

05-15-23
Dept. 9
Tentative Rulings

1. ESTATE OF VAROZZA 23PR0012

Petition for Probate

Decedent died on December 23, 2021 and is survived by his spouse and three adult children. Decedent was a resident of Idaho but left three real property parcels in El Dorado County. The will was lodged with the court on January 26, 2023. The will names Petitioner as executor and waives bond. In addition, all three adult children have filed bond waivers. Petitioner has executed a Duties/Liabilities Statement (DE 147/147s). Proof of publication was filed with the court on March 13, 2023. Proof of service of Notice of Hearing was filed with the court on February 16, 2023.

TENTATIVE RULING #1: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. THE COURT SETS A STATUS OF ADMINISTRATION HEARING ON MAY 13, 2024 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.

2. ESTATE OF DAYTON-AXLINE 21PR0017

Petition for Final Distribution on Waiver of Account

Letters of Administration were issued on January 12, 2022. Final Inventory and Appraisal was filed on July 14, 2022. A Petition for Final Distribution was filed on January 26, 2023, and Proof of Service of the Notice of Hearing was filed on February 16, 2023.

All beneficiaries have filed a waiver of account. Petitioner has waived statutory compensation.

The Petition requests:

1. The first and final account of the executor be confirmed and approved;
2. All acts and proceedings of the executor be confirmed and approved;
3. Petitioner be authorized to pay statutory attorney's fees in the amount of \$9,212.30;
4. All property of the decedent or the estate be distributed to the trustees of the Joseph Axline/Carole Dayton Family Trust;
5. Upon filing receipts Petitioner be discharged and released from all liability; and
6. The estate be brought to a close.

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

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3. ESTATE OF SCOTT PP20210150

Petition for Probate

This matter was continued from September 22, 2021, January 5, 2022, February 2, 2022, and March 9, 2022.

At the hearing on September 22, 2021, petitioners stated that the original will was in a safe deposit box that could not be accessed until letters were issued. In a related matter, Estate of Robert Scott, PP20210149, an Order for Special Administration was entered on July 12, 2022, to allow access to the safe deposit box. However, Letters of Special Administration were not submitted or issued. To date, Letters of Administration still have not been issued for either estate.

The original will has not yet been lodged with the court.

On January 30, 2023, Petitioner appeared and requested additional time to lodge the will and the matter was continued to May 15, 2023.

TENTATIVE RULING #3: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 15, 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.

4. ESTATE OF BERG PP20180090

1st and Final Account & Report; Petition for Settlement, Compensation, Final Distribution

At the previous hearing on January 30, 2023, the court declined to approve the Petition because there was an unresolved claim from the Franchise Tax Board. That claim has been allowed and the allowance was filed with the court on May 2, 2023.

The Petition requests:

1. The administration of the estate be brought to a close;
2. Settling, allowing and approving the finest and final account of the personal representative;
3. Confirming, ratifying and approving all acts and proceedings of petitioner as successor personal representative;
4. Approval of \$22,332.00 in statutory compensation for the services of petitioner as the personal representative;
5. Approval of payment of statutory attorney's fees in the amount of \$22,332.00
6. Approval of final distribution of the estate, as well as of any other property of decedent not known or discovered, as set forth in the Petition to William Berg;
7. Discharging and releasing Petitioner from all liability upon filing of receipts.

TENTATIVE RULING #4: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. THE COURT SETS A STATUS OF ADMINISTRATION HEARING ON MAY 13, 2024 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 VALENCIA PP20190249

1st & Final Report of Executor, Final Distribution on Waiver of Account

Letters Testamentary were issued on June 16, 2021. The Final Inventory and Appraisal was filed on September 15, 2021.

All beneficiaries of decedent's will and of the Christopher Valencia Revocable Living Trust have filed waivers of account, statements of support for the Petition and waivers of notice of hearing.

The Petition requests:

1. The report of the personal representative and waivers of account be approved;
2. All acts and proceedings of petitioner as Executor be approved;
3. Approval of final distribution of the estate, as well as of any other property of decedent not known or discovered, as set forth in the Petition to Tyler Valencia, as trustee of the Christopher Valencia Revocable Living Trust;
4. Discharging and releasing Petitioner from all liability upon filing of receipts.

TENTATIVE RULING #5: ABSENT OBJECTION, THE 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.

6. ESTATE OF SEARLES 23PR0053

Petition for Probate

Decedent died intestate on April 22, 2015, survived by his spouse and three adult children.

