

PROBATE CALENDAR NOTES

September 20, 2024

8:30 AM, Department 1

Placer County Superior Court

Published September 16, 2024, 4:30 PM

Updated (final) September 19, 2024, 11:30 AM

**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 20, 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-0007496 Valeria E Arzola Spec Needs Trust; In re the

6th / final SNT account is recommended for approval as prayed.

2. S-PR-0011361 In Re the Lunsford Family Trust

Appearance is required for hearing on trustee account and request to approve beneficiary surcharge.

Note: petition to compel account and distribution filed February 2022 remains outstanding. Petition to recover assets filed May 2022 remains outstanding. Original trustee account filed January 2023 remains outstanding. Petition to surcharge trustee filed May 2023 remains outstanding.

3. S-PR-0011372 In Re the Matter of Lagomarsino, Joseph

Appearance is required for continued hearing on amended petition re agent breach of duty and for other relief.

4. S-PR-0012236 In Re the Lawrence W Woolf & Elizabeth Woolf Trust

Appearance is required for continued hearing on petition to appoint successor trustee and to instruct trustee.

Note: continued hearing on petition re breach of trust and to recovery trust property and for other relief is set for continued hearing December 6, 2024.

5. S-PR-0012447 In Re the Estate of Oliveras, Emiliano

Petition for final distribution is recommended for approval as prayed.

6. S-PR-0012496 In Re the Guzman Family Trust

Appearance is required for continued hearing on petition to determine trust property and for injunctive relief.

Current status is needed.

7. S-PR-0012537 In Re the Anna Pera Trust

This matter was dismissed by petitioners on September 17, 2024.

8. S-PR-0012624 In Re the Estate of Montgomery, Ann

Petition to administer estate (L Sellers, R Sellers)

Appearance is required for continued hearing on petition to administer estate.

Missing sufficient notice of hearing for petition to administer estate. Due to court scheduling, the assigned hearing department for the original hearing in this matter was changed to Department 1 as indicated in the clerk's notice of February 7. Missing notice for original hearing in Department 1 and service of notice. No further notice has been filed. Although the minutes from the April 5, 2024, hearing indicate further publication was waived, the minutes do not appear to address the notice and service of notice of hearing. Court determination is needed.

Revised requested bond again exceeds the bond amount calculated under Prob.C. § 8480 et seq. C.R.C. 7.207 does not apply to decedent's estates. Bond of \$497,145.07 is recommended based on the information provided in the response to notes.

Petition to administer estate (D Shiner)

Appearance is required for continued hearing on petition to administer estate.

Missing residence address of decedent (¶ 3c).

Will is not self-proving (witnesses did not execute any declaration or affidavit).

Missing proof of will.

Missing required allegation(s) at ¶ 6 where petitioner has alleged no spouse, RDP, or issue.

Missing service to beneficiary designated in the will as "ERMA." Petitioner should explain efforts to identify and serve ERMA, including any inquiry into whether ERMA is a charitable or other institutional beneficiary.

Note: formal will contest has been filed with a next hearing date of December 6, 2024.

9. S-PR-0012718 In Re the Estate of Green, Sharry Mae

Petition to administer estate (M Chiles)

Appearance is required for continued hearing on petition to administer estate.

Petition to administer estate (J Green)

Appearance is required for hearing on petition to administer estate.

Missing amount of bond requested. ¶ 2d(2).

10. S-PR-0012759 In Re the Conservatorship of Fornasero, Joseph M.

Appearance is required for post-appointment review hearing.

Missing inventory & appraisal. I&A of assets of the estate (form GC-040) is due within 90 days of the order of the appointment, as provided in Prob.C. § 2610.

11. S-PR-0012874 In Re the Estate of Scammon, Jeff Bryan

Amended petition to administer estate (S Holbrook)

Appearance is required for continued hearing on amended petition to administer estate.

Missing original will, Prob.C. § 8200(a). Missing "photographic copy" of will attached to the petition. Prob.C. § 8002(b)(1). Transcriptions of the contents of the video will do not appear to constitute a "photographic copy" of the purported will.

Missing waiver of bond by Karen Strong. Petitioner requests bond be waived without a waiver by Strong because she is disinherited in the purported will. The petition to probate the will and appoint executor does not finally resolve any question of beneficial rights to the estate; accordingly, the court generally requires waiver of bond by all devisees and all heirs. Court determination is needed.

It is recommended the court order that no further briefing on Holbrook's petition shall be filed by either petitioner or Kinsman.

It is recommended the informal request for appointment of a special administrator be denied without prejudice. A petition for such appointment is required to be made on the mandatory form petition. Prob.C. § 1000 & C.R.C. 7.101.

