

**1. ESTATE OF CHINITZ 22PR0062**

**Petition for Final Distribution on Waiver of Account**

Letters of Administration were issued on May 10, 2022. A Final Inventory and Appraisal was filed on July 20, 2022. Waivers of Account as well as Waivers of Notice were executed by three intestate heirs entitled to distributions under the estate. The proposed distribution of the estate includes \$75,000 to be distributed to Bryan Dalton pursuant to a settlement agreement between the parties that required each of the three heirs to assign \$25,000 from their distribution to Mr. Dalton.

The petition requests: 1) that the estate be closed without the requirement of an accounting, 2) that the fiduciary be discharged upon approval of the ex parte Petition and Order for Discharge, 3) that all acts of the personal representative be approved, 4) that waiver of statutory compensation to the personal representative be approved, 5) and approval of distribution of the estate in equal shares to three surviving heirs less \$25,000 assigned to Mr. Dalton, and distribution of \$75,000 to Mr. Dalton.

**TENTATIVE RULING #1: ABSENT OBJECTION, PETITION IS GRANTED AS REQUESTED.**

**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 STAPLES 22PR0336**

**Petition for Probate**

Decedent died testate on October 26, 2022. A Petition for Probate was filed on December 16, 2022 and Notice of the Petition was filed on February 22, 2023. A duties/liabilities statement (DE 147) was filed by Petitioner on March 1, 2023, and proof of publication was filed on March 20, 2023. The will waives bond.

Letters of Special Administration were issued by the court on March 1, 2023, to allow Petitioner to bring the mortgage current and avoid foreclosure of the real property that is part of the estate. Those letters of Special Administration expire on May 1, 2023.

Petitioner was nominated by Richard Maher, who was named as executor but declined. The other named executors predeceased the decedent.

**TENTATIVE RULING #2: ABSENT OBJECTION, PETITION IS GRANTED AS REQUESTED.**

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**3. ESTATE OF FORNI PP20200097**

**(1) Petition for Final Distribution**

**(2) Review Hearing – Status of Administration**

This matter was heard on August 31, 2022, and the court found that the Petition for Final Distribution does not state that the personal representative served the mandated notice of administration of the estate on the California Franchise Tax Board, as is required by Probate Code § 9202(c).

The personal representative's counsel previously reported to the court that on August 13, 2021 the standard request had been sent to the Franchise Tax Board with the understanding that the decedent's taxes had already been paid. The hearing has been continued several times. The personal representative did not appear at the October 6, 2021, January 12, 2022, March 2, 2022, May 4, 2022, or August 31, 2022 hearings.

On July 21, 2022 the court relieved counsel of record as the court was notified that counsel had passed away. No new counsel has appeared in the case.

**TENTATIVE RULING #3: PARTIES ARE ORDERED TO APPEAR.**

**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 TAYLOR 22PR0081**

**Accounting - Inventory and Appraisal**

Letters of Administration were issued following a hearing on May 18, 2022. At the May 4, 2022, hearing on the Petition for Letters of Administration, the court's tentative ruling indicated that the March 23, 2022 Inventory and Appraisal, which listed a single Ameritrade account as the asset of the estate, did not indicate whether it was a partial or final Inventory and Appraisal, and that the probate referee would be required to appraise the property. Probate Code § 8902(b).

No party appeared at the Inventory and Appraisal hearing held on September 14, 2022, and the court's tentative ruling again indicated that the document on file was defective because the stocks in the Ameritrade account had not been appraised by the probate referee and the document had not been executed under penalty of perjury by the personal representative.

No document has been filed in this case since the Letters of Administration were issued. The court notes that a Status of Administration hearing is set on June 5, 2023. The court drops this matter from calendar and will check into the status at the June 5, 2023 hearing.

**TENTATIVE RULING #4: MATTER DROPPED FROM CALENDAR. THE COURT CONFIRMS THE STATUS OF ADMINISTRATION HEARING ON JUNE 5, 2023 AT 8:30 A.M. IN DEPARTMENT 9.**

**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. ESTATE OF HING**

**PP20210005**

**Petition for Final Distribution and Settlement of Account**

Letters Testamentary were issued on May 13, 2021. A corrected Final Inventory and Appraisal and a Petition for Settlement of Account and Final Distribution were filed on March 1, 2023. Notice of the hearing was filed on March 13, 2023.

