and that 30 days was needed to have the petition on file. That was 45 days ago. This is a review hearing which the Court admittedly expected would be unnecessary. It seems that the estate should have been in a position to close now. Counsel to advise.
- 3. Estate of Spreadborough (PR12343).** Before the Court is a petition to approve the plan for final distribution, with a waiver of formal accounting. There was only one asset in the estate: a parcel of real property, which petitioner was unable to sell and ultimately lost in a foreclosure sale. Apparently, there was no consideration given to acceptance of a deed in lieu (see §9850), and due to the size of the financing encumbrance on the property, the trustee's sale yielded no surplus to the estate. There being no other assets, petitioner was free to petition this Court for termination and discharge per §12251. Petitioner elected instead to proceed with a §12200 petition with no distribution plan except for an agreement to compensate counsel for a statutory fee and costs with funds outside the estate. When this petition was first heard, this Court noted that decedent left no will providing for the payment of legal fees (see §10812), and statutory fees are only recoverable on the difference between the appraised value and sale price (see §10810) – but petitioner has not informed this Court what the sale price was. A supplement was filed, noting that the property sold for \$441,262.50, representing a theoretical “gain” to the estate of \$42,262.50. Because there was an encumbrance on the property for \$493,816.53, it is assumed that the purchaser at the trustee sale was the beneficiary on the note. Either way, the estate is insolvent. Petitioner is apparently aware of this, and was presumably made aware by her attorney that §11424 makes her personally liable for payment of both the statutory legal fee and the costs awarded in the accompanying order. Since the amounts set forth as the statutory fee and costs recoverable are appropriate, this Court intends to enter the requested order on condition that counsel submit a revised order including a precise §11424 notice. There is nothing worse than having the client come back claiming they did not realize they would be personally on the hook for the fees and costs when there was zero inheritance to be had.

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4. **Estate of Daniel (PR12570).** No appearance is necessary. This was to be the review hearing to confirm compliance with §8800, but since a final Inventory & Appraisal is already here the review hearing will be unnecessary.
5. **Estate of Thomas (PR12571).** No appearance is necessary. This was to be the review hearing to confirm compliance with §8800, but since a final Inventory & Appraisal is already here the review hearing will be unnecessary.
6. **Estate of Bain (PR12032).** Court requests detailed update regarding status of home sale. Court intends to consider appointed limited purpose receiver and/or realtor-receiver to have the property actually sold (regardless of terms) so that the estate can be closed, as Court has no intention of waiting forever for sale if the parties are unwilling to distribute the property in kind.
7. **Estate of Holland (PR12327).** No appearance is necessary. Petitioner should focus on getting her daughter settled into her new college life. This Court will see everyone back on 10/24/2025 at 8:30 a.m. In the meanwhile, this case is now in the running for the “most-confused” case of 2025. A review of the court file reveals a number of aberrant filings suggesting a descent into a parallel universe.
 - For example, on 08/11/2025 respondent filed a “notice of no opposition” to a motion for summary judgment set for hearing on this date (08/15/2025) – but there is no MSJ set for hearing this date. The only MSJ filed by respondent was done so on 04/07/2025, and that was set for hearing on 05/09/2025. Obviously, the date set for hearing was not compliant with statute (CCP §437c(a)), but the only cure for a non-compliant MSJ is to refile. See *Robinson v. Woods* (2008) 168 Cal.App.4th 1258, 1268. At the hearing on 04/18/2025, this Court informed counsel of the notice error with her MSJ, but no cure was proposed. The Court offered to take the pending discovery issues under submission and issue a ruling on those and how discovery issues might impact the MSJ anyway. Thereafter, the parties submitted a joint stipulation asking this Court to effectively “pause” the estate proceedings while the parties navigated a related civil dispute (CV65546). This Court set a review hearing for this day (08/15/2025) to determine the status of the civil action and what impact it had, if any, on the estate proceeding before us.
 - Also on 08/11/2025, respondent filed a “notice of no opposition” to motions to compel responses to SRogs and RPDs. Those motions were filed on 01/02/2025, just as petitioner’s counsel was substituting out of the case, and with an ex parte

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application for a special-set on shortened time. Once the dust settled, the motions were in fact opposed by petitioner on 01/16/2025, after which this Court ordered respondent to provide this Court with copies of the *supplemental* discovery responses referenced by petitioner in her opposition (actually ordered by this Court twice: 01/22/2025, and 03/26/2025). Respondent provided those supplemental responses to this Court on 04/09/2025, suggesting to this Court that the motions to compel *initial* responses now had to be converted to motions to compel *further* responses. However, as noted, on 04/16/2025, this Court took the matter under submission and on 05/16/2025, the parties asked this Court via joint stipulation to “stand down” while they worked out the civil dispute. Thus, there are no discovery motions on calendar this day either.

