

08-07-23
Dept. 9
Probate Tentative Rulings

1. ESTATE OF LITTLE 23PR0111

Petition for Letters Testamentary

Decedent died testate on May 12, 2023, survived by two adult children. Petitioner is decedent's son.

The Will, dated September, 25, 2022, was lodged with the court on June 5, 2023 and is admitted to probate.

The Will waives bond.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on May 25, 2023.

Proof of service of Notice of the Petition was filed on June 5, 2023.

Proof of publication was filed on June 26, 2023.

Petitioner was named as Executor in the Will.

The Petition requests full authority under the Independent Administration of Estates Act.

TENTATIVE RULING #1: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, AUGUST 5, 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.

2. ESTATE OF SKINKLE 23PR0110

Petition for Letters of Administration

There are two competing Petitions for Letters of Administration in this case.

Decedent died intestate on November 15, 2022, survived by a sister and two adult step-children. Petitioner is decedent's step-daughter.

The first Petition was filed on May 25, 2023, by Rachael Miner requesting that professional fiduciary Amber Peters be appointed Administrator with a bond set at \$660,000. A Nomination of Administrator executed by Rachael Miner is attached to the Petition.

The Petition requests full authority under the Independent Administration of Estates Act.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on May 25, 2023.

Proof of service of Notice of the Petition was filed on June 5, 2023.

Proof of publication was filed on June 26, 2023.

Decedent's step-son, Wilhelm Derksen, filed an objection to the Petition based on Rules of Professional Conduct 3-310¹, because Peters was referred by attorney Laura Nelson, who

¹ Rule 3-310 Avoiding the Representation of Adverse Interests

* * *

(B) A member shall not accept or continue representation of a client without providing written disclosure to the client where:

(1) The member has a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; or

(2) The member knows or reasonably should know that:

(3) The member has or had a legal, business, financial, professional, or personal relationship with another person or entity the member knows or reasonably should know would be affected substantially by resolution of the matter; or

(4) The member has or had a legal, business, financial, or professional interest in the subject matter of the representation.

- (a) the member previously had a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; and (b) the previous relationship would substantially affect the member's representation; or

(C) A member shall not, without the informed written consent of each client:

(1) Accept representation of more than one client in a matter in which the interests of the clients potentially conflict; or

(2) Accept or continue representation of more than one client in a matter in which the interests of the clients actually conflict; or

(3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter.

08-07-23
Dept. 9
Probate Tentative Rulings

had consulted with Derksen about the estate on May 9, 2023, until Nelson stopped the consultation when she realized that she had already consulted with Rachael Miner about the same estate. The Objection indicates that during subsequent contacts with Ms. Nelson she appeared to be aligned with the interests of Rachael Miner, and also provides legal representation to Amber Peters.

The two step-children are experiencing a conflict over the administration of the estate. Mr. Derksen proposes selecting three potential professional fiduciaries and allowing Ms. Miner to select from among them.

TENTATIVE RULING #2: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 7, 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.

(D) A member who represents two or more clients shall not enter into an aggregate settlement of the claims of or against the clients without the informed written consent of each client.

(E) A member shall not, without the informed written consent of the client or former client, accept employment adverse to the client or former client where, by reason of the representation of the client or former client, the member has obtained confidential information material to the employment.

(F) A member shall not accept compensation for representing a client from one other than the client unless:

(1) There is no interference with the member's independence of professional judgment or with the client-lawyer relationship; and

(2) Information relating to representation of the client is protected as required by Business and Professions Code section 6068, subdivision (e); and

(3) The member obtains the client's informed written consent, provided that no disclosure or consent is required if:

- (a) such nondisclosure is otherwise authorized by law; or (b) the member is rendering legal services on behalf of any public agency which provides legal services to other public agencies or the public.

3. ESTATE OF MCKAY 23PR0112

Petition for Letters of Administration

Decedent died intestate on May 4, 2021, survived by two adult siblings and five adult nieces and nephews. Petitioner is decedent's nephew.

