

1. WEBSTER v. WEBSTER 22PR0309

OSC Hearing - Sanctions

A Petition to compel accounting was filed on November 29, 2022. Following hearing on January 30, 2023, the court issued an Order on 1/30/23 as follows:

1. Respondent to provide Petitioner with an itemized accounting of all expenditures and receipts from the effective date of the power of attorney through the date of the Order;
2. Respondent's authority under the power of attorney is revoked;
3. Adrian Webster is appointed attorney-in-fact pursuant to the succession provision in the durable power of attorney;
4. Respondent provide restitution to the principal as to be determined once an accounting is made and upon approval by the court.
5. Respondent pay Petitioner's attorney \$3,350 in attorney's fees and \$435 in filing fees.

Proof of service of notice of the Order was filed on February 2, 2023.

At the hearing on July 31, 2023, the court issued an Order to Show Cause re: sanctions in the amount of \$1,500 pursuant to Code of Civil Procedure § 177.5 and set a hearing date of August 28, 2023.

On August 11, 2023, Petitioner filed a motion for an Order under Code of Civil Procedure § 177.5 requesting sanctions in the amount of \$1,500 to be paid to the County for failure to comply with its January 30, 2023 Order, and requesting the court to take judicial notice of the court's Order. Pursuant to Evidence Code §§ 452 and 453, the request for judicial notice is granted. Attached to the motion is a Declaration of Peter Vlautin, dated August 7, 2023, attesting to having provided notice of the hearing to Timothy Webster by mail of the court's January 30, 2023 Order.

TENTATIVE RULING #1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 28, 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 FRITZINGER 22PR0248

Petition for Letters of Administration

Decedent died intestate on July 12, 2022, survived by Petitioner, who is his father.

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

A Duties/Liabilities Statement (DE 147) was filed on March 21, 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. However, the court notes that Petitioner is the decedent's sole surviving heir and that a driver's license number has been provided, in substantial satisfaction of the DE-147s requirement. The court finds that under the circumstances the requirement of providing Petitioner's birthdate can be waived in this case.

Proof of service of Notice of the hearing on the Petition was filed on August 22, 2023.

Proof of publication was filed on December 29, 2022.

TENTATIVE RULING #2: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, AUGUST 26, 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.

3. ESTATE OF BEHRENDT PP20200209

Final Account and Distribution

Letters Testamentary were issued on May 4, 2022. The Final Inventory and Appraisal was filed on April 28, 2022.

A Petition for approval of the First and Final Report and Account and for Final Distribution was filed on June 15, 2023. Notice of the hearing on the Petition was filed on July 24, 2023.

The proposed distribution of the estate is for all three beneficiaries to hold equal shares of the estate assets in equal shares a tenants in common.

The petition requests:

1. The administration of the estate be brought to a close and the First and Final Account filed with the Petition be confirmed and approved;
2. All acts and proceedings of Petitioner as Executor be confirmed and approved;
3. Petitioner be authorized to pay statutory attorney fees. The total amount of statutory fees is calculated as \$5,042.19, \$2,250 of which has been advanced to the attorney by Petitioner. Because Petitioner is entitled to a 25 percent discount on legal fees through employer-provided benefits, the total fees due equal \$3,784.19, and the remaining balance due for attorney's fees is \$1,534.19.
4. That the balance of the estate's interest in decedent's Umpqua bank account #xxxx-3314 in the amount of \$542.00 be assigned to Petitioner. Waivers of interest in the account have been signed by the other two beneficiaries and are attached to the Petition.
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.

TENTATIVE RULING #3: 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.

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 attached to Petitioner's Declaration, filed on May 24, 2023. Petitioner is named as Executor in the Will.

Waivers of bond executed by the four beneficiaries are attached to the Petition, and the Will specifies that the Executor shall serve without bond. 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.

Proof of publication was filed on August 4, 2023.

At the hearing on August 7, 2023, the court found that notice has been given as required by law.

TENTATIVE RULING #4: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET AT 8:30 A.M. ON MONDAY, AUGUST 26, 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.

5. 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)

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- 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.

