

PROBATE CALENDAR NOTES

September 13, 2024

8:30 AM, Department 1

Placer County Superior Court

Published September 6, 2024, 3:00 PM

Updated (final) September 12, 2024, 3:00 PM

**The probate calendar will be heard in Department 1,
located at the Historic Courthouse, 101 Maple Street, Auburn.**

Local Rule 10.24, "Remote Appearances," applies to this calendar. Local Rule 10.27, "eDelivery/eFiling," requires electronic filing of documents by attorneys and represented parties.

These calendar notes are provided pursuant to Local Rule 80.1.4 for the probate calendar set for hearing **September 13, 2024, 8:30 AM, in Department 1**, Commissioner Michael A. Jacques, presiding.

Pursuant to Local Rule 80.1.4, these calendar notes are **not** a tentative ruling on the merits of any matter before the court. Remote appearances are generally available for this calendar, as provided in the Local Rules.

Updated notes may be posted at any time and will generally be updated the court day prior to the hearing. Staff may respond to limited questions concerning calendar notes; however, court staff may not give legal advice to parties or attorneys. Messages may be left for the Office of Legal Research at (916) 408-6119.

1. S-PR-0006863 Nute, Jean K. - In Re the Estate of

No appearance is required for status hearing. It is recommended a next status hearing be scheduled September 12, 2025, 8:30 a.m., in Department 40.

2. S-PR-0010325 Garibaldo, Gustavo; In re the Conservatorship of

Appearance is required for continued order to show cause hearing re transfer of conservatorship to Tulare County Superior Court.

It is recommended this matter be ordered transferred as provided in the order to show cause. It is further recommended the court order:

(1) conservators to contact the clerk's office forthwith to make any needed arrangements to complete transfer, including payment of any required fee and / or filing of a new fee waiver request (if applicable);

(2) a further review hearing be set; and

(3) that if the case is not transferred by the review hearing as ordered due to conservators' inaction, conservators' shall be subject to C.C.P. § 177.5 monetary sanctions in an amount not to exceed \$1,500 *each*.

Conservators have filed no response to the prior order to show cause and there is no indication in the court records that any conservator has contacted the clerk's office to facilitate transfer of this action.

3. S-PR-0011676 In Re the Estate of Gaines, Roberta Lyn

Appearance is required for continued hearing on petition for preliminary distribution.

Missing verification to the petition. Prob.C. § 1021. Although signed by petitioner, the petition is unverified.

Missing counsel signature on petition, required by C.C.P. § 128.7(a).

Missing 1st administrator account and report and request to extend administration. Prob.C. §§ 12200(a), 10950.

Missing inventory and appraisal. Prob.C. § 8800(b).

Petitioner cites Prob.C. § 11623 in the caption of the petition. Distribution under § 11623 is limited to 50% of the estate. Prob.C. § 11623(a)(2). The requested distribution appears to be 80% of the known or available estate although, as above, the long-overdue inventory has not been filed.

4. S-PR-0012339 In Re the Estate of Schmidt, Richard M

Petition for final distribution is recommended for approval as prayed.

5. S-PR-0012534 In Re the Estate of Thompson, Kirk Robert

Missing correct notice of hearing for amended petition to administer estate. Use of notice form DE-121 is required. Missing service of notice of hearing to surviving spouse of decedent, or C.R.C. 7.52 declaration(s) of efforts to locate and serve surviving spouse.

Missing sufficient proof of publication of notice of hearing. Proof of publication filed June 20 incorrectly states that petitioner offers a will for probate (¶ 4).

The petition requests a blocked account, explaining that certain funds are held elsewhere in a trust. If a blocked account is ordered, any funds marshaled to the estate must be deposited for this estate in a financial institution within this state that acknowledges no withdrawals can be made without a court order. Clarification is needed as to the account and whether administrator intends to take possession of the account.

6. S-PR-0012592 In Re the Saunders Irrev Trust

Appearance is required for continued hearing on petition to modify irrevocable trust.