- Finally, on 07/31/2025, petitioner filed an emergency request to continue the status review hearing for this date because her daughter’s out-of-state college gave her an assigned move-in date that conflicted with this hearing. Petitioner requested a brief 1-2 week continuance, which this Court found to be quite reasonable. That request was granted, though it does not appear to be scanned into the court file yet. Concurrent with this Court’s intent to grant the request, respondent filed opposition to that request, setting out the lengthy history of this case (omitting a few important events), pointing out that petitioner’s request is not procedurally compliant (even though she is self-represented) and then asking this Court to impose over \$2,000 in sanctions because “the prejudice to Respondent is substantial. Petitioner's delays have obstructed the timely resolution of pending motions, forced unnecessary duplication of effort, and increased litigation costs without advancing the merits of the case. This pattern of conduct also squanders judicial resources and undermines the orderly administration of justice.” Since it is respondent defective MSJ and discovery motions that are causing more judicial waste than anything, this Court will simply chock this up to said parallel universe and see everyone back on 10/24/2025 for petitioner’s hearing on her motion to appoint a limited-purpose receiver. This Court will also invite respondent to have any narrowly-tailored motions to compel further responses set for hearing that date as well.

10:00 a.m.

8. **Conservatorship of Gilbert (PR12632).** This is the second hearing on a petition to establish a general conservatorship over the person and estate of an 18 year old male, commenced by his biological mother without the express consent of any other family members. Petitioner is seeking authority to make medical decisions for what appears to be a

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developmentally disabled adult, without the required physician's declaration (§1890). The Court appointed an investigator to conduct the required investigation and directed VMRC to evaluate the proposed conservatee for a possible limited conservatorship. Court will consider appointing counsel at this hearing if the reports are in and demonstrate that the appointment would be fruitful. At the time of posting, none of the required reports are available for review. Court wishes to hear from other members of the family as well.

9. **Conservatorship of Carilli (PR12620).** Before the Court this day is a pre-trial status hearing, requested by the parties, to assess whether some agreement has been reached between the parties to convert this to some kind of lesser-included conservatorship of the estate or similar protective device. As the parties know, in order to establish a conservatorship of the estate, the petitioner must demonstrate by clear and convincing evidence (1) that the conservatee is substantially unable to manage his own financial resources or resist fraud or undue influence (more than isolated incidents of negligence or improvidence); and (2) a 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, including, but not limited to financial powers of attorney, joint bank accounts, signatory authority, and other financial decision-making agreements. Parties are already set for trial. Conservatee is already represented by counsel.
10. **Conservatorship of Sotter (PR12652).** This is the second hearing on a petition to establish a general conservatorship over the person of an individual who is 95 years of age. Petitioners include the proposed conservatee's daughter, son-in-law and grandson. There are no disqualifiers or apparent conflicts. No disclosure regarding Court's affiliation with one of the petitioners was provided as the conservatee was not present, despite a citation being issued for her appearance. Counsel was appointed to represent her, but the Court expects her to appear since there was an indication provided that the conservatee opposes this petition. Based on counsel's representation regarding proposed conservatee's noncompliance and elopement risks, as well the provided capacity declaration, this Court made the interim finding by clear and convincing evidence that the proposed conservatee was unable to provide properly for her personal needs for physical health, food, clothing, or shelter – and that her admission to the secured wing of an assisted living facility via durable power of attorney was insufficient in case the facility felt she had sufficient capacity to rescind that power of attorney and discharge herself. Temporary letters were issued primary to ensure that the proposed conservatee remain in protective care of the local senior facility until further order of the Court. The court investigator has concluded her primary inquiry and recommends establishment of a general conservatorship over the person, with all three petitioners appointed to serve jointly. Court anticipates hearing from conservatee's counsel on whether a contested hearing will be sought.

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11. **Conservatorship of Palmer (PR12657).** This is the initial 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 no capacity declaration included with the petition, though his capacity concerns are front and center in the criminal case. Court investigator has already been appointed. Citation for appearance has been issued, but there is some indication that proposed conservatee may not appear. Court will need to appoint counsel for the proposed conservatee as there is an indication that he will object.