At the hearing on August 7, 2023, granted a continuance to August 28, 2023.

TENTATIVE RULING #5: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 28, 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 PEARCE PP20210080

Review Hearing – Status of Administration

Letters of Administration were issued to Zachary Young, a professional fiduciary on November 3, 2022 after the prior Administrator, Robert Pearce resigned.

A partial Inventory and Appraisal was filed on January 4, 2023. However, the proof of service of that Inventory and Appraisal was directed to four addresses that did not include individuals who had been identified as surviving family members (*e.g.* Jennifer Gorman, Robert Pearce), or who had requested special notice (*e.g.* Jonathan Huber, Michael Gorman).

TENTATIVE RULING #6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 28, 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.

7. ESTATE OF WEIZEN 22PR0006

Final Account and Distribution

Letters of Administration were issued on March 28, 2023. A Final Inventory and Appraisal was filed on May 11, 2023. Notice of the Petition was filed on August 11, 2023.

The principal asset of the estate was real property that was sold, and the proceeds of the sale were apparently disbursed. The Petition references Exhibit C as explanation of the disbursement of the estate assets. However, Exhibit C is omitted from the Petition.

The Petition states that following the disbursement of the bulk of the estate as described in the omitted Exhibit C, that the estate is insolvent. If any property of the decedent or of the estate is discovered, it is proposed to be distributed in equal shares to the four surviving children of decedent. The Administrator waives compensation.

The statutory calculation of attorney's fees yields a fee amount of \$15,800; however, as the estate has only \$4,710.26 on hand, the attorney has agreed to a reduced fee of \$4,710.26.

The petition requests:

1. The administration of the estate be brought to a close;
2. The First and Final Account filed with the Petition be settled, allowed and approved;
3. All acts and proceedings of the Administrator be confirmed and approved;
4. The Administrator be authorized to pay statutory attorney fees in the amount of \$4,710.26;
5. 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 to the beneficiaries as set forth in the Petition.

The court is not able to approve the Petition without the information as to how and where the estate assets were disbursed as described in the omitted Exhibit C to the Petition.

TENTATIVE RULING #7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 28, 2023, IN DEPARTMENT NINE.

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

8. ESTATE OF STOLP PP20210037

Final Distribution on Waiver of Account

Decedent died on March 1, 2020. Letters of Administration with Will Annexed were issued on May 11, 2021. Inventory and Appraisal was filed on September 3, 2021.

On May 9, 2023, Petitioner filed a Petition to Approve Final Distribution. Petitioner is one of two surviving adult children of decedent, both of whom are named as beneficiaries in decedent's Will. The Petition proposes distribution in equal shares to each of the two beneficiaries in accordance with the terms of the Will.

Petitioner waives statutory compensation.

The Petition requests that:

1. The administration of the estate be brought to a close without the requirement of an accounting;
2. Petitioner's waiver of statutory fees be approved;
3. All acts and transactions of the Administrator be confirmed and approved;
4. 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.

Waivers of account in compliance with Probate Code § 10954, as well as acknowledgements of service of notice of the August 28, 2023 hearing, were filed on August 17, 2023 by both beneficiaries

TENTATIVE RULING #8: 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.

9. IN THE MATTER OF INGRID HELGA NOBLE

23PR0147

Petition for Letters Testamentary

Decedent died testate on March 15, 2023, survived by three adult children and an adult grandchild. The Will, dated September 3, 2020, was lodged with the court on July 25, 2023. Petitioner, decedent's grandson, is named Executor in the Will, and the Will waives bond.

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

Proof of service of Notice of the Petition was filed on August 16, 2023.

Proof of publication was filed on August 9, 2023.

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

TENTATIVE RULING #9: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 28, 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.

10. IN THE MATTER OF RANDALL AESCHLIMAN 23PR0092

Petition to Set Aside Trust/First Amendment to Trust

Petition to Set Aside Trust/First Amendment to Trust

The Petition, filed on April 27, 2023, was filed by Petitioner Randall Aeschliman, son of decedent Dale Aeschliman with respect to the Dale Aeschliman Living Trust Agreement, dated September 30, 2020, amended on March 16, 2023 ("Trust"). Dale Aeschliman ("decedent") passed away on April 4, 2023, at the age of 93. Trustee Amber Peters is a professional fiduciary. Notice of the hearing on the Petition was filed on June 22, 2023.