7. S-PR-0012757 In Re the Vernon J Thompson & Barbara L Thompson Fam Trust

Appearance is required for continued hearing on petition to compel trustee accounts, remove trustee, and for other relief.

It is recommended this petition be continued to November 8, 2024, 8:30 a.m., in Department 1, to be heard with the newly filed petition to instruct trustee to provide trust records and information.

8. S-PR-0012823 In Re the Estate of Cousineau, Christoper

Missing notice of hearing for petition to administer estate. Missing service of notice of hearing. Missing proof of publication of notice of hearing.

Missing address of residence of decedent at death (¶ 3c).

Missing copy of will attached to petition.

Missing required allegations at ¶ 5a(1)-(2) (spouse), (3)-(4) (RDP), (7)-(8) (issue of predeceased child(ren)). Missing required allegations at ¶ 8.

Missing declaration of beneficiary trust terms (or authenticated copy of beneficiary trust). Local Rule 80.2.1.

Missing name of proposed executor (¶ 2b).

Missing request for bond or to waive bond (¶ 2d).

Note: missing signed duties form (DE-147). Clerk cannot issue letters until signed duties form is filed. C.R.C. 7.150.

9. S-PR-0012938 In Re the Estate of Weston, Jaclyn

Petition to administer estate is recommended for approval with bond as prayed.

10. S-PR-0012944 In Re the Dennis D Burmaster Rev Trust

Missing sufficient notice of hearing. Use of mandatory form DE-115 is required to satisfy the notice content requirements of Prob.C. § 851(c)(1) & (3). DE-120 is insufficient. Missing 30 days' service of sufficient notice of hearing with copy of the petition to all persons entitled to notice of the petition.

11. S-PR-0012945 In Re the Estate of Carter, Cynthia Ann

Petition to administer estate is recommended for approval as prayed.

12. S-PR-0012946 In Re the Estate of DePrima, Nellie Grace

Missing sufficient notice of hearing for petition to administer estate. Notice as filed and served states an incorrect address for Department 1, which is located at 101 Maple Street, Auburn. New notice and service are required.

Missing required allegations at ¶ 5a(7)-(8) (issue of predeceased child(ren)). Identification of issue of predeceased child Roger DePrima is needed.

13. S-PR-0012955 In Re the Estate of Joy, Merrilee Kay

Clarification is needed: petitioner James Joy identifies only self as petitioner (¶ 2); however, one Kenneth Joy signed the petition as a joint petitioner (page 4).

Missing sufficient notice of hearing and sufficient service of notice of hearing for petition to administer estate. Notice filed August 20 erroneously identifies decedent as "James Norman Joy, Kenneth Allen Joy" (¶ 1). Notice was impermissibly served by petitioner James Joy (service must be by non-party to the action). However, petitioners are not required to give notice to themselves, Prob.C. § 1201. If the court were to determine that no one other than petitioners is entitled to notice, the issues with notice and service may be found to be moot.

Missing proof of publication of notice of hearing.

Clarification is needed: petitioner requests appointment as both executor and administrator. The former office requires admission of a will to probate. It appears no will is offered. See ¶¶ 2b(1) & (3) and missing allegations at ¶ 3f.

Missing required allegations at ¶¶ 5a(3)-(4) (RDP), (7)-(8) (issue of predeceased child(ren)), and 8 (step- or foster child(ren)).

Missing request for bond or to waive bond (¶ 2d); if waiver is requested, missing basis for waiver (¶ 3e).

Note: missing signed Duties form (DE-147). Clerk cannot issue letters testamentary until signed Duties form is filed. C.R.C. 7.150.

14. S-PR-0012957 In Re the Estate of Parquer, James Thomas

This matter was dismissed by petitioner on September 4, 2024.

15. S-PR-0012960 In Re the Estate of Petroni, Cristina Lynn

Petition to administer estate is recommended for approval as prayed.

16. S-PR-0012961 In Re the Isabel Ana Ferguson Rev Liv Trust

Petition to determine trust property is recommended for approval as prayed.