Petitioner estimates the value of the estate to be \$0.00, but requests Letters of Administration for the purpose of asserting and maintaining a wrongful death lawsuit and potential settlement agreement. Petitioner represents that if she becomes aware of any property that should be included in the estate she will file an ex parte Petition and Order to set bond.

Petitioner requests the court to extend the period of time for filing an Inventory and Appraisal beyond the four-month deadline specified in Probate Code § 8800(b), which provides that “the court may allow such further time for filing an inventory and appraisal as is reasonable under the circumstances of a particular case.” Petitioner represents that she will file an Inventory and Appraisal within four months of becoming aware of any property to be administered as part of decedent’s estate.

Notice of the Petition and proof of service was filed on March 27, 2023.

Petitioner filed a Duties/Liabilities statement (DE 147) on March 17, 2023. Proof of publication was filed with the court on April 13, 2023.

TENTATIVE RULING #6: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. THE TIME FOR FILING AN INVENTORY AND APPRAISAL IS EXTENDED TO FOUR MONTHS FROM THE DATE THAT PETITIONER IDENTIFIES ANY PROPERTY THAT SHOULD BE ADMINISTERED AS PART OF THE ESTATE. THE COURT SETS A STATUS OF ADMINISTRATION HEARING ON MAY 13, 2024 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.

7. ESTATE OF KAMINE PP20200228

Confirm Sale of Real Property

Letters of Administration were issued on February 16, 2021. The Final Inventory and Appraisal was filed on July 30, 2021. On July 12, 2022, the personal representative obtained prior approval to obtain counsel related to an anticipate unlawful detainer action concerning the estate's real property.

On February 16, 2023, Petitioner filed a Petition to Confirm Sale of Real Property. An Inventory and Appraisal was filed on March 2, 2023.

The Petition requests approval of a commission of 6 percent, in the amount of \$17,100, for the January 11, 2023, sale of 5401 Shangralla Lane, Camino, CA. The appraised value is \$285000 according to the Probate Referee. The Petition states the sale is necessary to pay debts.

The bid amount is \$285,000 in cash, and the proceeds will be deposited in a blocked account at Five Star Bank at 9250 Laguna Springs Drive, Ste. 102 in Elk Grove.

TENTATIVE RULING #7: ABSENT OBJECTION, THE 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.

8. ESTATE OF HELWIG 23PR0020

Letters of Administration

Decedent died intestate on December 24, 2022, survived by two adult children. The heirs filed a waivers of bond on February 6 and March 14, 2023. A Duties/Liabilities statement (DE 147/DE 147s) was filed on February 6, 2023. Notice of the Petition and proof of service was filed on March 14, 2023. Proof of publication was filed on March 20, 2023.

TENTATIVE RULING #8: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. THE COURT SETS A STATUS OF ADMINISTRATION HEARING ON MAY 13, 2024 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.

9. ESTATE OF GIBSON 23PR0011

Letters of Administration

Decedent died testate on November 14, 2022, survived by three adult children. The will, dated April 27, 2021, along with proof of Holographic Instrument, was lodged with the court on January 25, 2023. The will waives bond and nominates Petitioner as Executor.

Notice of the Petition and proof of service was filed on April 5, 2023. Proof of publication was filed on May 1, 2023.

No Duties/Liabilities statement (DE 147/DE 147s) is on file with the court as required by Probate Code § 8404.

TENTATIVE RULING #9: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED, SUBJECT TO PETITIONER'S EXECUTION AND FILING OF JUDICIAL COUNCIL FORMS DE 147/147S WITH THE COURT AS REQUIRED BY PROBATE CODE § 8404. THE COURT SETS A STATUS OF ADMINISTRATION HEARING ON MAY 13, 2024 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.

10. ESTATE OF KAZEMIAN

23PR0027

(1) Letters of Administration

(2) Determination of Spousal Property

Decedent died intestate on December 17, 2022, survived by Petitioner, her spouse and three siblings. Petitioner filed a waiver of bond on February 14, 2023. Notice of the Petition and proof of service was filed on February 23, 2023. Proof of publication was filed on March 27, 2023. Although Petitioner filed a Form DE 147s on February 23, 2023, no Duties/Liabilities statement (DE 147) is on file with the court as required by Probate Code § 8404.

Petitioner also requests a determination of spousal property. Attached to the Petition is a statement with exhibits that include a marriage certificate (Exhibit A), and a recorded inter-spousal transfer deed, executed and notarized on January 11, 2022, whereby Petitioner created a joint tenancy with decedent in the property described as [Lot 9, as shown on that certain map entitled 'plat of Rolling Hills Estates addition unit No. 8'] ." (Exhibit B).