The Petition requests attorney's fees in the amount of \$3,960, based on a \$400 hourly rate and a total of 7.9 hours since substituting into the case as of December 20, 2022 as attorney for the personal representative. This amount is less than the statutory fee amount, which would be \$5,863.78 based on the size of the estate.

Distribution of the estate would have been to decedent's two children, Ronald Jung Hing and Loretta Braley, with the share to Loretta Braley to be held in trust as specified in the will. Ronald Jung Hing survived decedent and his share did vest before he passed away on May 15, 2022. Ronald Jung Hing's will does not contain a clause for distribution of his residuary estate, and the Petitioner believes that his interest in decedent's estate should pass under the laws of intestacy to his heir at law. Ronald Jung Hing was unmarried and had no children, and his intestate heir is his sister Loretta Braley. Accordingly, Petitioner proposes distribution of the share of Ronald Jung Hing to Loretta Braley in trust, as specified in the will of Grace Hing. Notice of this Petition has been provided to the nominated executors of Ronald Jung Hing's will.

The personal representative requests statutory fees in the amount of \$5,863.78. The personal representative also requests reimbursement of costs in the amount of \$3,313.98 as detailed in the Petition.

The Petition requests:

1. That the estate be closed;
2. Approval of the final account as filed;
3. Ratification, confirmation and approval of all acts and proceedings of Petitioner;
4. Approval of fees in the amount of \$5,863.78 and reimbursement of costs in the amount of \$3,313.98 to Petitioner;
5. Approval of attorney's fees in the amount of \$3,960
6. Authorization to distribute the estate as specified in the Petition; and
7. Discharging Petitioner upon filing of receipts.

**TENTATIVE RULING #5: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.**

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**6. ESTATE OF KOCMICH PP20180237**

**Status of Administration - Petition on Final Account**

In October, 2020, a First and Final Account was filed by the personal representative.

On April 11, 2022, the personal representative filed a Final Account and Petition for Final Distribution. The Final Account and Petition for Final Distribution was approved by the court at the hearing of May 25, 2022.

The personal representative appeared at the hearing of July 27, 2022 and was informed by the court that he was required to provide an order for signature before the court could issue an order for final distribution. The court noted at the hearing that there were no receipts of distribution or Petition for Final Discharge in the court's file as of the date of that hearing.

At the hearing of December 14, 2022, the court instructed the personal representative to re-file the accounting and receipts for distribution. A status of administration hearing was set for May 1, 2023.

There are no receipts of distribution or Petition for Final Discharge in the court's file.

**TENTATIVE RULING #6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 1, 2023, IN DEPARTMENT NINE.**

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**7. ESTATE OF GUMINA PP20180192**

**(1) Status of Administration**

**(2) OSC re: Whether Anthony Gumina Should be Removed as Administrator**

Decedent John Steven Gumina died intestate on July 15, 2018. This matter was continued from June 15, 2022, December 14, 2022 and March 13, 2023.

At the December 14, 2022 hearing, the court noted that the administrator had not filed the final account and request for final order of distribution, and set an OSC hearing to determine whether Anthony Gumina should be removed as administrator. There was discussion regarding a petition to appoint Kimberly Harris as administrator.

On January 19, 2023, Melody Russell, the sister of Heather Gumina, filed a petition to be appointed successor personal representative, as well as a declaration objecting to the appointment of Kimberly Harris as administrator.

At the hearing of March 13, 2023, the court found that publication had not been made and the hearing was continued for proper service.

Notice of Melody' Russell's Petition was filed on February 27, 2023. A duties/liabilities statement (DE 147) was filed on March 3, 2023. There is no proof of publication in the court's file.

**TENTATIVE RULING #7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 1, 2023, 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.**

**8. ESTATE OF HARNEY PP20210198**

**(1) Review Hearing – Status of Administration**

**(2) Petition for Probate**

Decedent died on June 30, 2020 and was survived by four daughters. Petitioner Lynn Cox, decedent's sister, was appointed Special Administrator on November 17, 2021 so that she could pay taxes on the real property that is the principal asset of the estate.