The Petition requests full authority under the Independent Administration of Estates Act, and requests bond be set at \$186,000.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on May 22, 2023.

Proof of service of Notice of the Petition was filed on June 7, 2023.

Proof of publication was filed on June 21, 2023.

TENTATIVE RULING #3: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, AUGUST 5, 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.

4. ESTATE OF MARQUEZ 23PR0116

Petition for Letters Testamentary

Decedent died testate on November 3, 2023, survived by a spouse, two adult children and an adult grandchild. Petitioner is decedent's child.

The Petition requests full authority under the Independent Administration of Estates Act.

A Will dated August 23, 2021, is described in the Petition, and the Petition represents that Petitioner is named as Executor in the Will, but the Will has not yet been lodged with the court.

Waivers of bond executed by the four beneficiaries are attached to the Petition. Petitioner is not a resident of California. Petitioner was appointed Administrator for the decedent's estate by the Superior Court of Maricopa County, Arizona on March 8, 2023.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on May 24, 2023.

There is no proof of service of Notice of the Petition on file with the court.

There is no proof of publication on file with the court.

TENTATIVE RULING #4: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 7, 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.

5. ESTATE OF SMITH 23PR0007

Petition for Letters of Administration

Decedent died intestate on February 20, 2022.

Petitioner Ahumada states that she is decedent's daughter and requests to be appointed Administrator of the estate pursuant to the Petition that she filed on January 18, 2023. Petitioner Ahumada has not filed a Duties/Liabilities statement (DE 147/DE 147s) with the court. There is no proof of service of Notice of the Petition on file with the court. There is no proof of publication on file with the court.

Petitioner Ahumada subsequently filed a Notice of Petition to Determine Claim to Property on February 3, 2023, with respect to real property associated with the estate, and served notice of that Petition on decedent's other surviving adult child, Nathaniel Moore.

Petitioner Roser filed a competing Petition on April 10, 2023, identifying Nathaniel Moore as decedent's only surviving child, and requesting that Nathaniel Moore be appointed Executor pursuant to a Will of decedent that is attached to the Petition. With respect to this second Petition, there is no Duties/Liabilities statement (DE 147/DE 147s) proof of service of Notice of the Petition or proof of publication on file with the court.

The Will, dated June 7, 2019, identifies Nathaniel Moore as decedent's only child, nominates him as Executor and distributes the entire estate to him. Petitioner Roser is identified as one of the two witnesses to the execution of the Will. The Will does not waive bond.

Petitioner Roser attaches a letter to the Petition directed to the court explaining that she was entrusted with an original of the Will by the decedent but suffered from major medical issues that prevented her from filing the Will until March, 2023.

TENTATIVE RULING #5: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 7, 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.

6. ESTATE OF DURAN PP20180253

Motion to Compel Responses

Petitioner was appointed Administrator of the estate on August 22, 2019. The estate included real property in Cupertino, California that was sold, and a Bank of America account containing proceeds of the sale. Petitioner discovered that Respondents in this action, including Respondent Morino, had taken funds from the account between 2017 and 2018, and approximately \$800,000 is unaccounted for.

The motion, filed on June 30, 2023, requests the court to issue an Order compelling verified responses from Respondent Morino ("Respondent") to Petitioner's Request for Production of Documents and Things, Set Number 1 within 20 calendar days of the Order, and to award monetary sanctions in the amount of \$4,560.

Proof of Service of Notice of the Motion was filed on June 30, 2023.

