

Tentative Rulings

Dept. 4

June 7, 2023

1. ESTATE OF RUNNELS, 23PR0004

Travis Rennels' Petition to Administer Estate/Michah Genovese's Objection to Petition for Probate

This matter was continued from February 8, 2023, for hearing on Travis Rennels' Petition to Administer Estate. Mr. Rennels is the decedent's son. The tentative ruling for the February 8th hearing indicated that there was no Proof of Publication in the court's file. However, Proof of Publication was found to be filed on February 7, 2023. At the same hearing, decedent's ex-stepson appeared and objected to the petition claiming he is an interested party under the decedent's will. The matter was continued to the present date to allow Mr. Genovese to file a Motion/Objection to the Petition for Probate. The Motion/Objection was to be filed no later than April 10, 2023. Mr. Rennels' response thereto was to be filed no later than May 10, 2023.

Pleadings were timely filed by both parties. Mr. Genovese objects to the petition of Mr. Rennels on the basis that Mr. Rennels was estranged from the decedent and Mr. Genovese has reason to believe the decedent left a will which does not leave anything to Mr. Rennels. He provides the Coroner's Report and numerous statements to support his position. Mr. Genovese requests the court grant him leave to file his Petition for Probate of Lost Will, and Petition for Special Letters of Administration.

Mr. Rennels asks the court to overrule the objection as Mr. Genovese lacks standing to bring his objection. He argues that Mr. Genovese cannot establish himself as an interested party where he does not purport to have seen the alleged will nor does he have any personal knowledge of its contents. Further, Mr. Rennels argues the objection should be overruled because it fails to specify the grounds upon which Mr. Rennels is unfit to be the administrator. Finally, even if a will had been prepared, Mr. Rennels cites the presumption under California law that if the will cannot be located then it is presumed to have been intentionally destroyed and therefore revoked.

Mr. Genovese's objection is overruled. Mr. Rennels has priority for appointment pursuant to Probate Code section 8461, and Mr. Genovese has failed to establish Mr. Rennels as unfit for the position. Probate Code section 8461 provides the priority of appointment where a decedent dies intestate. Notwithstanding Section 8461, a person with priority of appointment may be found to be ineligible under Section 8402(a) which lists specific grounds for ineligibility. The disqualifying factors include, but are not limited to, situations where the individual "has wasted, embezzled, mismanaged, or committed a fraud on the estate, or is about to do so," or where the individual is incapable of or unqualified for, appointment, or where "removal is otherwise necessary for protection of the estate or interested persons." Cal. Prob. Code § 8502; Cal Prob. Code § 8402(a)(3) ("There are grounds for removal of the person from office under Section 8502"). In the event that a "...person with higher priority...is not disqualified, his appointment is mandatory." *In re Cummings' Estate*, 23 Cal. App. 3d 617 (1972). Here, Mr. Genovese argues only the supposition that because Mr. Genovese and others believe there is a will in existence, and because they do not believe Mr. Rennels is in the will, Mr. Rennels is unfit for the position of administrator because he has no incentive to either find the will or carry out its wishes if one is found. This argument is based largely on conjecture and does not go to the issue of his capability or qualifications to act as the administrator. Further, to give this argument any credence, the court would have to find that a will is in existence. Mr. Genovese has not met his burden of proof in establishing this threshold issue. The supposed will was once seen in 1990 and has not been located since. As such, even if a will had existed, because it cannot be found the presumption arises that it has

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been destroyed and thereby revoked. For these reasons, Mr. Genovese's objection is overruled. Mr. Renner's Petition to Administer Estate is granted.

TENTATIVE RULING #1: MR. GENOVESE'S OBJECTION IS OVERRULED. MR. RENNER'S PETITION TO ADMINISTER ESTATE IS GRANTED. LETTERS SHALL ISSUE. THE COURT SETS A REVIEW HEARING RE: STATUS OF ADMINISTRATION AT 8:30 A.M., WEDNESDAY JULY 5, 2024, IN DEPARTMENT FOUR.

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2. ESTATE OF SUSAN RAE LADLEY, SP20170021

First and Final Account and Report of Successor Administrator and Petition for its Settlement; For Allowance of Statutory Compensation to Administrator and Attorney; For Costs Reimbursement to Administrator and Attorney; and for Final Distribution.

On October 10, 2022, the court issued an ex parte minute order setting an accounting review hearing for the present date. First and Final Account and Report of Successor Administrator and Petition for Its Settlement; For Allowance of Statutory Compensation to Administrator and Attorney; For Costs Reimbursement to Administrator and Attorney; and For Final Distribution was filed on May 25, 2023. No objection has been received.

TENTATIVE RULING #2: ABSENT OBJECTION, PETITION IS GRANTED AS REQUESTED. THE COURT SETS A HEARING RE: STATUS OF ADMINISTRATION AT 8:30 A.M., WEDNESDAY AUGUST 16, 2023, IN DEPARTMENT FOUR, AT WHICH TIME THE COURT EXPECTS THAT RECEIPTS OF FINAL DISTRIBUTION WILL HAVE BEEN FILED AND THE MANDATORY EX PARTE PETITION FOR FINAL DISCHARGE SUMMITTED TO THE COURT FOR ITS APPROVAL.

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3. CONSERVATORSHIP OF SUSAN O., SP20190028

Second and Third Biennial Account and Report of Public Guardian

TENTATIVE RULING #3: ABSENT OBJECTION, THE SECOND AND THIRD BIENNIAL ACCOUNT AND REPORT OF CONSERVATOR IS ALLOWED, SETTLED, AND APPROVED AS RENDERED. FEES ARE ALLOWED AS REQUESTED.