October 26, 2026
Dept. 9
Probate Tentative Rulings

1.	**26PR0261**	**ESTATE OF TERESA DAWN LAMB**
LETTERS OF ADMINISTRATION		

Decedent died intestate on July 13, 2026, survived by decedent's father. Petitioner is decedent's sister.

The Petition requests full authority under the Independent Administration of Estates Act.

Waiver of bond has been filed with the court by the heir.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on September 14, 2026**.**

Proof of service of notice of the hearing on the Petition was filed on September 17, 2026.

Proof of publication was filed on October 9, 2026.

TENTATIVE RULING #1:

ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, OCTOBER 25, 2027, IN DEPARTMENT NINE. PETITIONER OR COUNSEL ARE ORDERED TO PERSONALLY APPEAR, OR FILE A STATUS UPDATE WITH THE COURT AT LEAST TWO WEEKS BEFORE THAT HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.

2.	**23PR0128**	**THE ESTATE OF ROBERT W. AMERAL SR.**
STATUS OF ADMINISTRATION		

Letters Testamentary were issued on July 31, 2023.

An Inventory and Appraisal was filed on February 2, 2026. Decedent owed no real property at the time of death and thereby no change of ownership statement was filed as provided in section 480 of the California Revenue and Taxation Code.

A Petition for Final Distribution was filed on December 16, 2025.

On February 9, 2026, the Court granted the Petition for Final Distribution; however, no Order for Final Distribution has been filed.

There are no Receipts of Distribution on file with the court.

There is no ex parte Petition for Final Discharge (Judicial Council Form DE-295) on file with the court**.**

TENTATIVE RULING #2:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, OCTOBER 26, 2026, IN DEPARTMENT NINE.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, OCTOBER 25, 2027, IN DEPARTMENT NINE. PETITIONER OR COUNSEL ARE ORDERED TO PERSONALLY APPEAR, OR FILE A STATUS UPDATE WITH THE COURT AT LEAST TWO WEEKS BEFORE THAT HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.

3.	**25PR0022**	**ESTATE OF DANIEL MARTIN ANZELC**
FINAL DISTRIBUTION HEARING		

Letters of Administration were issued on April 14, 2025, granting Petitioner full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on March 11, 2026. At the time the inventory and appraisal was filed, the change of ownership statement with the county recorder or assessor in each county where the decedent owned real property at the time of death, as provided in section 480 of the California Revenue and Taxation Code, was filed.

Proof of Service of Notice of the hearing on the Petition was filed on October 2, 2026. No one has filed a request for special notice in this proceeding.

The proposed distribution of the estate includes an equal distribution among Decedent's three children; however, after the payment of taxes, expenses, costs reimbursements, compensation approved by the Court, and after the pro-rata payment of the claims that were accepted from creditors who filed claims in this Estate, there will be no assets to be distributed. Should any assets which are later discovered after the close of this Estate, Petitioner requests they be distributed to Decedent's three children or, if they are minors at the time it is discovered, to whomever their Court-appointed Guardian.

Per Local Rule 10.07.12 Petitions for final distribution must include a report of the following:

1. That no federal or California estate taxes are payable or that they have been paid;
2. That income taxes and all other taxes (e.g. supplemental real property taxes or personal property taxes, if any, have been paid or otherwise provided for.

If estate taxes are payable or paid: 1) the petition shall set forth whether said taxes were prorated pursuant to Probate Code section 20100, et seq., or the provisions of the will; and 2) the petition must reflect whether or not there are non-probate assets includable in the gross estate for estate tax purposes.

Petitioner confirms that no federal or California estate taxes are payable, nor are any California or federal income or personal property taxes payable.