Petitioner's Request for Production of Documents and Things, Set Number 1 was served on Respondent on March 21, 2022. The parties corresponded between April 29, 2022 and June 5, 2023, until finally counsel for respondent stopped responding to Petitioner's inquiries. See Declaration of Kristina Rubio, dated June 27, 2023 ("Declaration"). These exchanges included the following (see Declaration, Exhibit B):

- April 29, 2022: Respondent's counsel requested an extension to May 9, 2022, which Petitioner's counsel confirmed on May 3, 2022.
- May 5, 2022: Respondent's counsel requests extension of time to May 27, 2022, which Petitioner's counsel confirmed on May 6, 2022.
- May 26, 2022: Respondent's counsel requests extension of time to June 30, 2022.
- July 3, 2022: Petitioner's counsel inquired about status of the responses, to which Respondent's counsel responded on July 14, 2022 that she would provide an update "within the next couple of weeks".
- July 29, 2022: Petitioner's counsel inquired about status of the responses, to which Respondent's counsel responded on August 2, 2022 that she would check.
- August 22, 2022: Petitioner's counsel telephoned Respondent's counsel, who indicated that she would check with Respondent.
- December 22, 2022: Petitioner's counsel sent an email to Respondent's counsel indicating that she would proceed with a motion to compel if she heard from Respondent's counsel, and Respondent's counsel responded on December 29, 2022 that she would check with Respondent. (see Declaration, Exhibit C)

08-07-23
Dept. 9
Probate Tentative Rulings

- Prior to the case management conference on February 6, 2023, Petitioner's counsel telephoned Respondent's counsel, who communicated the intention of producing the requested documents by the end of February 2023.
- June 5, 2023: Petitioner's counsel sent an email to Respondent's counsel indicating that she would move forward with a motion to compel. (see Declaration, Exhibit D)

According to Petitioner, there have been no objections to, or protective orders associated with, the Request for Production.

Petitioner's counsel claims nine hours for preparing the motion and supporting documents, five hours for responding to any opposition to the motion (there is not opposition to the motion on file with the court) and one hour for attending the hearing, at the rate of \$300 per hour plus \$60 for the court filing fee.

TENTATIVE RULING #6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 7, 2023, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, AUGUST 5, 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.

7. ESTATE OF TAYLOR 22PR0081

Status of Administration

Letters of Administration were issued following a hearing on May 18, 2022. At a 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. This matter was continued at the Status of Administration hearing on June 5, 2023, at which there were no appearances.

TENTATIVE RULING #7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 7, 2023, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, AUGUST 5, 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.

8. ESTATE OF BLUME 22PR0182

Final Distribution on Waiver of Account

Letters of Administration were issued on November 2, 2022. A Final Inventory and Appraisal was filed on January 6, 2023.

Waivers of Account were executed by two of the three heirs entitled to distributions under the estate and are attached to the Petition as Exhibit D. Petitioner is the third heir entitled to distribution of the estate. The proposed distribution of the estate includes one third of the value of the estate to each of the three heirs. Petitioner has waived statutory fees as Administrator.

Notice of the Petition was filed on June 8, 2026.

The petition requests:

1. The administration of the estate be brought to a close without the requirement of an accounting;
2. All acts and proceedings of Petitioner be confirmed and approved;
3. The Administrator be authorized to pay statutory attorney fees in the amount of \$7,133.32, \$3,571 for compensation for extraordinary services, plus \$1,812.76 for costs advanced to the estate;
4. Approval of distribution of the estate to the persons entitled to it pursuant to the Petition for Final Distribution, with one third of the estate to be distributed in equal shares to each of the three heirs;
5. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed made to the beneficiaries as set forth in the Petition.

The court notes that the Petition indicates that the sale of the real property yielded in \$206,666 in cash to the estate, and that after payment of \$12,517 in attorney's fees and costs, the cash balance should equal \$194,148.92, but the Petition proposes distributing \$154,446.12, with a discrepancy of \$39,702.80.

TENTATIVE RULING #8: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 7, 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.

9. ESTATE OF BROSEKER 22PR0176

Final Distribution on Waiver of Account

Letters of Administration were issued on August 30, 2022.

A Final Inventory and Appraisal was filed on November 23, 2022.

A Waiver of Account, as well as a Waivers of Notice of any proposed action related to the sale of the estate's real property was executed by the heir entitled to distributions under the estate and are attached to the Petition as Attachments 1 and 3.