On October 13, 2021, Petitioner lodged a copy of a holographic will with the court.

On October 11, 2022, Petitioner filed an amended Petition for general administration of the estate. Notice of this Petition was filed on October 26, 2022.

A second amended Petition was filed on November 4, 2022, along with a duties/liabilities statement (DE 147), a Final Inventory and Appraisal, and Petitioner re-filed the holographic will.

Petitioner requests the court to admit the handwritten, witnessed will of decedent to probate and be appointed personal representative. The purported will leaves all worldly belongings to Petitioner.

The amended Petition states that decedent was survived by children. There is a proof of service to decedent's daughters that was filed on November 4, 2022, noticing the November 16, 2022, hearing. However, the amended Petition that was declared to be served is deficient in that it did not have a copy of the purported will attached as mandated by Probate Code, § 8002(b)(1). Therefore, the persons declared to have been served notice of the hearing and a copy of the Petition were not provided sufficient notice of the terms of the will sought to be admitted to probate, thereby depriving them of their right to due process if the court proceeds without Petitioner having remedied this issue. The court cannot reach the merits of the Petition until these issues are resolved.

There is no proof of publication of notice of the Petition in the court's file. (See Probate Code, §§ 8120 and 8121(a).) The court cannot consider this petition absent proof of publication.

In opening estate administration by admitting a will to probate, the original will must be lodged with the court. The original will was lodged on October 13, 2021.

A copy of the will was attached to the prior Petition for special administration. The will is handwritten and purportedly witnessed by a hospice social worker.

"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



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the testator's direction. (3) By a conservator pursuant to a court order to make a will under Section 2580." (Probate Code, § 6110(b).)

"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 court notes that the copy of the will is not self-proving. 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).) The original will not having an affidavit of the witnesses including or incorporating the attestation clause, the petitioner must file proofs by at least one subscribing witness in order to have sufficient evidence before the court proving the will.

The proofs of subscribing witnesses in the court's file are defective in that a copy of the purported holographic is not attached to the proof of the will form DE-131. The witnesses attest under penalty of perjury to the authenticity of a purportedly attached written instrument that has not been attached, leaving the declaration without any substance or evidentiary value. This needs to be corrected.

Petitioner requests that no bond be required. Petitioner has filed an executed judicial form waiver of bond requirement as the sole will beneficiary. (Judicial Council Form DE-142/DE 111(A-3e).)

**TENTATIVE RULING #8: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 1, 2023 IN DEPARTMENT 9.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**9. ESTATE OF QUERIN PP20200026**

**(1) Hearing to Admit Holographic Will to Probate**

**(2) Final Distribution**

**(3) Status of Administration**

Decedent died on December 4, 2019. Letters of Administration were issued on June 18, 2020. The Final Inventory and Appraisal was filed on June 2, 2020.

After being appointed, Petitioner located a holographic will among decedent's personal possessions. A Proof of Holographic Instrument was filed with the court on April 12, 2021, and subsequent to this process the original will was lost. On June 7, 2022, Petitioner filed a Declaration of Lost Holographic will and a Petition to Admit Lost Holographic Will to Probate, First and Final Account and Petition and Report of Executor for Settlement of the Estate, and Final Distribution. Notice of the Petition was filed on June 22, 2022 and again on October 22, 2022 for the continued hearing date.

Hearing to Admit Holographic Will to Probate

A will that is not witnessed in accordance with Probate Code § 6110(c)(1) may still be a valid holographic will 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 testators' will." On June 7, 2022, Petitioner filed a Declaration of Lost Holographic Will that declares "to the best of my knowledge the copy of the Will attached hereto is a true and correct copy of the decedent's Will." It is unnecessary to consider whether the language of the declaration amounts to "clear and convincing evidence (for example, it contains no statement as to the proponent identifying decedent's handwriting) because no copy of the will is attached to the declaration, leaving the declaration without any substance or evidentiary value. This needs to be corrected.

