

1. ESTATE OF REINHOLD, 23PR0309**(A) Petition for Final Distribution on Waiver of Account****(B) Status of Administration**

Pending before the court is the petition for final distribution.

The decedent's heirs (decedent's mother and decedent's four siblings) each signed a waiver of account.

Paragraph 16 of the petition does not identify the character of the property of the estate (i.e., separate or community). However, the petition for letters of administration filed December 13, 2023, indicates the decedent was divorced or never married. Therefore, it would appear that the entire property of the estate is the decedent's separate property.

Paragraph 19 of the petition for final distribution alleges that 100 percent of the estate should be distributed to the administrator of the estate, Tiffany Reinhold (the decedent's ex-spouse). However, the decedent died intestate. Therefore, the decedent's estate must be distributed according to the state's intestate succession laws. (See Prob. Code, § 6400, et seq.) Survived by the decedent are his mother and four siblings. Accordingly, the entire estate passes to the decedent's mother. (Prob. Code, § 6402, subd. (b).)

TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 8:30 A.M., FRIDAY, JUNE 27, 2025, IN DEPARTMENT FOUR.

2. MATTER OF THE SARE FAMILY LIVING TRUST DATED MARCH 12, 2018, 25PR0096**Demurrer (See Related Item No. 5)**

On April 17, 2025, petitioner Stacy Hembree (“Hembree”) filed a *Heggstad*¹ petition for order confirming trust assets, as well as instructions regarding respondent / co-trustee Suzanna Krzaczek’s (“Krzaczek”) alleged violation of the Sare Family Living Trust Dated March 12, 2018 (the “2018 Trust”).²

Pending before the court is Krzaczek’s demurrer to the *Heggstad* petition. Krzaczek’s counsel declares she met and conferred with Hembree prior to filing the demurrer, as required under Code of Civil Procedure section 430.41, subdivision (a). (Holmes Decl., ¶¶ 2–5 & Ex. A.)

1. Background

Carole Sare (deceased) established the Carole Marie Sare 2013 Trust (the “2013 Trust”) in 2013. (Petn., ¶ 3.) The 2013 Trust provides that, upon Sare’s passing, all real property was to be sold, and the trust residue was to be distributed as follows: (1) 25 percent to Krzaczek, outright and free of trust; (2) 25 percent pursuant to the terms of a general power of appointment timely exercised by Krzaczek, or, if no valid general power of appointment was exercised by Krzaczek, to Jake Krzaczek (Krzaczek’s son), in trust until he turns 35; (3) 18 percent to Hembree, outright and free of trust; (4) 16 percent pursuant to the terms of a general power of appointment timely exercised by Hembree, or, if no valid general power of appointment was exercised by Hembree, to Bryanna Hembree (Hembree’s daughter), in trust until she turns 35; and (5) 16 percent pursuant to the terms of a general power of appointment timely exercised by Hembree, or, if no valid general

¹ *Estate of Heggstad* (1993) 16 Cal.App.4th 943.

² Hembree and Krzaczek are both beneficiaries under their mother’s trust, the Carole Marie Sare 2013 Trust (the “2013 Trust”), which owns, amongst other items, six real properties (See El Dorado Super. Ct. Case No. 25PR0048). Hembree and Krzaczek allegedly established the 2018 Trust for the continued management of the 2013 Trust properties for their lifetime benefit.

power of appointment was exercised by Hembree, to Layne Hembree (Hembree's daughter), in trust until she turns 35. (Petr., ¶ 5.)

Sare passed away in 2016. (Petr., ¶ 6.) At that time, the 2013 Trust owned various personal and real property, including 1850 Pima Street in South Lake Tahoe, California— the subject of Krzaczek's pending petition in the related case (Krzaczek seeks, amongst other items, an order approving the proposed listing and sale of 1850 Pima Street pursuant to the terms of the 2013 Trust). (Petr., ¶ 7.)

After Sare's passing, Hembree and Krzaczek allegedly desired to hold on to the 2013 Trust's six real properties as long-term investments for the benefit of themselves and their children. (Petr., ¶ 8.) They allegedly established the 2018 Trust for the continued management of the 2013 Trust properties for their lifetime benefit. (Petr., ¶ 10.) However, Krzaczek allegedly failed to record the real property transfers from the 2013 Trust to the 2018 Trust. (Petr., ¶ 12.)