Notice of the Petition was filed on June 21, 2023.

The proposed distribution of the estate includes distribution of the entire estate to Petitioner as the sole heir.

The petition requests:

1. The administration of the estate be brought to a close without the requirement of an account;
2. The Report and Petition of Executor be confirmed, ratified and approved as filed;
3. All reported acts and proceedings of Petitioner be allowed and approved as filed;
4. Petitioner be authorized to pay statutory attorney fees in the amount of \$15,777.13 and \$394.30 in costs advanced to the estate;
6. Approval of distribution of one hundred percent of the estate to Petitioner pursuant to the Petition for Final Distribution;
6. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed made as set forth in the Petition.

TENTATIVE RULING #9: 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.

08-07-23
Dept. 9
Probate Tentative Rulings

10. ESTATE OF CRAGUN 22PR0040

Status of Administration

TENTATIVE RULING #10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 7, 2023, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, AUGUST 5, 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.

11. ESTATE OF SKINNER 23PR0119

Petition for Letters of Administration

Decedent died intestate on April 18, 2023, survived by adult siblings and a nephew, the child of a pre-deceased sibling. Petitioner is decedent's sister.

The Petition requests full authority under the Independent Administration of Estates Act.

The Petition requests that a bond in the amount of \$336,160.00 be fixed. Petitioner is not a resident of California.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on June 22, 2023.

Proof of service of Notice of the Petition was filed on June 20, 2023.

Proof of publication was filed on July 3, 2023.

TENTATIVE RULING #11: ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, AUGUST 5, 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.

12. IN THE MATTER OF BETTY LOU LUCY 23PR0081

Petition for Letters Testamentary

Decedent died testate on March 14, 2023. The Petition requests limited authority under the Independent Administration of Estates Act.

The Will is referenced in the Petition but has not yet been lodged with the court.

There is no Duties/Liabilities statement (DE 147/DE 147s) on file with the court.

There is no proof of service of Notice of the Petition on file with the court.

There is no proof of publication on file with the court.

Petitioner appeared at the hearing on June 5, 2023, and indicated that Forms DE 147/147s had been filed with the court and the matter was continued.

TENTATIVE RULING #12: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 7, 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. IN THE MATTER OF LARRY D. COMPTON

23PR0085

Pursuant to Probate Code 17200 Petitioner, who is settlor's child and is named as successor co-trustee of the Larry D. Compton Revocable Trust ("Trust"), dated February 11, 1994, attached to the Petition as Exhibit A. Settlor executed a restatement of the Trust ("Restatement") on April 13, 2007, wherein Petitioner was named first successor trustee after the settlor, who was the initial settlor. The Restatement also made substantial changes to the distribution of the Trust property. The Restatement is attached to the Petition as Exhibit B.

On September 10, 2021, settlor executed a document "[t]o clarify the distribution of my property at 4100 Florin-Perkins Road." This document, ("Amendment") is attached to the Petition as Exhibit C. The Amendment was signed and dated but not notarized, and states that Petitioner "presently owns 15% of the Property", and that after settlor's death, she would retain control of the property and make a monthly payment to the other heir, Pat Greenhaw, until Greenhaw's 42.5 percent share was fully paid off.

A court Order dated March 27, 2023, confirmed a real property located on Florin-Perkins Road in Sacramento ("Property") as property of the Trust, and is attached to the Petition as Exhibit D. The distribution of the Property is not specifically addressed in the Trust, and so would be distributed as part of the residue of the estate pursuant to Trust Division IV, Paragraph A.3, to be divided equally between Petitioner and Pat Greenhaw.

The Petition seeks instructions as to the validity of the Amendment and seeks instruction and confirmation that the Trust owns 85 percent of the Florin-Perkins Road property, and that the other 15 percent is owned by Petitioner in her individual capacity.