The Petition requests:

1. That the administration of this Estate be brought to a close and that the Administrator's First and Final Account be approved and allowed as filed;

2. That all acts and proceedings of Petitioner as Administrator as reflected on this First and Final Account and Report of Administration be confirmed and approved;

3. The Court approves the statutory attorney compensation in the amount of $20,668.30 and directs Joyce Ann Anzelc as Administrator of the Estate to her attorney, Jessica Kiely, this amount representing the statutory attorney compensation;

4. The Court approves the cost reimbursements of $52,968.42 and directs Joyce Ann Anzelc as Administrator to pay this amount to herself as Administrator representing her costs reimbursements;

5. Directing that the balance of the Property on Hand, and any other after-discovered property of the Decedent, whether or not now known, after payment of the costs approved by the Court and any remaining taxes and closing expenses, be to the Creditor in the pro-rata percentages and amounts below, until each claim is paid in full, after which time, distribution shall be made to Nathan Anzelc, Ashley Anzelc, and Alicia Anzelc or, if they are minors at the time it is discovered, to whomever is their Court-appointed Guardian.

6. Creditors to be paid Pro-Rata:

    a. Capital One, N.A. – Quicksilver (Total claim: $3,680.04); Amount allowed: $2,456.29; Pro-rata %: 0.709559%

    b. Phillips & Cohen Associates, Ltd (Total claim: $255.90); Amount allowed: $170.80; Pro-rata %: 0.049341%

    c. U.S. Bank National Association (Total claim: $469.74); Amount allowed: $313.53; Pro-rata %: 0.090572%

    d. Heather L. Anzelc (Total claim: $500,000.00); Amount allowed: $333,731.02; Pro-rata %: 96.406416%

    e. Ascension Point Recovery Services, LLC (Total claim: $14,232.00); Amount allowed: $9,499.32; Pro-rata %: 2.744112%

    f. Total claims: $518,6377.68; Amount allowed: $346,170.96; Pro-rata %: 100.00%

7. The Court orders the Administrator's bond exonerated after filing of the Petition for Final Discharge; and

8. **Upon filing of receipts and the Ex Parte Petition for Discharge, Petition may be discharged and released from all liability that may be incurred thereafter.**

TENTATIVE RULING #3:

ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, OCTOBER 25, 2027, IN DEPARTMENT NINE BY WHICH TIME THE COURT EXPECTS RECEIPTS AND AN EX PARTE PETITION FOR FINAL DISCHARGE (JUDICIAL COUNCIL FORM DE-295) TO BE FILED WITH THE COURT. PETITIONER OR COUNSEL ARE ORDERED TO PERSONALLY APPEAR, OR FILE A STATUS UPDATE WITH THE COURT AT LEAST TWO WEEKS BEFORE THAT HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITEE.

4.	**25PR0255**	**THE ESTATE OF LINDA JANE NICHOLS**
STATUS OF ADMINISTRATION		

Letters Testamentary were issued on October 27, 2025.

There is no Inventory and Appraisal on file with the court. Probate Code §8800 requires that the personal representative file an Inventory and Appraisal with the Court within 4 months from the issuance of letters.

There is no Petition for Final Distribution on file with the court.

TENTATIVE RULING #4:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, OCTOBER 26, 2026, IN DEPARTMENT NINE.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, OCTOBER 25, 2027, IN DEPARTMENT NINE. PETITIONER OR COUNSEL ARE ORDERED TO PERSONALLY APPEAR, OR FILE A STATUS UPDATE WITH THE COURT AT LEAST TWO WEEKS BEFORE THAT HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.

5.	**26PR0257**	**IN THE MATTER OF STEVEN CARLSON**
LETTERS OF ADMINISTRATION		

Decedent died intestate on May 10, 2026, survived by two children. Petitioner is decedent's daughter.

The Petition requests full authority under the Independent Administration of Estates Act.

Waiver of bond has been filed with the court by one of the heirs. Petitioner, an heir, has not filed a waiver of bond.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on September 4, 2026**.**

Proof of service of notice of the hearing on the Petition was filed on September 11, 2026.

Proof of publication was filed on October 7, 2026.

TENTATIVE RULING #5:

CONTINGENT UPON RECEIPT OF PETITIONER'S WAIVER OF BOND AND ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, OCTOBER 25, 2027, IN DEPARTMENT NINE. PETITIONER OR COUNSEL ARE ORDERED TO PERSONALLY APPEAR, OR FILE A STATUS UPDATE WITH THE COURT AT LEAST TWO WEEKS BEFORE THAT HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.