The relationship between Hembree and Krzaczek subsequently broke down and the sisters allegedly shifted their focus from joint management of the 2018 Trust to the distribution of the 2013 Trust. (Petr., ¶ 15.)

In November 2023, Krzaczek allegedly announced her intent to disregard the existence of the 2018 Trust and strictly adhere to the terms of the 2013 Trust (i.e., liquidate all six real properties). (Petr., ¶ 15.)

The petition asserts two causes of action: (1) request for order confirming trust assets; and (2) request for order enforcing the 2018 Trust's "no contest" clause against Krzaczek.

2. Legal Principles

"[A] demurrer challenges only the legal sufficiency of the complaint, not the truth or the accuracy of its factual allegations or the plaintiff's ability to prove those allegations." (*Amarel v. Connell* (1998) 202 Cal.App.3d 137, 140.) A demurrer is directed at the face of the complaint and to matters subject to judicial notice. (Code Civ. Proc., § 430.30, subd. (a).) All properly pleaded allegations of fact in the complaint are accepted as true,

however improbable they may be, but not the contentions, deductions or conclusions of facts or law. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318; *Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604.) A judge gives “the complaint a reasonable interpretation, reading it as a whole and its parts in their context.” (*Blank, supra*, 39 Cal.3d at p. 318.)

3. Discussion

Krzaczek contends the 2018 Trust is an invalid and unenforceable instrument because: (1) it does not satisfy the Statute of Frauds because it fails to identify any property purportedly subject to its terms; (2) it fails to comply with the “written owner declaration” requirement; and (3) there is a lack of trust property.

Probate Code section 15202 provides, “A trust is created only if there is trust property.” (*ibid.*) Here, the petition alleges that Hembree and Krzaczek established the 2018 Trust for the continued management of the 2013 Trust’s six real properties. However, the allegations do not establish there is any trust property in the 2018 Trust. The petition alleges that Krzaczek failed to record the real property transfers from the 2013 Trust to the 2018 Trust. Additionally, the petition alleges Hembree has been unable to access the Schedule “A” Initial Trust Funding for the 2018 Trust. Moreover, the allegations do not establish that Hembree and Krzaczek owned the entire interests in the six real properties. The petition alleges that, under the terms of the 2013 Trust, there were three contingent beneficiaries of the 2013 Trust, namely, Hembree and Krzaczek’s children. If no general power of appointment was exercised, a certain percentage of the 2013 Trust property was to be held in trust for the three children. The petition is silent as to whether any general power of appointment was exercised.

Based on the above, the court finds that the allegations in the petition do not establish that the 2018 Trust is a valid trust due to lack of property. The court sustains the demurrer with leave to amend.

TENTATIVE RULING # 2: THE DEMURRER IS SUSTAINED WITH LEAVE TO AMEND. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

3. CONSERVATORSHIP OF FRANCISCO P., 24PR0076

Annual Review Hearing

Letters of conservatorship of the person were issued on June 21, 2024. To date, there is no court investigator's report in the court's file.

TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 8:30 A.M., FRIDAY, JUNE 27, 2025, IN DEPARTMENT FOUR.

4. CONSERVATORSHIP OF SUSAN O., SP20190028

Biennial Review Hearing

Letters of conservatorship of the person and estate were issued on January 2, 2020.

On May 27, 2025, the conservator filed a Confidential Conservatorship Care Plan (Parts 1 and 2).

To date, the court investigator's report is not in the court's file. (See Prob. Code, §§ 1850, subd. (a)(2), 1851, subd. (b)(1).)

TENTATIVE RULING # 4: APPEARANCES ARE REQUIRED AT 8:30 A.M., FRIDAY, JUNE 27, 2025, IN DEPARTMENT FOUR.

5. MATTER OF THE CAROLE MARIE SARE 2013 TRUST, 25PR0048**Petition to Confirm Trust Assets and for Instructions (See Related Item No. 2)**

This matter is trailing the related case, El Dorado Superior Court Case Number 25PR0096. Having sustained the demurrer in that case with leave to amend, and having referred the parties to mediation pursuant to *Breslin*, the matter is dropped from the calendar.

TENTATIVE RULING # 5: THE MATTER IS DROPPED FROM THE CALENDAR.