Objection to Petition

Patricia Greenhaw filed an Objection to the Petition on July 19, 2023. The Objection first raises issues of venue for this matter. According to the Objection, the Petitioner lives in Sacramento County, the Property at issue is located in Sacramento County, the Sacramento County Superior Court issued an Order determining that the Property was part of the Trust assets. The settlor also resided in Sacramento County.

Venue is proper where the decedent's estate is administered or where the principal place of the administration of the trust is located. Probate Code § 17005(a)(2). The principal place of administration of a trust with a single trustee is the trustee's residence or usual place of business. Probate Code § 17002(b)(1). Although the trustee's counsel is located in El Dorado

08-07-23
Dept. 9
Probate Tentative Rulings

County, the counsel's office is not the trustee's place of business. Petitioner had the same counsel in March 2023 the Petition for a Determination of the Ownership of Property was filed in Sacramento County Superior Court.

Due to the lack of venue in this court, the court need not address the other objections raised by the Objection.

TENTATIVE RULING #13: THE PETITION IS DENIED AND THE MATTER IS DISMISSED BASED ON LACK OF VENUE IN EL DORADO COUNTY.

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 SUE BROWN TRUST

PP20170050

Respondent is the trustee of the Sue E. Brown Trust Dated August 26, 2015 ("Trust"), which was created by court Order of Substituted Judgment on August 16, 2015, and Respondent was named trustee at that time and has served continuously ever since.

Petitioner is one of Sue E. Brown's four children and a beneficiary of the Trust.

Chronology

July 16, 2016: Sue E. Brown died.

March 13, 2018: Respondent filed Petition to Approve Second and Final Account and Report and to Approve Distribution of Trust Estate, with hearing set for May 9, 2018.

April 16, 2018: Petitioner's former spouse Carol Carlisle filed a Petition to Enforce Court Orders Against Trust Beneficiaries ("Enforcement Petition") and Petitioner filed an Objection on April 26, 2018. At issue was whether Petitioner's share of Trust assets should be redirected to satisfy spousal support orders in divorce proceedings.

May 9, 2018: The court approved the Second and Final Accounting but ordered that the Petitioner's share at issue on the Enforcement Petition be reserved pending the resolution of that Petition.

May 22, 2019: Petitioner filed another Petition, prior to the resolution of the Enforcement Petition, seeking distribution of the Trust assets to him. The court denied the Petition at the hearing on October 9, 2019.

July 11, 2019: The court issued an Order with respect to the Enforcement Petition and ordered distribution of the remaining assets in accordance with the spousal support order.

July 26, 2019: Respondent trustee distributed \$47,740.76 to Petitioner's former spouse in accordance with the court's Order.

August 22, 2019: Petitioner filed a Notice of Appeal of the court's resolution of the Enforcement Petition, which prevented Respondent from distributing any further Trust assets until the appeal was resolved.

May 30, 2020: Respondent filed a Petition to reduce the bond of the Trust, to which Petitioner objected, as well as requesting a court Order for immediate release of the Trust property.

August 19, 2020: The court agreed to reduce the bond and denied Petitioner's request for release of the Trust property. On the same day, Petitioner filed a new petition for the release of the Trust property and/or removal of the trustee.

February 18, 2021: Following trial on the issues raised in Petitioner's August 19, 2020 petition, the petition was denied.

08-07-23
Dept. 9
Probate Tentative Rulings

March 8, 2023: The stay on the court's resolution of the Enforcement Petition was lifted by resolution of the appeal. The appellate court affirmed the trial court's July 11, 2019 decision.

July 11, 2023: Petitioner filed Amended Motion for Release of Property, the subject of the current hearing. Respondent argues that all issues raised in the current Petition have been resolved at the February 18, 2021 trial and are barred by res judicata.

July 20, 2023: Respondent filed a Petition for Approval of Final Accounting, which will be heard on September 18, 2023. This Petition seeks the court's instruction as to whether Petitioner's former spouse is entitled to any remaining distribution of the Trust estate, and how to pay for remaining expenses and liabilities of the estate prior to distribution, including attorney's fees. The liquid assets of the estate are insufficient to pay these costs.

