

07-03-23
Dept. 9
Probate Tentative Rulings

1. ESTATE OF CAROLYN 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 Steven R. Scott and Vicki Lynette Reese 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 the same petitioners 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. There were no appearances on May 15, 2023.

TENTATIVE RULING #1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 3, 2023, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, JULY 1, 2024, 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.

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2. ESTATE OF GROVE 23PR0040

Hearing – Bond

Decedent died intestate on February 13, 2023, survived by two minor children, her mother and a sister. Decedent's mother was issued Letters of Administration on May 12, 2023, but no bond amount has been set. A bond waiver was filed on June 7, 2023, executed by the father of one of decedent's minor children. There is no bond waiver on file on behalf of the other minor child.

At the hearing of May 8, 2023, the court conditionally waived the bond requirement, and set this date for a hearing on the issue of a bond.

TENTATIVE RULING #2: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 3, 2023, IN DEPARTMENT NINE.

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3. ESTATE OF MILLER 22PR0130

Petition for Settlement of Estate on Waiver of Account

Letters Testamentary were issued on August 17, 2022. An Inventory and Appraisal was filed on March 14, 2023.

A Petition and Final Report of the Personal Representative on Waiver of Account and Final Distribution was filed on May 4, 2023. Waivers of Account executed by all Trust beneficiaries were filed with the court on May 3, 2023. Notice of the Petition and of this hearing was filed on May 17, 2023.

The Petition requests:

1. That the administration of the estate be brought to a close;
2. That the Waivers of Accounting by Petitioner as Personal Representative be allowed;
3. That all acts and proceedings of Petitioner as Personal Representative be confirmed and approved;
4. That all creditor claims not properly filed with the court and serve on the estate be barred;
5. That Petitioner be authorized to pay statutory attorney fees in the amount of \$23,335.75;
6. That all estate assets together with any other property of the decedent not now known or discovered be distributed to Joanna M. Fuller as Trustee of the James Hugh Miller, Jr. Revocable Trust.

TENTATIVE RULING #3: ABSENT OBJECTION, THE PETITION GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, JULY 1, 2024, IN DEPARTMENT NINE.

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4. ESTATE OF GIBSON 23PR0011

**Objection Hearing
Request to Appoint Minor's Counsel**

Decedent died testate on November 14, 2022, survived by one adult child and two minor 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 Linda Gibson, decedent's mother, 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. A Duties/Liabilities statement (DE 147/DE 147s) is on file with the court as required by Probate Code § 8404.

At the May 15, 2023, hearing on the Petition for Letters Testamentary, one of the minor children expressed an objection to the Petition. On May 30, 2023, Petitioner filed a Request to Appoint Minor's Counsel. Proof of service of notice of the request is on file with the court.

On June 23, 2023, Petitioner filed a Declaration, dated June 19, 2023, detailing events since the decedent's death, listing assets of and creditor claims against the estate with the conclusion that there may not be sufficient assets to meet creditor claims or make distributions to beneficiaries, requesting appointment of minor's counsel and requesting the court to issue Letters Testamentary so that administration of the estate can proceed.

TENTATIVE RULING #4: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 3, IN DEPARTMENT NINE.

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5. ESTATE OF GUMINA PP20180192

**Status of Administration
Order to Show Cause – Removal of Administrator**

Decedent John Steven Gumina died intestate on July 15, 2018. Letters of Administration were issued to Anthony Gumina on December 12, 2018. A Final Inventory and Appraisal was filed on July 21, 2021. At hearings on December 8, 2021, and June 15, 2022, the court noted that there was no Final Account and Request for Order of Final Distribution on file with the court, and the matter was continued.

At the December 14, 2022, hearing, the court noted that the administrator had still not filed the Final Account and Request for Order of Final Distribution and set an OSC hearing on March 13, 2023 to determine whether Anthony Gumina should be removed as administrator.

At the hearing on March 13, 2023, the matter was continued to May 1, 2023, and on May 1, 2023 it was further continued to July 3, 2023 to determine whether Anthony Gumina should be removed, and if so, who should be appointed.

There are currently two pending Petitions to serve as Administrator of this Estate:

1. Melody Russell, the sister of Heather Gumina. Notice of Melody' Russell's Petition and proof of service was filed on February 27, 2023. A Duties/Liabilities statement (DE 147) was filed on March 3, 2023, but there is no DE-147s form on file with the court, as required by Local Rules of El Dorado County Superior Court, Rule 10.02.10.

