

**1. ESTATE OF FELTS PP-20200050**

**Review Hearing Re: Status of Administration.**

The court ordered the will admitted to probate and appointed a personal representative on January 6, 2021. Letters Testamentary were issued on March 23, 2022. Partial Inventory and Appraisal Number One was filed on January 5, 2022. There is no Final Inventory and Appraisal and Final Account and Request for Order of Final Distribution in the court's file.

At the hearing on October 19, 2022 the personal representative informed the court that his counsel passed away and requested a continuance of the hearing. The hearing was continued to 8:30 a.m. on Wednesday, November 23, 2022 in Department 9. There was no substitution of attorney in the court's file at the time this ruling was prepared.

**TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, NOVEMBER 23, 2022 IN DEPARTMENT NINE. IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

## 2. ESTATE OF DUSSEN PP-20210085

### (1) 1<sup>st</sup> and Final Account and Report and Request for Final Distribution.

### (2) Review Hearing Re: Status of Administration.

The proof of service declares that the notice of hearing was served on the other interested will beneficiary, Karen Lundquist, by mail on November 2, 2022. There is no proof of service of a copy of the account and report on that person in the court's file. A copy of the 1<sup>st</sup> and Final Account and Report and request for final distribution must be served on Karen Lundquist.

"Where the court determines that the notice otherwise required is insufficient in the particular circumstances, the court may require that further or additional notice, including a longer period of notice, be given." (Probate Code, § 1202.) The court has determined that failure to serve a copy of the petition referred to in a notice of hearing is insufficient to meet the requirements of fundamental due process and, therefore, petitioner is required to serve a copy of the petition along with the notice of hearing.

The report does not state whether notice was required or provided to the Director of the California Victim Compensation and Government Claims Board.

"(b) Not later than 90 days after the date letters are first issued to a general personal representative, the general personal representative or estate attorney shall give the Director of the California Victim Compensation and Government Claims Board notice of the decedent's death in the manner provided in Section 216 if the general personal representative or estate attorney knows or has reason to believe that an heir is confined in a prison or facility under the jurisdiction of the Department of Corrections and Rehabilitation or confined in any county or city jail, road camp, industrial farm, or other local correctional facility. The director of the board

shall have four months after that notice is received in which to pursue collection of any outstanding restitution fines or orders.” (Probate Code, § 9202(b).)

This notice issue must be addressed.

**TENTATIVE RULING # 2: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, NOVEMBER 23, 2022 IN DEPARTMENT NINE. IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**3. ESTATE OF MCNULTY 22PR0099**

**Hearing Re: Bond.**

The verified petition states that decedent died intestate leaving an adult daughter, an adult son, a spouse, and a quasi-spouse. The petition seeks appointment without bond. There are no waivers of the bond requirement executed by the intestate heirs in the court's file. (Judicial Council Form DE-142/DE-111(A-3d).)

Except as otherwise provided by statute, every person appointed personal representative of an estate shall, before letters are issued, give a bond approved by the court. (Probate Code, § 8480.)

The tentative ruling for the prior hearing stated the court will set bond in the amount of \$132,500. Petitioner stated at the hearing on September 28, 2022 that she was denied a bond and requests the bond requirement be waived. The court ordered that letters of special administration be issued, continued the hearing on the issue of the bond to November 23, 2022, and directed petitioner to notice all parties at least 30 days prior to the continued hearing and provide a proof of service to the court. The proof of service was filed on October 14, 2022. The proof of service fails to state the date of service by mail on the interested persons. This needs to be clarified.

**TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, NOVEMBER 23, 2022 IN DEPARTMENT NINE. IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**4. ESTATE OF DORMISHEV PP-20210107**

**Petition to Admit Will to Probate.**

One of decedent's daughters, Maria Dormishev, petitions to be appointed personal representative and to admit a purported holographic will to probate.

The proof of service of the hearing on the petition set for August 11, 2021, declares that the notice and petition were served on the interested persons by mail on July 6, 2021. (Judicial Council Form DE-121.)

Another of decedent's daughters, Fatima Miller, objected to the petition. At the readiness conference on February 16, 2022 the parties informed the court that they reached a settlement agreement and requested the readiness conference be dropped from the calendar. On April 11, 2022 objector Miller filed a withdrawal of objection to petition for probate without prejudice.

The proof of service of notice of an August 17, 2022 hearing on the petition for probate and motion to calendar the hearing on the petition was filed on July 28, 2022. (Judicial Council Form DE-120.) The proof of service declares that the notice of hearing was served on the interested persons on July 27, 2022.

At the August 17 2022 hearing the court adopted as the order of the court the tentative ruling posted on the court's web page by setting the hearing on the petition to admit the holographic will to probate for 8:30 a.m. on Wednesday, September 21, 2022 in Department Eight. The tentative ruling also provided that petitioner was to provide notice of the hearing date, time, and location of the hearing. The September 21, 2022 hearing was continued to October 19, 2022. The proof of service of notice of the continuance of the hearing to that date declares that the interested persons were served the notice by mail on September 28, 2022.

Petitioner requests that she be appointed executor of the estate with bond set in the amount of \$270,000.

The purported will attached to the petition is hand printed and apparently executed by the decedent and one witness.

The will was lodged on May 13, 2022.

