

1. **HERNANDEZ v. NAKABAYASHI**

23CV0992

Minor's Compromise

This is a petition to compromise a minor's claim filed on behalf of the minor by the guardian ad litem. The petition states the minor suffered the extraction of the wrong tooth on September 15, 2020. Petitioner requests the court authorize a compromise of the minor's claim against defendant/respondent in the gross amount of \$6,475.

The Petition states the minor incurred \$6,125 in medical expenses that include the orthodontic treatment the minor was already going to receive, as well as treatment to correct for the mistaken extraction. This settlement was negotiated with the dentist who extracted the tooth and his liability insurance carrier. Copies of a bill substantiating payment of the claimed medical expenses for Matthew Sanders, DDS for \$6,125 are attached to the petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6). The settlement also includes \$350 to be paid to the minor for the pain and inconvenience.

The petition states that the minor has not yet recovered from the injuries allegedly suffered but does not allege that there are any permanent injuries. A doctor's report concerning the minor's condition and prognosis of recovery is attached, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(3).

The minor's attorney's fees will be paid by the Respondent's insurance company. The attorney represents both parties, and the Petition represents that all parties have consented to the co-representation. The Petition states that signed conflict waivers will be filed with the court advising the parties that they have the right to seek independent representation. Those signed waivers have not yet been filed with the court.

The Petition requests the \$350 that is to be paid directly to the minor be delivered to a parent, without bond, pursuant to Probate Code § 3611(e). The Petition indicates that Attachment 18b(5) specifies the name and address of the payee, but no such attachment is included with the Petition. The parties are directed to include this information in the proposed Order.

The Petition does not request that the minor be excused from attending the hearing. Accordingly, the minor's presence is required in accordance with Local Rules of the El Dorado County Superior Court, Rule 7.10.12(D).

TENTATIVE RULING #1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 14, 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.

2. ESTATE OF SKINKLE 23PR0110

Oral Decision

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.
21CV0364

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, and maintains that objection on the basis that the fiduciary need not be represented by counsel, in particular by Ms. Nelson who appeared to Mr. Derksen to be aligned with the interests of Rachael Miner.

Mr. Derksen proposes selecting three potential professional fiduciaries and allowing Ms. Miner to select from among them.

In response to Mr. Derksen's concern, Ms. Nelson filed a Declaration on August 7, 2023, stating that she has expressly declined to represent either of the two heirs and has no personal interest or loyalties related to the outcome of the case.

TENTATIVE RULING #2: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 14, 2023, IN DEPARTMENT NINE.

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3. ESTATE OF NEELY 22PR0125

Status of Administration

TENTATIVE RULING #3: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 14, 2023, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, AUGUST 12, 2024, IN DEPARTMENT NINE.

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4. ESTATE OF FORNI PP20200097

(1) Status of Administration

(2) Final Distribution

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.

There were no appearances at the hearing on May 1, 2023.

TENTATIVE RULING #4: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 14, 2023, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, AUGUST 12, 2024, IN DEPARTMENT NINE.

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5. ESTATE OF MILLER 22PR0130

 Status of Administration

**TENTATIVE RULING #5: THE PETITION FOR FINAL DISTRIBUTION HAVING BEEN APPROVED,
THIS HEARING IS REMOVED FROM CALENDAR.**

**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 JOHNSON 23PR0141
Letters Testamentary

Decedent died testate on May 6, 2023, who is, according to the Petition, survived by three adult children. Petitioner is decedent's former spouse, who is named executor in the Will.

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

Proof of publication was filed on August 4, 2023.

The Will, dated September 28, 1983, was lodged with the court on July 3, 2023. The Will waives bond and names Petitioner as executor and sole beneficiary.

The Will specifies that decedent has only one child, Kevin James Johnson, but the Petition identifies two other children, Katie Beatrice Johnson and Kyle Gregory Johnson, both of whom were born after the Will was executed.

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.

TENTATIVE RULING #6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 14, 2023, IN DEPARTMENT NINE.

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7. ESTATE OF FIELDS PP20170176
Accounting

Letters of Administration with full authority under the Independent Administration of Estates Act were issued to Amy Ward on February 7, 2018. Some of the heirs have filed a request for removal of the Administrator and have made allegations that the Administrator has omitted assets from estate inventories, made unauthorized payments and withheld information about Trust assets and accounts from the other beneficiaries.

The intestate heirs who have an interest in this estate are Melody Wruble (Fields), Liam Fields, son of Meggan Fields (deceased), Dara Singh (Fields), Amy Ward (Fields) and John Romero. Amy Ward (Fields) is the Administrator of the estate.