The Petition further attaches as Exhibit C, a Grant Deed from GMAC Mortgage to Michael Kazemian and Laurie Kazemian, husband and wife, of property described as "LOT 12, BLOCK 21 OF A1 TAHOE SUBDIVISION, FILED IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF EL DORADO, STATE OF CALIFORNIA ON NOVEMBER 21, 1917 IN BOOK A OF MAPS AT PAGE 3."

Accordingly, Petitioner requests the following two properties be confirmed as having passed to Petitioner as the surviving spouse of decedent:

1. 8920 Van Gogh Cir. Fair Oaks, CA 95628 – Legal Description: Lot 9, as shown on that certain map entitled 'plat of Rolling Hills Estates addition unit No. 8' recorded in the Office of the County Recorder, Sacramento County, California on February 20, 1976, in Book 102 of Maps, Map No. 7.
2. 877 San Jose Ave. #1, South Lake Tahoe, CA 96150 – Legal Description: LOT 12, BLOCK 21 OF A1 TAHOE SUBDIVISION, FILED IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF EL DORADO, STATE OF CALIFORNIA ON NOVEMBER 21, 1917 IN BOOK A OF MAPS AT PAGE 3.

TENTATIVE RULING #10: ABSENT OBJECTION, THE PETITION FOR DETERMINATION OF SPOUSAL PROPERTY IS GRANTED AS REQUESTED. THE PETITION FOR LETTERS OF ADMINISTRATION IS GRANTED PENDING PETITIONER'S FILING OF A STATEMENT OF DUTIES AND LIABILITIES (JUDICIAL COUNCIL FORM DE 147/147S) WITH THE COURT AS REQUIRED BY PROBATE CODE § 8404. THE COURT SETS A STATUS OF ADMINISTRATION HEARING ON MAY 13, 2024 AT 8:30 A.M. IN DEPARTMENT 9.

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11. ESTATE OF LAUMBACH 21PR0066

**Final Distribution on Waiver of Account
Status of Administration**

Letters Testamentary were issued on February 2, 2022. The Final Inventory and Appraisal and Petition for Final Distribution was filed on February 2, 2023. Petitioner is the sole beneficiary of the estate, and has waived a final account.

The Petition requests:

1. An Order approving, allowing and settling the account and report;
2. All acts and transactions of Petitioner be ratified, confirmed and approved;
3. The balance of the estate, including all property not now known or subsequently discovered, be distributed to Petitioner as sole beneficiary of the estate.

Probate Code § 11753 requires the Petitioner to file receipts before Petitioner can be discharged pursuant to Probate Code § 12250 and the estate can be closed.

TENTATIVE RULING #11: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. A PETITION FOR FINAL DISTRIBUTION HAVING BEEN FILED, THE HEARING ON STATUS OF ADMINISTRATION IS DROPPED FROM THE CALENDAR. THE COURT SETS A STATUS OF ADMINISTRATION HEARING ON MAY 13, 2024 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.

12. ESTATE OF CLARK 23PR0028

Petition to Determine Succession to Real Property

Decedent Roger Clark died testate on September 14, 2008. See Death Certificate attached to Petition as Attachment 6. His will, dated June 21, 2006, is attached to the Petition as Attachment 5. There are no proceedings for probate of his estate. The Will declares that decedent has bequeathed "all of my estate, both real and personal, and wheresoever situated, to my children, CRAG ROGER CLARK, CHARLAIGNE HOWARD And CATHERINE DIANE PUKLATIVITZ, share and share alike."

The Petition is filed by decedent's three children, who each claim an undivided 1/3 interest in the real property as tenants in common.

The Quitclaim Deed granting the real property that is the subject of the Petition was to the decedent and his wife, Louise Clark, as joint tenants, is attached to the Petition as Attachment 8. Louise Clark predeceased Roger Clark (see Death Certificate attached to the Petition as Attachment 7) and Roger Clark became sole owner of the property. An Affidavit of Death of Joint Tenant documenting the death of Louise Clark and recorded in the El Dorado County Recorder's Office, is attached to the Petition as Attachment 9.

The Probate Referee's appraisal is attached to the Petition as Attachment 10.

Notice of the hearing and proof of service was filed on March 3, 2023.

TENTATIVE RULING #12: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.

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13. ESTATE OF STOLP PP20210037

Status of Administration

Letters of Administration with Will Annexed were issued on March 11, 2021. A Corrected Final Inventory and Appraisal was filed on September 3, 2021. There is no Final Account and Request for Order of Final Distribution on file with the court.