It is recommended the petition be denied as without any legal support as follows:

The Probate Code unambiguously requires every will to be in writing and to be signed. Prob.C. §§ 6110(a) ("shall be in *writing*"); 6110(b) ("shall be *signed*"); 6110(c)(1) (witness required to witness *signing* by testator or testator's acknowledgement of a *signature*; witness also *signs* the will); 6110(c)(2) ("testator *signed* the will"); 6111(a) (signature and material provision are "in the *handwriting* of the testator"); 6111(c) (testator's intent may be set forth "in the testator's own *handwriting*" or in "commercially *printed form*"; 6111.5 (extrinsic evidence may be used to determine "whether a *document* constitutes a will"); 6112(b) (interested witness *signature* does not invalidate a will); 6112(c) (*subscribing* witnesses); 6221 (statutory will is executed by "complet[ion] of *appropriate blanks*" in the form and by testator and witness *signatures*); 6223 & 6240 (statutory will *written terms*; the statutory will is a *form*); 6224-6225 (statutory will has "*paragraph[s]*" and "*texts*"); 6240, Question 6 (wills are "*handwritten . . . , typewritten . . . , attorney-prepared . . . [or] statutory . . .*" which "are valid if done precisely as the law requires"); 6240, Question 9 (statutory will executors should not "*cross out* any words" or "*add[]* words" and should only "*fill in the blanks*"; statutory will may be amended only "by a separate *document*"); 6240,

Question 10 (statutory will may be replaced by new *signed* will); 6382 (international will is "made *in writing*"); 6383(a) (international will may "consist[] of several *sheets*"); 6384 (international will includes "attach[ed] . . . *certificate*"); 6120(b) (will may be revoked by being "*burned, torn, canceled, obliterated, or destroyed*"); 6121 (revocation by destruction also revokes *duplicates*); 6124 (presumption of revocation when neither will nor *duplicate* original can be located); 8200(c) ("clerk shall release a *copy* of a will" lodged with a court "for *attachment* to a petition for probate of the will"); 8202 (where will is held by court of another state, "*certified photographic copy* of the will may be admitted to probate"); 8220(b) (proof of subscribing witness includes "*photographic copy* of the will"; see also subdiv. (c)); 12521(a) (probate of will for ancillary administration requires "[t]he will or an *authenticated copy* of the will") (emphases added throughout). See also Govt.C. § 26810(a)(2) (clerk may *photograph, microphotograph, photocopy* or electronically *image* wills lodged with the court for at least 10 years).

The Evid.C. § 250 definition has no application to the Probate Code. Evid.C. § 100 ("these definitions govern the construction of [the Evidence C]ode").

Petitioner offers no legal authority establishing that a non-writing can be or ever has been admitted as a valid will in California or has been found to satisfy any provision of Prob.C. §§ 6110-6111 including the explicit writing and signature requirements. Petitioner offers no legal authority establishing that statutory requirements for creation and execution of a will may be disregarded in favor of evidence of a decedent's unwritten, unsigned testamentary wishes. Note: even petitioner's illustrative Canadian anecdote involved creation of writing by tangible means by the decedent.

A statement of decision is only available upon the trial of facts. C.R.C. 3.1590(a). The petition includes no factual issues for trial; accordingly, the court is not required to provide a statement of decision.

Petition to administer estate (C Kinsman)

Petition to administer estate is recommended for approval as prayed.

12. S-PR-0012969 In Re the 1987 Eleanor P Lucks Exempt Trust

Petition to appoint successor trustee is recommended for approval as prayed.

13. S-PR-0012970 In Re the Lee-Tong Trust & Ching Y Lee Bypass Trust

Missing 30 days' personal service of notice of hearing with a copy of the petition to David Tong. Prob.C. § 851(a)(1). Proof of service filed September 18 showing mailed service on September 9 appears to be insufficient.

14. S-PR-0012972 In Re the John Brun Rev Trust

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

15. S-PR-0012974 In Re the Estate of Moe, Shirley Margaret

Real & personal property succession petition is recommended for approval as prayed.

16. S-PR-0012975 In Re the Gina Patricia Delaca Trust

Missing verification of the petition by petitioner.

Missing sufficient notice of hearing. Because a claim is brought under Prob.C. § 850, use of mandatory notice form DE-115 is required to satisfy the notice content requirements of Prob.C. § 851(c)(1) & (3).

17. S-PR-0012976 In Re the Ness Fam Trust

Petition to modify irrevocable trust is recommended for approval as prayed.

18. S-PR-0012977 In Re the Rhiannon Joy Sanchez 2016 Rev Trust

Petition to determine trust property as augmented by counsel's response to calendar notes is recommended for approval.

19. S-PR-0013035 In Re the Trust of Special Needs Trust

Appearance is required for hearing on motion to file petition and all related documents under seal.

Moving trustees should be prepared to address the application, if any, of *Copley Press, Inc. v. Super. Court* (1998) 63 Cal.App.4th 367 (rev. denied July 29, 1998) to this motion, as well as whether and to what extent the information which moving trustees seek to seal is already disclosed in other public court records.