Proof of publication was filed on June 7, 2023. However, the proof of publication, as well as proof of service of the hearing sent to the interested parties mis-stated the hearing date as July 9, 2023. See Letter from/Objection of Anthony John Gumina, filed on June 23, 2023.

Anthony Gumina has filed a letter with the court objecting to Melody Russell's Petition.

2. Pamela Cordoba, a friend of decedent. A Duties/Liabilities statement (DE 147) was filed on May 10, 2023, but there is no DE-147s form on file with the court, as required by Local Rules of El Dorado County Superior Court, Rule 10.02.10. Proof of publication was filed on June 26, 2023. There is no proof of service of Notice of the Petition on file with the court for Ms. Cordoba's Petition. Anthony Gumina has filed a letter with the court supporting Pamela Cordoba's Petition.

On June 21, 2023, Melody Russell executed and filed a Declaration objecting to the appointment of Pamela Cordoba, who holds a power of attorney executed by Anthony Gumina, and who Ms. Russell accuses of liquidating and wasting the estate while this matter is pending.

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Another Petition Hearing date is set on July 31, 2023, to hear the Petition of Pamela Cordoba.

In addition, Kimberly Harris has expressed interest in serving as Administrator. At the hearing of December 14, 2022, Ms. Harris was directed to file a Petition if she wished to serve as Administrator of the estate, but no such Petition has been filed to date. Melody Russell has filed a declaration objecting to the appointment of Kimberly Harris as Administrator.

Related Case:

The court noted that the personal representative of the Estate of Heather Gumina (PP20200053) contends that the assets of the of the Estate of Heather Gumina will come from the distribution by means of enforcement a civil wrongful death judgment against Anthony Gumina, the sole heir of the estate of decedent.

TENTATIVE RULING #5: THIS MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY JULY 31, 2023. THE PETITIONERS ARE DIRECTED TO CURE THE DEFECTS IN THEIR PETITIONS PRIOR TO THAT DATE OR THEIR PETITIONS WILL NOT BE CONSIDERED. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, JULY 1, 2024, IN DEPARTMENT NINE.

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6. ESTATE OF TAYLOR PP20210164

**Review hearing – Status of Administration
Petition for Final Distribution and Account**

Letters of Administration were issued on November 12, 2021. The Final Inventory and Appraisal was filed on December 17, 2021. A petition for Final Distribution and Account was filed on April 11, 2023, and proof of service of Notice of the Petition was filed on April 27, 2023.

The Petition states that the real property was sold without court approval. The price of the sale was \$50,000 less than the appraised value provided by the probate referee because of lower property values caused by the Georgetown fire and declining real estate market. Notice of the sale was sent to the heirs on January 30, 2023, and no objections were received. Escrow closed on March 28, 2023. After costs, the estate netted \$224,713.09.

The Petition states that a trailer valued at \$14,995 by the probate examiner was stolen, causing a loss to the estate. The remaining personal property was sold at a loss due to their poor condition, inoperability and distance. Shipping these items to the beneficiaries was not feasible because three of the four beneficiaries live on the east coast. Petitioner has advanced \$1,530.30 to cover probate expenses; Justin Taylor has advanced \$800.00 and the attorney for the estate incurred \$376.50 in costs. Petitioner also expended \$6,900 that he advanced to the estate to improve the real property for sale, including cleaning up after smoke damage and clearing off debris.

The petition requests:

1. Approval of all acts and transactions of the personal representative,
2. Authorization to pay \$8,319.90 in statutory attorney's fees and \$376.05 in costs to the legal representative for the estate;
3. Payment of \$1,530.30 to reimburse miscellaneous costs and \$6,900 for reimbursable expenses chargeable to the estate for improvements to the real property that were paid by Petitioner;
4. Authorization to pay \$800 to Justin Taylor for costs that he advanced; and
5. Approval of distribution of \$49,330.30 to each of decedent's heirs.

TENTATIVE RULING #6: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, JULY 1, 2024, IN DEPARTMENT NINE.

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7. ESTATE OF HLADIK PP20200206

Petition for Final Distribution and Account

Decedent died on August 29, 2020. Letters of Administration were issued on March 1, 2021. A Final Inventory and Appraisal was filed on July 27, 2021.

