

1. ESTATE OF MARQUARDT, 22PR0089

(1) Inventory and Appraisal

(2) First and Final Account and Report; Petition for Final Distribution

TENTATIVE RULING # 1: THE FINAL INVENTORY AND APPRAISAL AND SUPPLEMENTAL INVENTORY AND APPRAISAL HAVING BEEN FILED WITH THE COURT, MATTER IS DROPPED FROM THE CALENDAR. ABSENT OBJECTION, PETITION FOR FINAL DISTRIBUTION AND FOR PAYMENT OF COMPENSATION IS GRANTED AS REQUESTED.

2. ESTATE OF PURVIS, 22PR0262

Petition to Administer Estate

This matter was continued from October 26, 2022. Petitioner did not appear at that hearing. The court ordered that appearances are required for this hearing. If petitioner does not appear, the court indicated that an OSC hearing would be set.

To date, the defects identified in the tentative ruling for the October 26 hearing have not been corrected.

**TENTATIVE RULING # 2: APPEARANCES ARE REQUIRED AT 8:30 A.M.,
WEDNESDAY, NOVEMBER 9, 2022, IN DEPARTMENT FOUR.**

3. ESTATE OF IVELICH, 22PR0143

Inventory and Appraisal

Letters Testamentary were issued on July 6, 2022. To date, the Final Inventory and Appraisal is not in the court's file.

TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 8:30 A.M., WEDNESDAY, NOVEMBER 9, 2022, IN DEPARTMENT FOUR.

4. ESTATE OF ANN PETRIG, SP20200030**Status of Administration (See Related Item No. 5)**

This matter was continued from July 6, 2022.

Letters of Administration were issued on September 18, 2020. The Final Inventory and Appraisal was filed October 9, 2020. Final distribution was ordered on September 10, 2019. A stipulation and order regarding partial distribution was filed in the related matter, *Estate of Edgar Petrig*, El Dorado County Superior Court Case No. SP20190002 (see item no. 5), which also affects this matter. Estate administration for this action remains open pending completion of the administration of Edgar's estate.

TENTATIVE RULING # 4: APPEARANCES ARE REQUIRED AT 8:30 A.M., WEDNESDAY, NOVEMBER 9, 2022, IN DEPARTMENT FOUR.

5. ESTATE OF EDGAR PETRIG, SP20190002**Status of Administration (See Related Item No. 4)**

This matter was continued from July 6, 2022.

Letters of Administration were issued on April 17, 2019, to Ann Petrig, who subsequently passed away. Letters of Administration were then issued to decedent's mother on September 18, 2020. The Final Inventory and Appraisal was filed October 9, 2020. Partial distribution of the estate was ordered on November 2, 2020, and final distribution was ordered on July 8, 2021. To date, there are no receipts of distribution and no Ex Parte Petition for Final Discharge (Judicial Council form DE-295) in the court's file.

TENTATIVE RULING # 5: APPEARANCES ARE REQUIRED AT 8:30 A.M., WEDNESDAY, NOVEMBER 9, 2022, IN DEPARTMENT FOUR.

6. MATTER OF EDWARD W. DUNN & MIRA Y. DUNN TRUST, SP20210034

Trial Setting; Review of Production of Documents

**TENTATIVE RULING # 6: APPEARANCES ARE REQUIRED AT 8:30 A.M.,
WEDNESDAY, NOVEMBER 9, 2022, IN DEPARTMENT FOUR.**

7. ESTATE OF MENICHELLO, 22PR0048

Inventory and Appraisal

TENTATIVE RULING # 7: THE UPDATED SUPPLEMENTAL AND FINAL INVENTORY AND APPRAISAL HAVING BEEN FILED ON OCTOBER 27, 2022, MATTER IS DROPPED FROM THE CALENDAR.

8. ESTATE OF EISSEL, 22PR0028**(1) Inventory and Appraisal****(2) Motion to be Recognized as an Heir/Beneficiary and to be Given Notice****(3) Motion to be Added as Party and Contest Prior Distributions**

This matter was continued from September 7, 2022.

Inventory and Appraisal

The Final Inventory and Appraisal having been filed on August 26, 2022, matter is dropped from the calendar.