12. **Guardianship of Hicks (PR12524).** On March 24, 2025, this Court issued an order establishing a temporary guardianship over two wards, with an expiration date of tomorrow (Saturday). On April 10, 2025, this Court issued a final written statement of decision confirming the establishment of said temporary guardianship, setting this review hearing to take place the day prior to its expiration, and including therein a visitation schedule for the biological mother and maternal grandfather. On May 16, 2025, this Court issued an order appointing minors' counsel to represent the wards in this case. On May 29, 2025, this Court conducted an in-chambers interview of both wards to determine the propriety of extending the guardianship beyond its stated expiration period. On May 30, 2025, a hearing was held in which a number of concerns were raised by all parties. This Court indicated that because (1) the wards did not desire the guardianship, (2) the guardians were unable to effectuate the visitation schedule ordered by this Court, and (3) the guardianship failed in its intended purpose to facilitate reunification without subjecting Father to the risks of re-incarceration, an extension of the guardianship was likely not warranted. Since that hearing, nothing has been filed by anyone.

Ordinarily, to terminate a guardianship, the Court would be tasked with making a finding by a preponderance of the evidence that it would be in the best interests of the children to do so – which relates directly to the stability, continuity, safety, welfare, and fitness. In the end, the decision whether to end a guardianship and return the wards to the care of their biological parent(s) is committed to the sound discretion of the trial court. See Probate Code §§ 1601, 1610; in accord, *Guardianship of Ann S.* (2009) 45 Cal.4th 1110, 1123-1132; *Guardianship of C.E.* (2019) 31 Cal.App.5th 1038, 1048-1049; *In re Z.F.* (2016) 248 Cal.App.4th 68, 73-75; *Guardianship of A.L.* (2014) 228 Cal.App.4th 257, 267-268. Since this is just a temporary guardianship, this Court is free to simply do nothing and allow the temporary order to expire – especially since nobody asked for an extension. Although both parents have lots of unfitness markers, the guardianship appears to be creating an inequity

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favoring father. A return to the family court is appropriate. That return would place the parties right back where they were when the guardianship was created, to wit: father having “sole custody, no visits” per the 06/20/2023 order. Since that was based on a TECO, following a joint custody order from 05/31/2022, the “custody” reference could only mean *physical*, so the parties return to family court with mother and father having joint legal custody, father having sole physical custody, and mother seeking parenting time. Parties will be ordered to mediation in FL16613, with a review hearing. Minors’ counsel to remain, fees to be split 50/50 by the parties with FL-150s to be filed within 15 days.

13. **Guardianship of Hicks (PR12532).** See #12.
14. **Guardianship of Alexander (PR12459).** This is a family petition to establish a guardianship for a minor child over the strong objection from both biological parents. Since the proposed guardians never assumed the role of de facto parent status, Family Code §3041 requires them to show by clear and convincing evidence that leaving custody in the hands of the biological parents would be detrimental to the child and that creating the guardianship is required to serve the best interest of the child. Although both biological parents face a myriad of criminal charges (see CRM72969, CRM72269, CRM74538, CRM74626, and CRM74537) and have struggled of late with substances, employment, housing, cell service, timely attendance at court proceedings, and the like, there is as yet insufficient evidence of unfitness to warrant an evidentiary hearing on the petition, let alone any temporary orders establishing a guardianship. Most critical here is the fact that the minor child has enjoyed high marks at school in terms of regular attendance and performance, which is attributable to the efforts of her biological parents to succeed where it matters most. The updated investigative report confirms that the child has been regularly attending school, in clean clothes, and with proper hygiene. The parents are no longer receptive to extended family input. Since petitioners declined to drop their petition, this Court appointed minor’s counsel, and is anticipating a report at this hearing. Parties should be prepared to set trial date(s).
15. **Thomson v. Grogan (FL18372).** This is a theoretically-completed parentage action with residual custody and visitation concerns that appear bogged down in a venue battle concerning the related guardianship case in Stanislaus County. This Court was previously informed that a motion to transfer was filed by minor’s counsel, but is presently unaware of the outcome of that motion/hearing, and whether the petitioner hearing still wants his custody/visitation issues decided here or in the guardianship case in Stanislaus. Since resources are being expended in this County, petitioner will be required to “fish or cut bait” as the saying goes.

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1:30 p.m.

16. **Petition of Rundle (CV67349).** Nonconfidential petition to change last name of minor. Both parents consent, so no need to find best interests as long as birth certificate is presented. No proof of publication.
17. **Petition of Baldwin (CV67345).** Confidential petition to change first and last name of minor to conform. Both parents consent, so no need to find best interests as long as birth certificate is presented.
18. **Petition of Smithers (CV67201).** Nonconfidential petition to change last name of minor. Both parents consent, so no need to find best interests as long as birth certificate is presented. No proof of publication.
19. **Smith v. Cantu (FL17155).** Day 2 trial (if needed).