6.	**25PR0168**	**ESTATE OF LYNDA KATHRYN SHERER**
OSC HEARING		

On September 14, 2026, the Court set an Order to Show Cause for removal or suspension of and/or sanctions against the personal representative for failure to appear or file a status report for the hearing. To date, nothing further has been filed.

TENTATIVE RULING #6:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, OCTOBER 26, 2026, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.

7.	**26PR0265**	**ESTATE OF PAMELA L. CROSS**
LETTERS TESTAMENTARY		

Decedent died testate on January 6, 2024, survived by one child. Petitioner is decedent's sister.

The Petition requests full authority under the Independent Administration of Estates Act.

David Giosso was named as Executor in the Will but filed a declination to serve as Executor on September 18, 2026**.** Petitioner, Cherie Cross, was named as successor Executor.

The Will was lodged with the court on September 18, 2026**,** and is admitted to probate.

The Will waives bond.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on September 18, 2026**.**

Proof of service of notice of the hearing on the Petition was filed on October 16, 2026.

Proof of publication was filed on October 15, 2026.

TENTATIVE RULING #7:

ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, OCTOBER 25, 2027, IN DEPARTMENT NINE. PETITIONER OR COUNSEL ARE ORDERED TO PERSONALLY APPEAR, OR FILE A STATUS UPDATE WITH THE COURT AT LEAST TWO WEEKS BEFORE THAT HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.

8.	**24PR0048**	**ESTATE OF BENJAMIN FRIEDLAND**
STATUS OF ADMINISTRATION		

Letters of Administration were issued on May 13, 2024.

An Inventory and Appraisal was filed on March 5, 2025. Decedent owed no real property at the time of death and thereby no change of ownership statement was filed as provided in section 480 of the California Revenue and Taxation Code.

A Petition for Final Distribution was filed on September 2, 2025.

An Order for Final Distribution was filed on October 27, 2025.

Receipts of Distribution have been filed.

There is no ex parte Petition for Final Discharge (Judicial Council Form DE-295) on file with the court**.**

TENTATIVE RULING #8:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, OCTOBER 26, 2026, IN DEPARTMENT NINE.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, OCTOBER 25, 2027, IN DEPARTMENT NINE. PETITIONER OR COUNSEL ARE ORDERED TO PERSONALLY APPEAR, OR FILE A STATUS UPDATE WITH THE COURT AT LEAST TWO WEEKS BEFORE THAT HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.

9.	**26PR0254**	**IN THE MATTER OF SHIRLEY LUISE ISOLA**
PETITION HEARING		

Decedent died on June 10, 2026, as a resident of El Dorado County, CA. She died intestate.

The gross value of decedent's interest in real and personal property in California, excluding the property described in Probate Code §13050 did not exceed $750,000.00.

Probate Code § 13152(e) requires that Form DE300 also be attached to the Petition, *see* Petition paragraph 8(c). That form is not included in the Petition.

Decedent is survived by two children.

Attachment 11 contains the legal description and APN of the real property.

It also contains a description of the personal property in California passing to each petitioner, decedent's interest in the property and if the petitioner's claim to the property is based on succession under Probate Code §6401 and 6402, facts that show the character of the property as community, separate, or quasi-community property.

The interest claimed by each petitioner in each specific piece of real property and personal property is: 50% as to Terrance L. Isola and 50% as to Robert L. Isola.

Attachment 14 contains the names, relationships to decedent, ages, and residence/mailing addresses, as far as known to or reasonably ascertainable by petitioner, of all persons named or checked in items 1, 9, and 10, all other persons who may be entitled to inherit decedent's property in the absence of a will, and all persons designated in the will to receive any property.

TENTATIVE RULING #9:

CONTINGENT UPON THE FILING OF THE PETITION WITH FORM DE300 AND ABSENT OBJECTION, PETITIONERS' REQUEST IS GRANTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.