This matter should be continued so that it can be heard concurrently with Respondent's Petition for approval of the Final Accounting.

TENTATIVE RULING #14: THIS MATTER IS CONTINUED TO SEPTEMBER 18, 2023, AT 8:30 A.M. 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 KING 23PR0113

Petition for Letters of Administration

Decedent died intestate on February 2, 2010. Petitioner is decedent's daughter, who is a non-resident of California. The Petition requests limited authority under the Independent Administration of Estates Act for the purpose of being able to negotiate a settlement in a wrongful death action. There are otherwise no assets of the estate. Petitioner represents that if property to be administered as part of the estate is acquired, she will file an ex parte petition and order to set bond.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on May 26, 2023.

Proof of service of Notice of the Petition was filed on June 6, 2023.

Proof of publication was filed on June 21, 2023.

The Petition requests the court to waive the requirement of Probate Code § 8800 that an inventory and appraisal be filed within four months of the issuance of Letters of Administration. Petitioner represents that an inventory and appraisal will be filed within four months acquiring any property in the Trust estate.

TENTATIVE RULING #15: 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.

16. THE PARKHURST TRUST PP20160118

**(1) Petition for Instructions
(2) Selection of Professional Fiduciary**

This case was the subject of a prior settlement agreement dated December 22, 2016, over which the court retained jurisdiction to enforce the agreement. Due to a lack of cooperation among co-trustees the terms of the agreement were not accomplished, leading to an April 3, 2023, Petition to appoint a professional fiduciary and for instructions to administer the Trust in accordance with the terms of the settlement agreement.

At the hearing of July 10, 2023, the court ordered the parties to meet and confer, to each identify two professional fiduciaries, and to report on any agreement regarding distribution of the Placerville property by July 31, 2023.

Counsel for Mickell and Robert C. Parkhurst filed a Declaration on July 26, 2023 nominating Kathryn Cain as successor trustee. However, those parties feel that a professional fiduciary is not required and requests that Mickell Parkhurst be appointed sole trustee for the purpose of winding up the Trust by distributing the Oklahoma property to Mickell Parkhurst and the Placerville property to Ray and Linda Parkhurst. The Declaration states that upon that distribution the only issues remaining are accounting issues.

Ray Parkhurst filed a status report on July 31, 2023, indicating that the parties had agreed on the appointment of Kathryn Cain as successor trustee. Ray Parkhurst requests that the fiduciary be instructed to transfer the Oklahoma property to Mickell and Robert C Parkhurst, sell the Placerville property, sell the tangible property of the estate and retain all sales proceeds and other assets pending the outcome of the trial scheduled for this matter on February 27, 2024.

The pending Petition filed by Ray Parkhurst on April 3, 2023, requests an Order:

1. Approving First Account and Report of Trustee (August 10, 2014-December 22, 2016)
2. Approving Second Account and Report of Trustee (December 23, 2016-January 31, 2023)
3. Approving Reimbursements
4. Enforcing Settlement Agreement
5. Removing Trustees and Appointing Professional Fiduciary
6. Instructing Trustee to Administer Trust Pursuant to Settlement Agreement

08-07-23
Dept. 9
Probate Tentative Rulings

Specific details of the allegations and arguments of the major points in the Petition, as set forth in the court's prior Tentative Ruling, are as follows:

Approving Reimbursements

The Second Account and Report of Trustee specifies that Petitioner advanced \$108,157 in trust-related expenses during the Second Account period, including general Trust expenses, costs related to the Placerville property that is part of the Trust assets (e.g. property taxes, mortgage payments and insurance), and additional expenses related to co-trustee Linda Denton's occupancy of the Placerville property (e.g. utilities).

The Petition requests that the Trustee be instructed to reimburse Petitioner for those costs as soon as practicable from the first available Trust funds.