Final Distribution

Decedent was the only child of Bruno Querin, who has no other immediate family. The will provides for 100 percent of the estate to Bruno Querin, her father, or if Bruno Querin dies, to Peter A. Cutrell. Bruno Querin died on December 13, 2020, with no surviving immediate family, and no probate has been opened for Bruno Querin's estate. Accordingly, petitioner proposes to distribute 100 percent of the residuary estate to Peter A. Cuttrel.

The Petition requests:

1. Decedent's will be admitted to probate;
2. The administration of the estate be brought to a close;

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3. All acts and proceedings of the personal representative as alleged in the Petition be confirmed and approved;
4. All creditor claims not properly filed with the court and served on the estate be barred;
5. Statutory fees to the personal representative in the amount of \$8,158
6. Statutory attorney's fees in the amount of \$8,158 to Clara Yang, attorney for Petitioner and the estate;
3. Approval of distribution of 100 percent of the estate to Peter A. Cuttrell in accordance with the terms of the will.

The entire basis for the Petition for Final Distribution rests on the proof of the holographic will. As discussed above, the declaration that purports to establish the validity of the will does not include the will as an attachment. Accordingly, the court is not able to reach a conclusion on the Petition.

**TENTATIVE RULING #9: THIS MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, JUNE 26, 2023 IN DEPARTMENT 9 TO ALLOW PETITIONER TIME TO FILE AN AMENDED DECLARATION IN ACCORDANCE WITH THIS OPINION.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**10. ESTATE OF FINLEY PP20210153**

**Status of Administration**

Final Inventory and Appraisal were filed on October 18, 2021. The Final Account and Final Distribution were approved by the Court and final distribution was ordered at the hearing of June 8, 2022.

A continuance was requested at the hearing of September 21, 2022 prior to filing of a ex parte Petition for Final Discharge on the grounds that the estate might still be owed money.

Receipts for distribution have been filed but there is no ex parte Petition for Final Discharge in the Court's file.

**TENTATIVE RULING #10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 1, 2023 IN DEPARTMENT 9.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**11. ESTATE OF HILL 22PR0074**

**Status of Administration**

Final Inventory and Appraisal was filed on November 18, 2022. An Order Upon First and Final Account and Report of Administrator and Petition for Final Distribution and for Allowance of Statutory Compensation was signed by the court on January 23, 2023. There are no receipts of distribution or ex parte Petition for Final Discharge on file with the court.

**TENTATIVE RULING #11: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 1, 2023, IN DEPARTMENT NINE.**

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**12. ESTATE OF COBB 22PR0001**

**Letters of Administration**

Decedent died intestate on September 13, 2022, survived by four daughters. A Petition for Probate was filed on January 6, 2023. Petitioner identifies her relationship to decedent as “creditor.”

A duties/liabilities statement (DE 147) and Notice of the Petition were filed on April 12, 2023. Proof of publication was filed on April 14, 2023.

The petition does not request a bond amount, but requests that funds be deposited in a blocked account (Form DE 111, paragraph 2(d)(3)). However, the amount of funds to be deposited are not specified in the petition.

**TENTATIVE RULING #12: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 1, 2023, 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.**

**13. ESTATE OF COOPER 22PR0043**

- (1) Review Hearing - Status of Administration**
- (2) Review Hearing – Inventory and Appraisal**

Letters of Administration were issued on May 6, 2022. Final Inventory and Appraisal was filed on February 6, 2023.

**TENTATIVE RULING #13: A FINAL INVENTORY AND APPRAISAL HAVING BEEN FILED ON FEBRUARY 6, 2023, THE INVENTORY AND APPRAISAL REVIEW HEARING IS DROPPED FROM THE CALENDAR. APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 1, 2023, IN DEPARTMENT NINE REGARDING THE STATUS OF ADMINISTRATION.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

**14. IN THE MATTER OF THE DONNA L. PHILLIPS FAMILY TRUST**

**PP20210032**

**(1) Petition for Instructions**

**(2) Final Account and Distribution**

Petition for Instructions

Petitioner is the successor trustee of the subject Trust. The settlor, Donna L. Phillips, passed away on June 9, 2012. Petitioner was appointed successor trustee following the removal of Tristina Davis and Katrina Deatherage as co-trustees on November 9, 2020, by order of the Yolo County Superior Court. Venue in Yolo County had been based on the former trustees' residence.