10.	**22PR0242**	**BAXLEY FAMILY LIVING TRUST**
PETITION HEARING		

On September 10, 2026, Petitioner, Mallie Ann Kerwood ("Petitioner") filed a Petition to Compel Distribution of Trust Assets; for Accounting; for Relief for Breach of Trust and Surcharge and an Application for Order to Show Cause Re Failure to Account for and Distribute Remaining Trust Assets. An Amended Petition to Compel Immediate Distribution of Trust Assets; for Relief for Breach of Trust and Surcharge was filed by Petitioner on September 18, 2026. No opposition has been filed by Respondent, Lisa Ivancich ("Respondent" or "Trustee").

Request for Judicial Notice

Plaintiff seeks judicial notice of the following: 1) Petition for Trust Accounting, Removal of Trustee, Relief for Breach of Trust, and Surcharge filed September 1, 2022; 2) Notice of Hearing filed on or about September 13, 2022; 3) Court Accounting for the period January 1, 2021 through December 31, 2022, dated December 22, 2022, and filed or submitted in connection with this proceeding; 4) Subsequent Court Accounting dated March 10, 2023, and filed or submitted in connection with this proceeding; 5) First and Final Account of Lisa Ivancich, as Trustee of the Baxley Family Trust, together with the petition or request for approval thereof and for distribution of the remaining Trust Estate, dated and/or filed on or about March 28, 2025; and 6) Any minute order, written order, or other court record reflecting the Court's ruling upon the First and Final Account of Lisa Ivancich, Trustee, and the proposed distribution of the remaining Baxley Family Trust Estate, entered or issued following the Court's consideration of the First and Final Account. Petitioner did not include copies of the documents she seeks judicial notice of.

Judicial notice is a mechanism which allows the Court to take into consideration matters which are presumed to be indisputably true. California Evidence Code Sections 451, 452, and 453 govern the circumstances in which judicial notice of a matter may be taken. While Section 451 provides a comprehensive list of matters that must be judicially noticed, Section 452 sets forth matters which *may* be judicially noticed, including, but not limited to, "[r]ecords of (1) any court of this state or (2) any court of record of the United States or of any state of the United States."

Section 452 provides that the court "may" take judicial notice of the matters listed therein, while Section 453 provides a caveat that the court "shall" take judicial notice of any matter "specified in Section 452 if a party requests it and: (a) Gives each adverse party sufficient notice of the request…to enable such adverse party to prepare to meet the request; and (b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter." Cal. Evid. Code § 453.

While the request made by Petitioner fall within the purview of Section 452, matters which *may* be judicially noticed, the Court does not find that Petitioner provided Respondent and the Court sufficient notice of the request and copies of the documents requested to be noticed. Moreover, the Court is not in receipt of request nos. 3-6 within its file. As such, Petitioner has not satisfied the requirements of Evidence Code § 453 and the request for judicial notice is denied.

Petition/OSC

Petitioner asserts that pursuant to the First and Final Account provided by Respondent, a $5,000.00 reserve was to be held by Respondent for contingencies. Following payment of remaining expenses, ninety percent (90%) of the reserve plus any other monies thereafter received by the Trust would be distributed to Petitioner and ten percent (10%) to the remaining beneficiary. More than one year later, Petitioner has not received final distribution of her share of the remaining reserve, despite repeated requests for distribution, and Respondent has not identified any existing contingency or Trust obligation requiring continued retention of the reserve.

The Petition requests the following relief:

1. Order Respondent to immediately distribute to Petitioner her ninety percent (90%) beneficial share of all remaining Trust property, including the remaining contingency reserve and any other monies remaining in or thereafter received by the Trust;
2. Order Respondent, following immediate distribution, to provide a full accounting of her Administration of the Trust, including all Trust assets received or held, all income and receipts, all expenditures and disbursements, all Trustee compensation and attorney's fees paid, and the disposition of Trust property, and order that the accounting and any issues arising therefrom shall not delay or serve as a basis for withholding the distribution ordered herein;
3. Establish a definite deadline for the immediate distribution ordered herein, independent of the subsequent accounting and any remaining issues concerning administration of the Trust; and
4. Reserve jurisdiction to grant appropriate relief under Probate Code § 16420, including surcharge and reduction or denial of Trustee compensation, if the subsequent accounting or other evidence establishes a breach of trust.