The Petition alleges that the decedent was subject to undue influence by his paid caregiver when he executed the Trust and its amendment. The paid caregiver, Victoria Ramirez aka Taylor Northern, for consideration paid in cash by decedent, cared for decedent from 2020 until his death. Prior to this arrangement, Taylor Northern's mother, Shannon Vanogle, served as decedent's paid caregiver between 2019 and 2020.

The original Trust designated Shannon Vanogle as trustee, and Taylor Northern as successor trustee, and provided for the distribution of the entire estate first to Taylor Northern, and then to Shannon Vanogle, and should they not survive, to any living heirs as determined by laws of intestate succession, including decedent's two sons. The First Amendment to the Trust changed the trustee designation to Amber Peters, professional fiduciary. See Petition, Exhibit A. The Petition alleges that Petitioner believes that decedent executed the Trust and its First Amendment under the undue influence of Taylor Northern and her mother, Shannon Vanogle.

The Petition attaches as Exhibit D documentation of the February 4, 2020 felony conviction and sentencing of Taylor Northern following guilty pleas for violations of Penal Code 278 (child abduction).

The Petition alleges that Petitioner believes that decedent entered into a reverse mortgage with proceeds of approximately \$900,000, and that the proceeds cannot be located. See Exhibit E to Petition, Deed of Trust Securing a Reverse Mortgage Loan, dated July 22, 2022.

The Petition alleges that Petitioner believes that decedent was induced by undue influence to change the beneficiary designations on a Lincoln Financial Group account from Petitioner and his brother and instead designate Taylor Northern as beneficiary to the account. See Petition Exhibit F (beneficiary designation form dated August 25, 2015 listing Petitioner and his brother as beneficiaries).

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The Petition also attaches as Exhibit G the Will of decedent, dated October 13, 1988, indicating his intention to leave his estate first to his wife, if she survive him, and then to his two sons in equal shares.

The Petition requests the court issue an Order:

1. Setting aside the Trust and its First Amendment on the grounds of undue influence and/or lack of capacity;
2. Restraining the trustee or anyone acting in concert with her, during the pendency of this litigation, from spending, transferring and/or encumbering real or personal property, including balances held at any financial institutions;
3. Freezing all assets devolving from the Trust;
4. Compelling the trustee to grant Petitioner access to all real and personal property devolving from the Trust;
5. Awarding to Petitioner attorney's fees and costs of suit from the Trust.

Petition for Instructions

Given the Petition to Set Aside Trust/First Amendment to Trust detailed above, the trustee has filed a Petition requesting instructions from the court pursuant to Probate Code § 17200 as to 1) whether the trustee may use Trust assets to defend the Trust contest, and 2) seeking approval to delay distribution until the dispute is resolved.

According to the Petition for Instructions, Randall Aeschliman initially objected to trustee's use of Trust funds to defend the validity of the Trust, but now agrees that the use of Trust funds for this purpose should be authorized. On July 31, 2023, Randall Aeschliman filed a Non-Opposition to the Trustee's Petition for Instructions.

The Petition for Instructions alleges that there is good cause to instruct the trustee to disregard the requirement under Probate Code 16000 to administer the Trust in accordance with its terms, as well as the requirement of Article 5.2 of the Trust that directs the Trustee to distribute the Trust assets within six months of decedent's death, because of the contest and the dispute over entitlement to Trust assets.

The Petition for Instructions requests that the court find that all notices have been given as required by law, and grant the Petition for Instructions to authorize the trustee:

1. To defend the Petition to Set Aside Trust/First Amendment to Trust at the expense of the Trust;

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2. To delay distribution of Trust assets beyond the six-month period provided for in Article 5.2 of the Trust, and that trustee shall not distribute such assets absent agreement of the parties, court approval or a resolution of the Trust contest.