According to the verified Petition, there are three beneficiaries of the Trust, Milauna Kruse, Katrina Deatherage and Tristina Davis, each of whom is receive one third of the Trust assets on final distribution. The Trust assets consist solely of the proceeds from sale of a real property.

In the course of administering the Trust, Petitioner sold real property where beneficiary Tristina Davis and her husband were residing. Tristina Davis had claimed a life estate in the Trust, and the current trustee incurred attorney's fees and costs defending against this claim in order to be able to sell the property. This dispute resulted in Tristina Davis' refusal to cooperate with the realtor to market and sell the home. Eventually the home sold, at what may have been a reduced price due to the inability of the realtor to stage the property for sale without interference from the occupants.

Beneficiaries Katrina Deatherage and Tristina Davis, the former trustees, had transferred title to their own names and refinanced the home prior to its sale. The Yolo County Court determined that Tristina Davis had realized \$39,729 from refinancing the property while she served as trustee and that Katrina Deatherage realized \$12,984 from the refinance.

Beneficiary Milauna Kruse incurred attorney's fees and costs in the amount of \$14,871.29 in petitioning for the removal of co-trustees Tristina Davis and Katrina Deatherage. The court ordered an award of attorney's fees to Milauna Kruse, and this amount has been paid out of the Trust. Trustee intends to deduct this amount from shares of Tristina Davis and Katrina Deatherage in the final distribution.

Beneficiary Katrina Deatherage assigned her interest to Tristina Davis, which may violate a spendthrift provision of the Trust. If this assignment is approved by the court, the trustee has calculated final distribution amounts to take this assignment into account.

If the court finds that Tristina Davis had realized \$39,729 from refinancing the property while she served as trustee, and if the court approved Katrina Deatherage's assignment of her



interest to Tristina Davis, then the trustee proposes to deduct \$39,729 from the share of Tristina Davis.

The trustee further proposes to deduct from Tristina Davis' share \$13,243 that should have been paid to Milauna Kruse as her one-third share of the cash out refinance of the home, \$14,871 representing Milauna Kruse's attorney's fees award for having Tristina Davis and Katrina Deatherage removed as co-trustees, and \$12,894 that was realized by Katrina Deatherage from refinancing the property and which is attributable to Tristina Davis' share in accordance with the assignment of Katrina Deatherage's share to her.

Final Account and Distribution

Based upon all of these calculations, the final distribution that is proposed is as follows:

\$16,827.90 to Tristina Davis

\$55,055.09 to Milauna Kruse

Petitioner requests:

1. An order of the court approving the proposed distribution;
2. An order of the court determining the loan amount above the original loan amount from the settlor, to be surcharged or incurred to Tristina Davis;
3. An order approving the accounting of the trustee and concluding and closing the Trust and for final distribution of the remaining assets of the Trust;
4. Approval of all acts of the trustee and discharge of the duties and obligations of the trustee.

The court finds that Tristina Davis had realized \$39,729 from refinancing the property while she served as trustee, as was determined in the prior proceedings in Yolo County Superior Court.

The court approves the assignment of Katrina Deatherage's interest to Tristina Davis. Although this assignment is contrary to the spendthrift provision in the Trust document, the court finds that the misconduct of Katrina Deatherage and Tristina Davis while serving as trustees has interfered with the trustee's ability to comply with the letter of the Trust document and that Petitioner's proposed distribution is an acceptable solution for the purpose of achieving the settlor's intent under the present circumstances.

The court finds that the loan amount on the real property located at 1713 Michigan Blvd. West Sacramento, CA 95691 that is above the original loan amount from the settlor should be surcharged to Tristina Davis. The court finds that the date of death loan amount on the real property located at 1713 Michigan Blvd. West Sacramento, CA 95691 is \$190,125.39 as set forth in the Petition, ¶ 14.

**TENTATIVE RULING #14: ABSENT OBJECTION, PETITION IS GRANTED AS REQUESTED.**

**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530)  
621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**