TENTATIVE RULING #13: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 15, 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.

14. ESTATE OF REES 23PR0052

Letters of Administration

Decedent died on May 25, 2022. The Petition, filed by decedent's daughter Kelsey Walkover, states that the decedent died intestate, but adds:

A purported will has been discovered and was lodged with the Court. Objections were made to the probate of that purported Will on the basis that it was procured by fraud and undue influence. As a result, Petitioner is now petitioning to administer the estate intestate. All potential beneficiaries of the purported Wil [sic] have consented to this Petition for Probate, which consents will be filed separately.

No will has been lodged with the court, not are any consents to the Petition for Probate on file with the court.

With respect to the Petition, a Duties/Liabilities statement (DE 147) was filed with the court on March 17, 2023. Proof of publication was filed on April 17, 2023. Notice of the Petition and proof of service was filed on April 20, 2023. The proof of service is addressed to Petitioner and three other individuals, Timothy Rees, Jeffery Rees, and Christine Kelly, in addition to counsel.

In response to the Petition, a Petition for Determination of Entitlement to an Estate Distribution (Probate Code § 11700) and Statement of Interest (Probate Code § 11702) was filed on May 8, 2023, by decedent's stepson, Timothy Rees. That Petition alleges that the purported will is invalid, and that the estate should be divided among the four children of the marriage between decedent and his father, Stanton Albert Rees. That Petition is scheduled to be heard on July 17, 2023.

This case is related to a prior case that was dismissed pursuant to a Request for Dismissal filed on March 1, 2023 (22PR0164).

TENTATIVE RULING #14: THIS MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, JULY 17, 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.

15. ESTATE OF PETERSON

23PR0013

Petition for Probate

Decedent died testate on November 7, 2022, survived by two adult children. Both have executed bond waivers, filed on January 26, 2023. The Petition references a self-proving Will, dated February 21, 1999, but no Will has been lodged with the court. Proof of publication was filed on March 1, 2023.

The Petition alleges that decedent gave Petitioner power of attorney and appointed him as executor with witnesses prior to his death.

There is no Duties/Liabilities statement (DE 147/DE 147s) or Notice of Hearing/proof of service on file with the court.

TENTATIVE RULING #15: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 15, 2023, IN DEPARTMENT NINE.

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16. IN RE THE GRACE SMITH REVOCABLE LIVING TRUST

23PR0030

Trust Petition

This Petition to Invalidate Deed; for Return of Trust Property; for Elder Abuse; and for Double Damages, Attorney's Fees and Costs, was filed on February 17, 2023, by co-Trustees Cindy Lynn Smith and Christiane Marie Campbell, and concerns the title to residential real property located in El Dorado County (the "Property"). Notice of Hearing and proof of service was filed on April 14, 2023, and a Notice of Pendency of Action and proof of service was filed on April 18, 2023.

The Petition alleges that the decedent had created the Grace M. Smith Separate Property Trust on September 15, 1998 ("Old Trust") pursuant to which each of her four daughters would receive equal shares of her estate. Subsequently, the Petition alleges that her daughter Carol Lorraine Calhoun moved into decedent's home and eventually induced decedent to execute a grant deed to the Property to Carol Calhoun and her husband, Rex Calhoun through undue influence. Thereupon, the Petition alleges, decedent was ejected from her home until 2018, when she was compelled to return to live at the Property because of ill health. The Petition alleges that while she was living with the Calhouns in the Property, she was subjected to elder abuse.

Following these events, the Petition alleges that decedent executed several testamentary documents, including the documents that created the Grace Smith Revocable Living Trust on October 22, 2022 ("New Trust") which disinherited Carol Calhoun.

The Petition requests the court:

1. To invalidate the deed removing the Property from the Old Trust and conveying the Property to Respondents based on the theories of mistake and undue influence;
2. To cause the Property be conveyed to the corpus of the New Trust as a perfection of title that is not subject to taxation, or in the alternative, that a constructive trust be imposed such that the Property is conveyed to the New Trust;
3. To hold Respondents be liable for damages of financial elder abuse;
4. To deem Respondents to have predeceased decedents pursuant to Probate Code § 259.
5. Petitioners also seek attorney's fees and costs for the suit.

TENTATIVE RULING #16: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 15, 2023, IN DEPARTMENT NINE.

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**IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530)
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17. THE PARKHURST TRUST PP20160118
Case Management Conference

TENTATIVE RULING #17: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 15, 2023, IN DEPARTMENT NINE.

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