17. S-PR-0012962 In Re the Estate of Kiwan, Mouna

Missing sufficient notice of hearing for petition to administer estate. Notice as filed, served, and published states an incorrect address for Department 1, which is located at 101 Maple Street, Auburn. New notice, service, and publication are required.

18. S-PR-0012963 In Re the Estate of Ayala, Lori Ann

Petition to administer estate is recommended for approval as prayed.

19. S-PR-0012964 In Re the Doris & Mace Trust

Petition to determine trust property is recommended for approval as prayed.

20. S-PR-0012965 In Re the Estate of Donaire, Mark

Petition to administer estate is recommended for approval as prayed.

21. S-PR-0012966 In Re the Estate of Hudson, John Frances

Petition to administer estate is recommended for approval as prayed.

22. S-PR-0012967 In Re the Matter of Cuneo, Stacey Michelle

Appearance is required for hearing on petition to compel Bank of America to release funds.

Additional points and authorities needed: petitioner does not cite any legal authorities in the petition except for Prob.C. §§ 3410-3411 & 3900 et seq., which are listed in the caption. Petitioner does not show how any of those sections permit a court order

compelling a third party to surrender property to petitioner on behalf of a minor. To the contrary, the requested relief appears to be relief under Prob.C. § 850(a)(1)(D). The notice of hearing filed August 26 is insufficient to support as Prob.C. § 850 petition.

23. S-PR-0012968 In Re the Estate of Procter, Henry Steven

Missing mandatory form petition to probate will and administer estate (DE-111). See Prob.C. § 1001 & C.R.C. 7.101; see also Prob.C. §§ 12530 & 12512; CEB CALIFORNIA DECEDENT ESTATE PRACTICE §§ 11.22 & 11.26.

Amended petition supported by property notice, service, and publication is needed.

24. S-PR-0012991 In Re the Estate of Dubrosky, Kimiko Yoshino

Missing sufficient notice of hearing for petition to administer estate. Notice as filed, served, and published states an incorrect address for Department 1, which is located at 101 Maple Street, Auburn. New notice, service, and publication are required. Waiver of notice of IAEA actions is not a waiver of notice of any court proceedings.

Missing service of notice to diplomatic or consular official of Japan. Prob.C. § 8113. Notice to or waiver of notice by heirs, even if present in the action, does not satisfy the statutory requirement for notice under § 8113.

There are no actions for the court to take under the relation rules for this case and the estate administration of decedent's late husband. Note: Mr. Kevin Eckard, as the sole probate referee for Placer County, is or will be appointed in this proceeding and the proceedings for decedent's late husband.

25. S-PR-0012992 In Re the Estate of Hoshall, William Coburn

Missing sufficient notice of hearing for petition to administer estate. Notice as filed, served, and published states an incorrect address for Department 1, which is located at 101 Maple Street, Auburn. New notice, service, and publication are required.

Additional allegations are needed: petitioner does not allege whether Kimberly Watson is survived by issue. In the event she was survived by issue, notice to said issue is needed.

Additional allegations are needed: petitioner does not identify the personal representative of the estate or other successor(s) of William Hoshall. Notice to said person(s) is needed.

Court determination is needed as to request to waive bond or to fix nominal bond. For waiver by beneficiaries, missing waivers of bond by issue of Kimberly Watson (if any) and personal representative of the estate or other success(s) of William Hoshall.

Note: only limited IAEA powers have been requested.

26. S-PR-0012999 In Re the Estate of Ratkowski, Donald J

Missing sufficient notice of hearing for petition to administer estate. Notice filed September 9 incorrectly states that petitioner offers a will for probate (¶ 4). No will is offered for probate.

Missing proof of publication of notice of hearing.

27. S-PR-0013001 In Re the Estate of Weathers, Sharon K.

Additional allegations and / or points and authorities needed: decedent's original will includes undated interlineation and additional text referring to an April 25, 2001, trust as well as the undated initials that appear to be of testator and the witnesses to the original 2011 will. Petitioners should address the validity and / or effect(s) if any, of these modifications to the will.