“Except as provided in this part, a will shall be in writing and satisfy the requirements of this section.” (Probate Code, § 6110(a).) “The will shall be signed by one of the following: ¶(1) By the testator. ¶ (2) In the testator’s name by some other person in the testator’s presence and by the testator’s direction. ¶ (3) By a conservator pursuant to a court order to make a will under Section 2580.” (Probate Code, § 6110(b).) “(c)(1) Except as provided in paragraph (2), the will shall be witnessed by being signed, during the testator’s lifetime, by at least two persons each of whom (A) being present at the same time, witnessed either the signing of the will or the testator’s acknowledgment of the signature or of the will and (B) understand that the instrument they sign is the testator’s will. ¶ (2) If a will was not executed in compliance with paragraph (1), the will shall be treated as if it was executed in compliance with that paragraph if the proponent of the will establishes by clear and convincing evidence that, at the time the testator signed the will, the testator intended the will to constitute the testator’s will.” (Probate Code, § 6110(c).)

The appellate court in In re Estate of Stoker (2011) 193 Cal.App.4th 236 held that Section 6110(c)2) was not limited to typed wills and also applied to cases involving handwritten documents. “Here the statutory language is clear and broad, and there is no language to support the limitation appellants propose. This statute applies to wills that are “in writing” and signed by the testator. (§ 6110, subd. (a); *id.*, subd. (b)(1).) The 2005 document is a written will signed by decedent. The statute contains no language to indicate that the wills covered by this section are limited to typewritten wills. Consequently, handwritten non-holographic wills are not

excluded from the scope of this statute.” (*In re Estate of Stoker* (2011) 193 Cal.App.4th 236, 242.) Therefore, if Section 6110(c)(2) has been satisfied, there is no need to prove up a holographic will.

The appellate court in *In re Estate of Stoker* (2011) 193 Cal.App.4th 236 also affirmed the trial court’s admission of a will to probate that was executed by the testator, but that was not executed by two witnesses. The appellate court stated the following with regards to the construction of Probate Code, § 6110(c)(2): “The broad and remedial goal of this provision is to give preference to the testator’s intent instead of invalidating wills because of procedural deficiencies or mistakes. Including the 2005 will within the purview of this statute is consistent with that purpose.” (*In re Estate of Stoker* (2011) 193 Cal.App.4th 236, 242.) The appellate court later stated with respect to substantial evidence supporting the trial court’s finding that there was clear and convincing evidence that at the time the testator signed the will, the testator intended the will to constitute the testator’s will: “Appellants contend there is no evidence to show that the 2005 document was intended to be decedent’s will. They claim it does not contain “testamentary language,” does not use the word will or make reference to death. [Footnote omitted.] ¶ The document is certainly not a model will. But “[n]o particular words are necessary to show a testamentary intent” as long as the record demonstrates that the decedent intended the document to be his or her last will and testament. (*In re Wunderle’s Estate* (1947) 30 Cal.2d 274, 280, 181 P.2d 874.) ¶ Here decedent’s testamentary intent is evident. The document provides that all of decedent’s property will go to his children—the respondents, that the 1997 trust is revoked, that Gularte will receive “nothing,” and that his children will have power of attorney “over everything.” ¶ Moreover, even if the document is ambiguous, the trial court properly admitted extrinsic evidence. (*In re Torregano’s Estate* (1960) 54 Cal.2d 234, 246, 5 Cal.Rptr. 137, 352 P.2d 505.) That evidence confirmed

decedent's testamentary intent. Meier testified that decedent told her the document was "my last will and testament," and "[t]hese are my wishes." Johns testified that decedent told him that the will represented "his final wishes." (In re Estate of Stoker (2011) 193 Cal.App.4th 236, 244.)

The will is not self-proving. Unless there is a will contest, the will may be proved on the evidence of one of the subscribing witnesses, if the evidence shows that the will was executed in all particulars as prescribed by law. (Probate Code, § 8220(a).) "Evidence of execution of a will may be received by an affidavit of a subscribing witness to which there is attached a photographic copy of the will, or by an affidavit in the original will that includes or incorporates the attestation clause." (Probate Code, § 8220(b).) "'Will' includes codicil and any testamentary instrument which merely appoints an executor or revokes or revises another will." (Probate Code, § 88.)

Four persons executed proofs of subscribing witness. (Judicial Council Form DE-131.) Each witness form is missing Attachment 1, which is the required copy of the will the witness is attesting to; and each witness has failed to declare whether at the time they executed the will they understood it was decedent's will. The court also questions why there are four subscribing witness forms where the purported will was only executed by the decedent and one witness, Michael Bright.

Decedent's son, Joseph Dormishev, filed an objection to the admission of the purported will on the ground he has reason to question the validity of the alleged will.

At the hearing on October 19, 2022 the court noted the objection, directed the parties to meet and confer to try and resolve the issues, and continued the hearing to 8:30 a.m. on November 23, 2022 in Department Nine.



**TENTATIVE RULING # 4: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, NOVEMBER 23, 2022 IN DEPARTMENT NINE. IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**5. MATTER OF THE PARKHURST TRUST PP-20160118**

**Case Management Conference.**

At the readiness conference on May 18, 2022 the court vacated the court trial dates, directed that the August 10, 2022 MSC remain on calendar, and set a case management conference for 8:30 a.m. on Wednesday, September 21, 2022 in Department Eight.

The parties reported at the August 10, 2022 MSC that they reached a preliminary settlement of the case. Another MSC was set for 10:30 a.m. on Wednesday, October 26, 2022 in Department Ten. At the hearing on September 21, 2022 the court was advised that the parties were still working on the settlement and requested a trial setting conference be set. The court continued the hearing on the case management conference to November 23, 2022. The case did not settle at the October 26, 2022 settlement conference.

**TENTATIVE RULING # 5: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, NOVEMBER 23, 2022 IN DEPARTMENT NINE. IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**