Trustee filed a proof of service of Notice of Hearing the Petition for Instructions on July 20, 2023, for the August 28, 2023, hearing on that Petition.

Randall Aeschliman filed a Notice of Non-Opposition to the Trustee's Petition for Instructions on July 31, 2023.

TENTATIVE RULING #10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 28, 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.

**11. IN THE MATTER OF THE JEAN M. TINDEL AND ANNE E. FINCK
REVOCABLE TRUST**

23PR0109

Petition to Terminate Trust

Paragraph Two.D.3(a) of the Eighth Amendment of the Jean M. Tindel and Anne E. Fink Revocable Trust, dated June 1, 2016, ("Trust") provided for distribution of Trust assets to a new "Trust for Lucas [Southerland] and his Children" ("Education Trust"). That distribution was to be retained in trust for the education of Lucas Southerland and his children. When the youngest beneficiary of the Education Trust reached the age of 25, any remaining assets were to be distribute to Lucas Southerland, the settlor's grandson. Petition, Exhibit A.

The verified Petition alleges that "circumstances not known to the settlor and not anticipated by the settlor" have occurred since her death, and pursuant to Probate Code § 15409(a), requests the court to terminate the Education Trust because continuing the Education Trust would "defeat or substantially impair the accomplishment of the purposes of the trust."

At the time of the surviving settlor's death in 2017, Elizabeth was, and continues to be, Lucas Southerland's only child. According to the Declaration of Jana Ellerman in support of the Petition, dated May 22, 2023, Jana Ellerman represented the settlors in their estate planning for 17 years prior to their deaths and continues to represent the trustee of their Trust, including preparation of the Eighth Amendment that is at issue. Exhibit 1 to that Declaration is declarant's contemporaneous note to file regarding the settlor's intentions in creating the Education Trust, indicating that the settlor wished to protect Trust assets from being accessed by Lucas Southerland's wife in an anticipated divorce proceeding, and to make sure that such assets were used for the education of Lucas Southerland's children.

The Petition alleges that the changed circumstances make it unnecessary to continue to hold the assets in Trust:

1. Because Lucas Southerland is a disabled veteran injured in combat duty, under the laws of North Carolina where he resides, Elizabeth is entitled to attend college in that state free of charge and any education that Lucas Southerland seeks to acquire would be paid through the GI Bill;
2. Lucas Southerland was divorced in June 2020 and there is no longer any mechanism for his ex-wife to access the Trust funds and/or to prevent them from being used for Elizabeth's education;
3. Access to the funds now, instead of 13 years from now when Elizabeth reaches the age of 25, would allow Lucas Southerland to improve his situation, such as allowing him to purchase a home.

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The Petition requests an Order:

1. Finding that all notices have been given by law;
2. Terminating the Education Trust established in Paragraph Two.D.3(a) of the Trust;
and
3. Authorizing funds remaining in the Education Trust be distributed outright to Lucas Southerland.

The Petition alleges that had the situation been known to the surviving settlor, she would have wanted to assist Lucas Southerland now, since funding of Elizabeth's education is already assured.

Proof of Service of Notice of hearing on the Petition was filed on June 15, 2023.

At the hearing on July 31, 2023, the court appointed a Guardian ad Litem for the minor Elizabeth and continued the hearing date.

TENTATIVE RULING #11: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 28, 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.

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12. GRUBER V. BRITTON 22CV0029

Trial Setting

TENTATIVE RULING #12: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 28, 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 DONNA L. PHILLIPS FAMILY TRUST

PP20210032

(1) Petition for Instructions
(2) Final Account and Distribution

Following is the Tentative Ruling of the Court in anticipation of the July 10, 2023 hearing:

At the hearing held on May 1, 2023, the court ordered the parties to meet and confer, and continued the hearing date.