There is a related Family Law Court matter (PD-4474) that concluded in July, 2022, in which the court awarded \$44,697 of spousal support due to the estate by decedent's ex-spouse, James Fields, which was to be paid at the rate of \$500 per month beginning July, 2022.

An accounting had been ordered at a hearing held on December 7, 2022, during which the Administrator was ordered to produce an accounting and financial account statements to the heirs no later than April 8, 2023 and to be prepared to present accounting information at the next hearing.

On March 24, 2023, the Administrator requested a continuance of a May 8, 2023 status hearing because she had been involved in a car accident, and the court granted the request, setting a new hearing date of August 7, 2023.

On May 9, heirs Melody Wruble and Sara Singh filed an ex parte motion to advance the August 7, 2023 hearing date because the delay would cause irreparable harm to other heirs of the estate. This motion included continued allegations of the Administrator hiding and selling estate assets, failing to provide accounts and bank statements to other heirs in compliance with court orders, making unauthorized payments, of falsifying the grounds upon which she requested a continuance, of acting in bad faith and breaching her fiduciary duty.

The court issued an Order on May 9, 2023, setting a June 12, 2023 hearing date, "to ensure progress is being or has been made on the court-ordered accounting."

On June 12, 2023, following arguments by the parties, the hearing date was continued to August 14, 2023, and the court ordered the Administrator to file and serve bank statements no later than August 7, 2023.

On August 4, 2023, the Administrator filed the First Report of Administrator and Petition for Settlement and Confirmation Thereof; and Authorization to Continue Administration of the Estate. The Accounting includes the following information:

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1. Payments received from James Fields in satisfaction of the \$44,697 payable to the estate for spousal support since July, 2022 and anticipated to continue for an additional 6.5 years, are being deposited into the estate bank account. Petitioner requests the court to authorize continued administration of the estate until this debt is fully paid.
2. Petitioner has advanced personal funds to the estate, with an outstanding balance in the amount of \$2,400.39. Petitioner alleges that this repayment was authorized by Judge Dylan Sullivan in a February 2009 hearing (see Petition, Exhibit D).

The Petition requests the court to settle, allow and approve the First Report of Administrator, to confirm and approve all reported acts and proceedings of the Administrator, and to authorize the continued administration of the estate until the entire spousal support obligation is paid by James Fields.

An Objection to the First Report of Administrator was filed on August 9, 2023 alleging that the Administrator has fraudulently distributed funds, paid attorney fees without court authorization, paid for unjustified travel and home repair expenses. The Objection attaches a transcript from the February 2009 hearing relied upon by the Administrator as justification to repay herself personal funds advanced to the estate, noting that the transcript does not actually bestow such authority.

The Objection questions the documentation attached to the First Report as illegible, and questions discrepancies between those documents and representations made by the Administrator's Report.

The Objection questions the Administrator's decision to file a lawsuit for the benefit of one of the heirs and against the wishes of and without notice to the others, and then paying attorney fees for that lawsuit out of estate funds and without the court's permission.

The Objection is accompanied by a Declaration listing further allegations that the Administrator failed to distribute personal property items and financial accounts belonging to the estate

The Objection requests sanctions be imposed for the Administrator's failure to comply with the court's Order to produce an accounting by December 2022, in the amount of \$2,095, representing the heirs' costs in preparing court documents since December, 2022. The Objection further requests:

1. Investigation into allegations of fraud and embezzlement;
2. Requiring the Administrator to provide additional documentation;
3. Removal of the Administrator and appoint Sara Singh (Fields) as successor Administrator;
4. Surcharge against the Administrator for losses to the estate;

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5. Report of any evidence of fraud and embezzlement to the El Dorado County District Attorney.

TENTATIVE RULING #7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 14, 2023, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, AUGUST 12, 2024, IN DEPARTMENT NINE.

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8. ESTATE OF TINCHER 22PR0145
Petition to Set Aside Estate

The decedent died intestate on August 13, 2021, and is survived by his spouse and three minor children.

The principal asset of the estate is residential real property acquired in 2019 with title in the name of the decedent as a single man, prior to his marriage to Petitioner in 2021. Petitioner has continued to make the mortgage payments since decedent's death.

Petitioner has filed a Petition to Set Aside the Estate pursuant to Probate Code §§ 6600 *et seq.* Those Probate Code sections provide for the set aside of a small estate under specified conditions. In Petitioner's case, the value of the estate may not exceed \$85,900 to qualify for a set-aside. Probate Code § 6602. A surviving spouse has standing to file a set-aside petition. Probate Code § 6606(a)(2). The Petitioner has filed an inventory and appraisal of the estate by the probate referee as required by Probate Code § 6608. The value of the real property, less the outstanding mortgage equals \$74,848, less than the statutory limit for the set-aside of the estate.