Enforcing Settlement Agreement

The Petition notes that the court retained jurisdiction to enforce the terms of the 2016 Settlement between the parties pursuant to Code of Civil Procedure § 664.6. See Transcript of hearing attached as Exhibit D to Petition, and April 18, 2019 Order attached as Exhibit E to Petition).

The Petition alleges that certain provisions of the 2016 Settlement have not been implemented, specifically, that the trustee has failed to:

- a. Transfer the Trust's interest in the Oklahoma Property to Mickell Parkhurst and Robert Parkhurst.
- b. Sell the trust's interest in the Placerville property and distribute the sale proceeds equally to Petitioner and Linda Denton, less the equitable liens in favor of the trustee of the Trust against each of their respective interests in the Placerville property.

Probate Code § 12002(c) requires an equitable lien be imposed against the distributable interest of Ray Parkhurst in the amount of \$38,624.45, and against the distributable interest of Linda Denton in the amount of \$69,592.71:

If income of specifically devised property is not sufficient to pay expenses attributable to the property, the deficiency shall be paid out of the estate until the property is distributed to the devisee or the devisee takes possession of or occupies the property, whichever occurs first. To the extent a deficiency paid out of the estate is attributable to the period that commences one year after the testator's death, whether paid during or after expiration of the one year period following the date of death, the amount paid is a charge against the share of the devisee, and the personal representative has an equitable lien on the specifically devised property as against the devisee in the amount paid.

08-07-23
Dept. 9
Probate Tentative Rulings

In this case, the \$77,248.89 paid toward customary carrying costs of the Placerville property for the period commencing one year after the death of Joyce Parkhurst should be charged against the share of Petitioner and Linda Denton equally, and the \$30,968.26 paid toward expenses of the Placerville property related to Linda Denton's occupancy of the property should be charged solely against Linda Denton's distributable share.

c. Wind up the affairs of the Trust and distribute the residual Trust property equally among the beneficiaries.

Removing Trustees and Appointing Professional Fiduciary

Probate Code § 15642 authorizes the court to remove a trustee on its own motion, or upon petition by a trustee or beneficiary under Probate Code § 17200. This includes situations where "hostility or lack of cooperation among co-trustees impairs the administration of the trust," Probate Code § 15642(b)(3), or where the trustee declines or fails to act. Probate Code § 15642(b)(4). In this case, the 2016 Settlement and 2019 Settlement Order resulted in the removal or resignation of two of the original four co-trustees, leaving only Petitioner and Mickell Parkhurst as co-trustees. In light of the failure to realize the implementation of the parties settlement over six years, and the hostility and lack of cooperation between the trustees, the Petition argues that the administration of the Trust has been impaired. The Petition alleges that Mickell Parkhurst agrees that there is a lack of cooperation and hostility among the co-trustees (citing Mickell Parkhurst's Petition to Enforce Settlement at 5:11-22, 7:21-22) and that that Mickell Parkhurst has failed to implement the terms of the Trust.

If it appears to the court that trust property or the interests of a beneficiary may suffer loss or injury pending a decision on a petition for removal of a trustee and any appellate review, the court may, on its own motion or on petition of a cotrustee or beneficiary, compel the trustee whose removal is sought to surrender trust property to a cotrustee or to a receiver or temporary trustee. The court may also suspend the powers of the trustee to the extent the court deems necessary.

Probate Code § 15642(e).

The Petition requests that Ray Parkhurst and Mickell Parkhurst be suspended as trustees of the Trust pending a determination of their removal, and that Renee Kowalik-Moss as interim trustee of the Trust.

The Petition further requests that Ray Parkhurst and Mickell Parkhurst be removed as trustees of the Trust upon the appointment of Renee Kowalik-Moss as trustee of the Trust.

TENTATIVE RULING #16: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 7, 2023, IN DEPARTMENT NINE.

08-07-23
Dept. 9
Probate Tentative Rulings

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