Motions Filed by Lothar Eissel, IV

Two motions have been filed by Lothar Eissel, IV, who states he is the son of Lothar Eissel, III, the deceased spouse of Sharon Eissel, the decedent and Lothar's stepmother.¹ Lothar seeks to be recognized as an heir of Sharon and to be given notice of these proceedings, as well as to contest any distributions of Sharon's estate made prior to him receiving notice of this estate administration.

Under Probate Code section 1207, notice need not be given to a decedent's stepchildren who may be heirs "because of a possible parent-child relationship" between them unless the personal representative "has actual knowledge of facts" reasonably giving rise to a parent-child relationship under Probate Code section 6454.

Under Probate Code section 6454, for the purpose of determining intestate succession by a stepchild through a stepparent, a "parent-child relationship" exists if (1) the relationship began during the stepchild's minority and continued throughout the joint lifetimes of the stepchild and stepparent, and (2) "it is established by clear and convincing evidence" that the stepparent would have adopted the stepchild but for a legal barrier.

¹ The court will use the parties' first names to avoid confusion, not out of disrespect.

The petition for probate alleges that Sharon was not survived by a stepchild who would have been adopted by Sharon but for a legal barrier. However, Lola Perez, who Lothar states is his sister and also a child of Sharon's predeceased spouse, was provided notice of the estate administration. While it is debatable whether notice to Lothar and Lola is statutorily required pursuant to Probate Code section 1207, because it appears that Lothar is contesting his rights as to intestate succession and because his sister was provided notice, the court orders the personal representative to provide notice of these proceedings to Lothar as well. The court is exercising its equitable authority in ordering notice to Lothar, but the court does not find that notice was defective as there is insufficient evidence that the personal representative had "actual knowledge of facts" reasonably giving rise to a parent-child relationship between Sharon and Lothar under Probate Code section 6454.

Accordingly, the personal representative must file an amended petition for probate listing Lothar in Item 8 of the petition. Any filed documents that were previously served on Lola Perez and John Eissel must also be served by mail on Lothar.

The court is not making a determination at this time as to intestate succession because that matter involves disputed facts which cannot be resolved at this time.

TENTATIVE RULING # 8: APPEARANCES ARE REQUIRED AT 8:30 A.M., WEDNESDAY, NOVEMBER 9, 2022, IN DEPARTMENT FOUR.

9. MATTER OF THE EDWIN & SHIRLEY GUTTRY TRUST, 21PR0029**Status Review Hearing**

This matter was continued from October 26, 2022. At that hearing, respondent alleged that petitioner's response brief raises two new issues; namely, undue influence and elder abuse. Respondent contends that the petition needs to be amended to raise these issues. Petitioner disagrees, claiming that the undue influence and elder abuse allegations do not seek any affirmative relief. The court took the matter under submission.

The court reviewed the petition to compel accounting, to remove respondent as attorney-in-fact, and to recognize petitioner as successor attorney-in-fact (filed Apr. 11, 2022). The petition does not allege any facts concerning undue influence and elder abuse as a basis for an order compelling an accounting and removing respondent as attorney-in-fact. While petitioner might not be seeking affirmative relief for elder abuse and undue influence as standalone claims, "[i]t remains essential, however, that a [pleading] set forth *the actionable facts* relied upon with sufficient precision to inform the [respondent] of what [petitioner] is complaining, and what remedies are being sought." (*Signal Hill Aviation Co. v. Stroppe* (1979) 96 Cal.App.3d 627, 636 [italics added].)

As such, the court finds that petitioner must amend the petition to set forth allegations concerning undue influence and elder abuse. (*Cooper v. Equity Gen. Ins. Co.* (1990) 219 Cal.App.3d 1252, 1263 [allowing amendment to supply additional allegations].)

TENTATIVE RULING # 9: THE PARTIES ARE REFERRED TO THE FULL TEXT OF THE TENTATIVE RULING. PETITIONER MUST FILE AND SERVE HIS AMENDED PETITION NO LATER THAN NOVEMBER 30, 2022. APPEARANCES ARE REQUIRED AT 8:30 A.M., WEDNESDAY, NOVEMBER 9, 2022, IN DEPARTMENT FOUR TO SET A REVIEW HEARING FOR TRIAL SETTING.