Petitioner further seeks the Court issue an Order to Show Cause requiring Respondent to appear and show cause why:

1. Respondent should not be ordered to make final distribution to Petitioner of her ninety percent (90%) beneficial share of the remaining $5,000.00 contingency reserve and any other monies remaining in or thereafter received by the Trust, after payment of any legitimate remaining Trust expense;

2. Respondent should not be required, to the extent she contends that any portion of the remaining Trust funds has been expended, transferred, or must continue to be retained, to identify and substantiate the specific expenditure, transfer, contingency, or other Trust obligation supporting that contention;
3. Respondent should not be required to identify the present amount and location of the remaining Trust funds and whether any such funds were transferred to Respondent's counsel's attorney trust account for purposes of final distribution;
4. Final distribution should not be complete immediately; and
5. Such further relief authorized by Probate Code sections 16420 and 17200 should not be granted as the evidence presented at the hearing may warrant.

TENTATIVE RULING #10:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, OCTOBER 26, 2026, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.

11.	**25PR0175**	**ESTATE OF REGGIE WAYNE PATTON**
OSC HEARING		

On September 14, 2026, the Court set an Order to Show Cause for removal or suspension of and/or sanctions against the personal representative for failure to appear or file a status report for the hearing. To date, nothing further has been filed.

TENTATIVE RULING #11:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, OCTOBER 26, 2026, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.

12.	**22PR0078**	**ESTATE OF TINA PEABODY**
STATUS OF ADMINISTRATION		

Letters of Administration were issued on July 20, 2022.

An Inventory and Appraisal was filed on January 17, 2023. At the time the inventory and appraisal was filed, the change of ownership statement with the county recorder or assessor in each county where the decedent owned real property at the time of death, as provided in section 480 of the California Revenue and Taxation Code, was filed.

There is no Petition for Final Distribution on file with the court.

On October 8, 2026, Administrator filed a Report on Status of Administration which provided a partition lawsuit will be filed soon. Counsel requests the status conference be continued for three months to ascertain the status of the partition case.

TENTATIVE RULING #12:

ADMINISTRATOR'S REQUEST FOR A CONTINUANCE IS GRANTED. THE HEARING IS CONTINUED TO JANUARY 25, 2027, AT 8:30 A.M. IN DEPARTMENT NINE. PETITIONER OR COUNSEL ARE ORDERED TO PERSONALLY APPEAR, OR FILE A STATUS UPDATE WITH THE COURT AT LEAST TWO WEEKS BEFORE THAT HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.

13.	**25PR0232**	**ESTATE OF ROLF HENRY PETERSON**
STATUS OF ADMINISTRATION		

Letters of Administration were issued on October 27, 2025.

An Inventory and Appraisal was filed on April 21, 2026. At the time the inventory and appraisal was filed, the change of ownership statement with the county recorder or assessor in each county where the decedent owned real property at the time of death, as provided in section 480 of the California Revenue and Taxation Code, was filed.

There is no Petition for Final Distribution on file with the court.

TENTATIVE RULING #13:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, OCTOBER 26, 2026, IN DEPARTMENT NINE.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, OCTOBER 25, 2027, IN DEPARTMENT NINE. PETITIONER OR COUNSEL ARE ORDERED TO PERSONALLY APPEAR, OR FILE A STATUS UPDATE WITH THE COURT AT LEAST TWO WEEKS BEFORE THAT HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.

14.	**24PR0084**	**IN RE THE MATTER OF THE VISMAN FAMILY REVOCABLE TRUST**
PETITION HEARING		

On September 22, 2026, Cross-Petitioners, Mark Visman and Mike Visman (collectively "Cross-Petitioners"), filed a Cross Petition for Instructions and Related Relief. No opposition has been filed by Cross-Respondents, Brad D. Visman ("Brad") and Brad D. Visman, Jr. ("BJ") (collectively "Cross-Respondents").

Background

On April 2, 2024, Respondents filed a Petition for Instructions, in part, to determine whether the Trust or El Dorado Orchards ("EDO") owns Boa Vista, and whether the lease executed between the Trust and EDO was valid.