Following is the tentative ruling from the May 1, 2023, hearing, which may be modified depending on the information that the parties provide to the court regarding the outcome of their meet and confer efforts:

Petition for Instructions

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

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

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

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

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

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

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

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

Final Account and Distribution

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

\$16,827.90 to Tristina Davis

\$55,055.09 to Milauna Kruse

Petitioner requests:

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

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The court finds that Tristina Davis had realized \$39,729 from refinancing the property while she served as trustee, as was determined in the prior proceedings in Yolo County Superior Court. The court approves the assignment of Katrina Deatherage's interest to Tristina Davis. Although this assignment is contrary to the spendthrift provision in the Trust document, the court finds that the misconduct of Katrina Deatherage and Tristina Davis while serving as trustees has interfered with the trustee's ability to comply with the letter of the Trust document and that Petitioner's proposed distribution is an acceptable solution for the purpose of achieving the settlor's intent under the present circumstances.

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

* * *

Events subsequent to the July 10, 2023 hearing:

At the hearing on July 10, 2023, the court ordered the parties to meet and confer, and continued the hearing to August 28, 2023. The court set a deadline of August 21, 2023 for any additional declarations to be filed by the parties.

On August 22, 2023, the Trustee and Objector Milauna Krause jointly filed a status report indicating that the Trustee and Objector Milauna Krause met and conferred on August 22, 2023 and will continue to meet and confer with respect to the following issues raised by Objector Milauna Krause:

- One half interest in the Somerset property;
- Loss of value of the W. Michigan property;
- Attorney's fees in the El Dorado County action.

TENTATIVE RULING #13: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 28, 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 GILLOTT 23PR0140

Spousal Property Petition

According to the verified Petition, decedent died on December 2, 2021, survived by his wife and two adult children. Decedent's Will, dated August 8, 2014, was drafted by his Conservator pursuant to a court ordered conservatorship (PP2007-0045), bequeaths his one-half interest in a home Placerville to Petitioner, his wife.

Decedent and Petitioner were married in 1985 and remained married until decedent's death in 2021. Petitioner has lived in the Placerville home since it was purchased by Petitioner's parents purchased it in 1989. The home was gifted to Petitioner and decedent in 2001. In 2008, decedent severed the joint tenancy in the Placerville home and recorded the declaration severing the joint tenancy with El Dorado County on March 26, 2008. The declaration is attached to the Petition as Exhibit A..

Decedent was diagnosed with multiple sclerosis in 1999 or 2000, and eventually Petitioner and decedent separated. At the time of his death, decedent lived with his parents where he could receive in-home care that Petitioner could not provide because of her employment. Because decedent and Petitioner lived apart, Petitioner was not able to file an Affidavit of Co-Tenant Residency (BOE 58) because that form requires that the property is the primary residence of both parties in the year prior to the co-tenant's death.

Petitioner currently lives in the home with her and decedent's two adult children, who are also contingent beneficiaries of decedent's Will.

Proof of service of notice of the Petition was filed on August 15, 2023. There are no objections to the Petition in the court's file.

TENTATIVE RULING #14: 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.

15. ESTATE OF DAVIDSON 23PR0138

Petition for Letters Testamentary

Decedent died on March 9, 2023, with no known next of kin. Petitioner is decedent's friend.

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

The Will, dated January 21, 2016, was lodged with the court on June 28, 2023. The Will waives bond, and a waiver of bond has been filed with the court by the Petitioner, who is the only beneficiary. Petitioner is named as Executor in the Will.

Duties/Liabilities statements (DE 147/DE 147s) were filed on June 28 and August 21, 2023.

There is no proof of service of Notice of the Petition on file with the court. However, Petitioner is the sole beneficiary and there are no known next of kin. Probate Code § 1201 provides that a person who is required to give notice is not required to give notice to themselves.

Proof of publication was filed on August 21, 2023.

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 O. EUGENE HICKMAN TRUST AGREEMENT

23PR0131

Petition to Expunge Lis Pendens

On July 7, 2023, the court granted the Petition and took the issue of attorneys' fees under submission. Only July 31, 2023, the matter was continued to August 28, 2023 pursuant to Stipulation containing a request for continuance filed by the parties on July 28, 2023.

On August 10, 2023, the court issued a ruling finding that the imposition of attorney's fees would be unjust and the request for attorney's fees was denied.

TENTATIVE RULING #16: THE COURT HAVING ISSUED ITS DECISION, THE MATTER IS DROPPED 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.