Notice of the Petition was served on decedent's mother, surviving siblings and three minor children, in compliance with Probate Code §6607. No objection has been filed.

In consideration of the needs of the surviving spouse and minor children, the court finds that the estate qualifies for a set-aside, the Petition meets all statutory requirements, and that the title to the estate property should vest in decedent's surviving spouse for the benefit of herself and her minor children.

TENTATIVE RULING #8: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. THE PETITION FOR LETTERS OF ADMINISTRATION AND THE PETITION FOR SPOUSAL PROPERTY ARE DISMISSED AS MOOT. THE MATTER IS DISMISSED.

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9. ESTATE OF LAVERY 23PR0124
Spousal Property

Petitioner requests that decedent's share of community property held in certain stocks and two vehicles pass to her as spousal property without a probate of the estate.

Decedent died testate on February 14, 2023, and the Will, dated April 18, 2018 and attached to the Petition, indicates that all property should pass to Petitioner, decedent's spouse. In addition, Petitioner and decedent executed an Ownership Agreement, executed on July 29, 2010 and attached to the Petition, states that the parties agree that all property owned by them is community property.

Proof of service of notice of hearing on the Petition was filed on June 15, 2023.

TENTATIVE RULING #9: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.

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10. ESTATE OF LOCKE 22PR0131
Status of Administration

TENTATIVE RULING #10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 14, 2023, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, AUGUST 12, 2024, IN DEPARTMENT NINE.

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11. ESTATE OF SHANAHAN 22PR0128
(1) Status of Administration
(2) Final Report on Waiver of Account

Decedent died intestate on February 27, 2022, and Petitioner was issued Letters of Administration with full authority under the Independent Administration of Estates Act on September 30, 2022.

Petitioner as sole beneficiary of the estate and the contingent beneficiary have waived account, and such waivers are attached to the Petition as Exhibit C.

A Final Inventory and Appraisal was filed on December 13, 2022.

Proof of service of Notice of the Petition was filed on August 1, 2023.

The proposed distribution is that the entire estate be distributed to Petitioner after payment of fees.

The Petition requests:

1. The administration of the estate be brought to a close without the requirement of an account;
2. All acts and proceedings of the Administrator be confirmed and approved;
3. The Administrator be authorized to pay statutory attorney fees in the amount of \$7,550.00, and \$1,000 for compensation for extraordinary services related to assistance with the sale of real property as described in counsel's declaration attached to the Petition;
4. The Administrator be authorized to pay herself \$7,550.00 in statutory compensation;
5. Approval of distribution of the estate to the persons entitled to it pursuant to the Petition for Final Distribution; and
6. Upon filing of receipts that Petition may apply to be discharged.

TENTATIVE RULING #11: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.

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12. FLORENCE TANIS, ET AL v. SCOTT TANIS PC20210251

Status Conference – Contractor Selection

A short cause trial was held in this case on November 29, 2022. The court's ruling was entered on March 10, 2023. The court found that the Defendant is responsible for costs of cleaning and repairing the barn that is the property of the Tanis Living Trust in a manner that is consistent with the terms of the General Power of Appointment documents that were executed on February 8, 2017 and October 3, 2019. The court made the following orders:

1. That Plaintiffs allow Defendant and any potential contractors to access the barn for the purpose of assessing the damage;
2. That each party to select two contractors and provide selected contractor information to the other party by May 12, 2023;
3. That the parties meet and confer to try to reach agreement on selection of a contractor, and that if they cannot agree on a contractor by June 12, 2023, the court would select one of the options or make further orders as appropriate.

At a hearing held on June 12, 2023, the court ordered the parties to file an update with the court regarding the status of the contractor by July 31, 2023. No new filings have been received by the court since that hearing.

TENTATIVE RULING #12: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 14, 2023, IN DEPARTMENT NINE.

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13. IN THE MATTER OF THE MCLEES FAMILY TRUST

Petition for Instructions

On June 2, 2022 Petitioner filed this Petition for Instructions regarding Funding of Trust Assets and Regarding Net Income Distributions Pursuant to Terms of Trust. The matter was set for hearing on August 31, 2022. The Tentative Ruling at that hearing indicated that Petitioner needed to file a declaration describing his efforts to locate one of the beneficiaries. That hearing was continued to resolve the issues of notice to the beneficiaries.

This matter was continued because a response to the Petition was filed on January 3, 2023. Finding that this is a contested matter, the court on March 20, 2023, continued the hearing in order to require appearances for the purpose of setting dates for an evidentiary hearing, issues conference, and mandatory settlement conference.

At the hearing held on June 5, 2023, the parties indicated they were engaged in settlement discussions and the court found good cause to continue the hearing on the Petition.

TENTATIVE RULING #13: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 14, 2023, IN DEPARTMENT NINE.

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