On July 29, 2026, the Court found that Boa Vista is an asset of EDO and not an asset of the Trust. Additionally, the Court found the lease executed between the Trust and EDO was valid and enforceable.

Legal Principles

Probate Code § 17200, in part, provides:

> (a) Except as provided in Section 15800, a trustee or beneficiary of a trust may petition the court under this chapter concerning the internal affairs of the trust or to determine the existence of the trust.
>
> (b) Proceedings concerning the internal affairs of a trust include, but are not limited to, proceedings for any of the following purposes:
>
> (1) Determining questions of construction of a trust instrument.
>
> (3) Determining the validity of a trust provision.
>
> (6) Instructing the trustee.

Discussion

Petitioners raise ten issues for determination by the Court pursuant to Probate Code § 17200 and request the Court grant corresponding orders.

1. Did Brad and BJ's actions and conduct, including the litigation regarding the Petition for Instructions, constitute a contest of the Trust within the meaning and intent of section 8.08 of the Visman Trust?
2. Did Brad and BJ's actions and conduct, including the litigation regarding the Petition for Instructions, violate the No Contest section (section 8.08) of the Visman Trust?

3. Did Brad and BJ forfeit the interests given to them under the Visman Trust?
4. If Brad and BJ forfeit the interests given to them under the Visman Trust, what becomes of their interests? Do the remaining beneficiaries succeed to their forfeited interests?
5. Should the interests given to Brad and BJ under the Visman Trust be surcharged?

Cross-Petitioners argue the issues raised by Cross-Respondents in the Petition for Instructions, specifically regarding the ownership of Boa Vista and the validity of the Boa Vista lease, constitute a direct contest within the meaning and intent of section 8.08.

Section 8.08 of the Visman Trust provides:

> If any beneficiary under a Trust created by this document shall, singly or in conjunction with any other person or persons**, contest in any court the validity of any Trust created by this document, or any will or other document making a transfer to this Trust, or shall seek to obtain an adjudication in any proceeding in any court that this Trust or any of is dispositive provisions are void, or otherwise seek to void, nullify, or set aside the Trust of any of its provisions**, then the right of that person to take any interest given to him or her by this document shall be determined as it would have been determined had the person predeceased the execution of this declaration Trust. (emphasis added).

Probate Code § 21311 provides:

> (a) A no contest clause shall only be enforced against the following types of contests:
>
> (1) A direct contest that is brought without probable cause.
>
> (2) A pleading to challenge a transfer of property on the grounds that it was not the transferor's property at the time of the transfer. A no contest clause shall only be enforced under this paragraph if the no contest clause expressly provides for that application.
>
> (3) The filing of a creditor's claim or prosecution of an action based on it. A no contest clause shall only be enforced under this paragraph if the no contest clause expressly provides for that application.
>
> (b) For the purposes of this section, probable cause exists if, at the time of filing a contest, the facts known to the contestant would cause a reasonable person to believe that there is a reasonable likelihood that the requested relief will be granted after an opportunity for further investigation or discovery.

In determining the intent of the transferor, a no contest clause shall be strictly construed. Probate Code § 21312.

Strictly construing Section 8.08 of the Trust, Cross-Respondents did not contest the validity of any Trust created by the document, or any will or other document making a transfer to the Trust, or seek to obtain an adjudication in any proceeding that the Trust or any of its dispositive provisions are void, or otherwise seek to void, nullify, or set aside the Trust of any of its provisions. Cross-Respondents were attempting to enforce the provisions of the Trust pursuant to its plain language, not contest the Trust, despite the language of the Trust and Cross-Respondents' arguments ultimately being found incorrect. The Settlors could not have contemplated the resulting scenario which transpired, and the Court does not find it was their intent that such a situation would constitute a contest resulting in a forfeiture of a beneficiary's interest.

The Court finds that Cross-Respondents' actions and conduct did not constitute a contest of the Trust. Accordingly, Cross-Respondents did not violate Section 8.08 of the Trust or forfeit their interests given to them under the Trust. As Cross-Respondents' interests were not forfeited, the Court finds Cross-Petitioners' issues nos. 4-5 moot.