A Petition for Final Distribution and Report of Personal Representative was filed on May 3, 2023. A Summary of Account is attached covering the period between August 29, 2020, and April 28, 2023.

With the exception of a vehicle that was purchased with community property, the assets of the estate are decedent's separate property and under the laws of intestate succession the Petition specifies that they are to be divided equally between the Petitioner, decedent's spouse, and decedent's sister.

The Petition requests:

1. That the estate be brought to a close;
2. That the First and Final Account be settled, allowed and approved;
3. That all acts and proceedings of the Personal Representative as alleged in the Petition, half to Petitioner and half to decedent's sister, be confirmed and approved, with the exception of the vehicle that should be distributed to Petitioner as community property;
4. That the assets of the estate and any property of the decedent not yet known or discovered by distributed as set forth in the Petition;
5. Authority for Petitioner to pay herself \$13,544.68 as statutory compensation for her services to the estate, and an additional \$1,000 for her extraordinary services to the estate;
6. Authority for Petitioner to pay statutory attorney fees in the amount of \$13,544.68, and an additional \$1,000 for counsel's extraordinary services to the estate.

TENTATIVE RULING #7: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.

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8. ESTATE OF WARNER PP20210106

Petition to Terminate Probate Proceedings

Letters Testamentary were issued on July 14, 2021. A Final Inventory and Appraisal was filed on January 24, 2023, indicating that there are no real or personal property assets within the estate.

On May 3, 2023, Petitioner filed a Petition to terminate probate proceedings and discharge the Administrator.

TENTATIVE RULING #8: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.

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9. ESTATE OF COBB

23PR0001

Letters of Administration

Petition

According to the Petition, Decedent died intestate on September 13, 2022, survived by four adult daughters. A Petition for Probate was filed on January 6, 2023. Notice of the Petition and proof of service was filed on April 12, 2023. Petitioner identifies her relationship to decedent as “creditor.”

A Duties/Liabilities Statement (DE 147) was filed on April 12, 2023, but there is no DE-147s form on file with the court, as required by Local Rules of El Dorado County Superior Court, Rule 10.02.10. 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.

Objection to Petition

An Objection was filed on April 28, 2023, with a purported Will of the decedent, dated September 22, 2009, attached as Exhibit A to the Objection. Proof of service of the Objection was filed on April 28, 2023, but was only directed to the attorney for Petitioner, and notice of the Objection was not served on the other three surviving children of decedent, objector’s sisters.

The Will was executed in Arkansas, witnessed and notarized. According to the Will, Petitioner Teresa Cobb is the daughter of decedent’s husband. The First Codicil to the Will, dated November 20, 2017, appoints Objector Jacqueline Tucker as the Executor of Decedent’s estate.

The Second Codicil to the Will, dated March 17, 2019, affirms the appointment of Objector as Executor, revokes a distribution to Petitioner. The Second Codicil was executed in Sacramento, California.

The grounds for the Objection are:

1. Improper Venue: The Will of decedent has been lodged in Sacramento County, and Objector alleges that decedent resided in Sacramento County at the time of her death and has no property in El Dorado County.

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2. Failure to include Will: The Petition alleges that decedent died intestate, but the Objection demonstrates the existence of a Will.

3. Conflict of interest: The Objection alleges that Petitioner has initiated a lawsuit that names decedent as defendant.

Petitioner filed a response to the Objection on June 14, 2023, stating that the death certificate lists El Dorado County as decedent's residence at the time of death and that, accordingly, probate is proper in El Dorado County pursuant to Probate Code § 7051, that there is no record of any probate filings for the estate in Sacramento County, that Objector has failed to meet and confer with Petitioner, that the Petitioner's lawsuit against decedent, which involves personal property can't proceed, and that if the court dismisses the action in favor of probate proceeding in Sacramento County Objector will have no incentive to open probate.

Objector filed a responsive Declaration on June 27, 2023, reaffirming decedent's residence in Sacramento County, at the time of her death, noting that the second codicil to the Will names Objector as Executor of the estate, and stating that the estate is insolvent.

TENTATIVE RULING #9: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 3, IN DEPARTMENT NINE.

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10. IN RE THE GRACE SMITH REVOCABLE LIVING TRUST

23PR0030

Case Management Conference

TENTATIVE RULING #10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 3, IN DEPARTMENT NINE.

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