6. If Brad declines to purchase the Boa Vista real property pursuant to the terms of the Visman Trust, who owns residence located on the Boa Vista real property where Brad resides? Does the Visman Trust own this residence? What is the interest of the Visman Trust beneficiaries in this residence?

   Section 1.4, Amendment of Section 8.04 of the Trust provides:

   A. BRAD C. VISMAN shall be allowed to reside in the home located on the 84.06 acres of land belonging to Boa Vista business. Settlors are aware of the fact that it may be difficult or even impossible to separate ownership of that dwelling and the grounds around it from the remaining parcel.
   B. BRAD C. VISMAN. is to have one (1) year from the date of death of the surviving Settlor to purchase the Boa Vista business and acreage from the successor Trustee at the value as determined in Section 8.03 herein.
   C. BRAD C. VISMAN, JR., is to receive the home and real property on the separate 2.2 acres identified as A.P.N. 048-160-29-100 adjacent to the business known as Boa Vista, outright.

   Section 1.5, Amendment of Section 8.05 provides:

   > Residuary Beneficiaries. The Successor Trustee shall then determine the resulting total value of the trust assets and shall create shares in the proportions set forth below:
   >
   > A. FIFTYSIX PERCENT (56%) to BRAD C. VISMAN, if he survives the surviving Settlor. If BRAD VISMAN fails to survive the surviving Settlor, then said share shall be distributed to the issue of BRAD C. VISMAN by right of representation

or, if no issue, then said share shall be distributed to the wife of BRAD C. VISMAN. If no issue and no wife survive the surviving Settlor, then said share shall lapse and instead be distributed to the surviving Residuary Beneficiaries identified in Section 8.05.

B. TWENTY-TWO PERCENT (22%) to MICHAEL C. VISMAN, if he survives the surviving Settlor. If MICHAEL C. VISMAN fails to survive the surviving Settlor, then said share shall be distributed to, his wife, Nancy Visman, or if Nancy Visman does not survive the surviving Settlor and Michael C. Visman then said share shall be distributed to the issue of MICHAEL C. VISMAN by right of representation. If there are no issue of Michael C. Visman and Nancy Visman does not survive the surviving Settlor, then said share shall lapse and instead be distributed to the surviving Residuary Beneficiaries identified in Section 8.05.

C. TWENTY-TWO PERCENT (22%) to MARK S. VISMAN, if he survives the surviving Settlor. If MARK S. VISMAN fails to survive the surviving Settlor, then said share shall be distributed to the issue of MARK S. VISMAN by right of representation or, if no issue, then said share shall be distributed to the surviving Residuary Beneficiaries identified in Section 8.05.

The Court finds that should Brad decline to purchase the Boa Vista real property, the residence located on the Boa Vista real property where Brad resides remains property of the Visman Trust, which would fall into the residue and be distributed pursuant to Section 1.5.

7. As Co-Successor Trustees of the Visman Trust, did Mark and Michael defend the Petition for Instructions in good faith?
8. As Co-Successor Trustees of the Visman Trust, did Mark and Michael properly defend the Petition for Instructions?
9. Were Co-Successor Trustees Mark and Michael required to ignore the truth as to the ownership of the business known as Boa Vista and the validity of the Boa Vista Lease in defending the Petition for Instructions?

Although Cross-Petitioners did not adhere to the plain language of the Trust, the Court finds they acted properly and in good faith by not ignoring the truth as to the ownership of Boa Vista and the Boa Vista Lease.

10. Should Brad and BJ be ordered to pay the attorney fees and costs of Mark and Michael in defending the Petition for Instructions and bringing the instant Cross Petition?

The Court finds this to be an improper request for attorney fees and costs. Should Cross-Petitioners seek attorney fees and costs, Cross-Petitioners may file a code-compliant motion. Cross-Petitioners' request for attorney fees and costs is denied without prejudice.

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TENTATIVE RULING #14:

PETITIONERS' REQUESTS ARE GRANTED IN PART AND DENIED IN PART AS OUTLINED IN THE TENTATIVE RULING. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).

IF A PARTY OR PARTIES WISH TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCES CAN BE FOUND ON THE COURT'S WEBSITE.