

November 18, 2024  
Dept. 9  
Probate Tentative Rulings

1.	24PR0261	ESTATE OF PARIDON
Spousal Property Petition		

Petitioner is the surviving spouse of decedent, who died testate on May 21, 2024, survived by Petitioner and two adult children. Decedent's Will was lodged with the court on June 21, 2024 (24WL0093). Decedent and Petitioner established the Charles and Gayle Paridon 2016 Trust ("Trust"). The Will grants decedent's entire estate to the Trust, confirms Petitioner's interest in their shared community property, and appoints the currently acting Trustee of the Trust to serve as executor of the estate. No petition to administer the estate has been filed.

Declaration Non Confidential of Jay Stoops in support of Motion for Summary Judgment

Probate Code § 100(a) provides that "[u]pon the death of a person who is married or in a registered domestic partnership, one-half of the community property belongs to the surviving spouse and the other one-half belongs to the decedent."

Probate Code § 13500 provides that "when a spouse dies . . . testate and by his or her will devises all or a part of his or her property to the surviving spouse, the property passes to the survivor . . . , and no administration is necessary."

Probate Code 13650 authorizes a surviving spouse to file a petition requesting an order that administration of all or part of an estate is not necessary because all or part of the estate is property passing to the surviving spouse.

The Petition in this case identifies several financial accounts and stock accounts, all of which are alleged to be community property as the funds were accumulated as Decedent's earnings during the marriage, while residing in California.

Notice of the hearing on the Petition was served on decedent's two children and proof of service was filed with the court on October 7, 2024.

**TENTATIVE RULING #1:**

**ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043)**

**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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<b>2.</b>	<b>24PR0206</b>	<b>ESTATE OF MAKIN</b>
<b>Petition for Letters</b>		

**TENTATIVE RULING #2:**

**PER PETITIONER’S REQUEST, HEARING WAS CONTINUED TO DECEMBER 23, 2024, AT 8:30 AM  
IN DEPARTMENT NINE.**

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<b>3.</b>	<b>21PR0004</b>	<b>ESTATE OF COX</b>
<b>Final Distribution</b>		

Letters of Administration were issued on January 12, 2022, granting Jennifer Sue Fleming full authority under the Independent Administration of Estates Act. She then passed away, and Eric Fleming was appointed Special Administrator on November 16, 2022, before being appointed as Personal Representative on January 30, 2023, when Letters were issued.

A Final Inventory and Appraisal was filed on October 30, 2023. The Petition complies with Local Rule 10.07.12 by containing the necessary statements regarding California and federal estate taxes and income taxes.

Proof of Service of Notice of the hearing on the Petition was filed on October 21, 2024. Naral Pro-Choice America Foundation was served a second time, at a different address, pursuant to the Proof of Service filed on November 4, 2024. No one has filed a request for special notice in this proceeding.

The proposed distribution of the estate includes \$30,000.00 to Jennifer Fleming, \$5,000.00 to Chase Barnes, \$5,000.00 to Kevin Barnes, \$10,000.00 to Eric Fleming, as Executor, for finding cat companion, 50% of residuary to Planned Parenthood Federation of America, and 50% of residuary to Naral Pro-Choice America Foundation. Petitioner argues that Jennifer Fleming's share should be distributed to Petitioner, Jennifer's surviving spouse. He has executed an affidavit under Probate Code §13100.

Counsel requests \$10,280 in extraordinary fees, in addition to the \$10,494.70 in statutory compensation. She states she spent 25.70 hours at an hourly rate of \$400 in removing the deceased executor, obtaining appointment of a successor executor, communicating with Fidelity to obtain information to prepare the inventory, and the estate's accounting. The work performed includes preparation of legal pleadings, appearing in court, and corresponding with the financial institution. While transferring assets to the executor and then having to do an additional transfer to the successor executor is extraordinary, communicating with a financial company, preparing the inventory, and preparing the accounting as part of the usual duties required in a probate, which are contemplated by the statutory fee base. Therefore, in the Court's discretion, counsel's request for extraordinary fees will be reduced to 6.5 hours at \$400/hour, for a total of \$2,600.

The Petition requests:

1. The First and Final Account filed with the Petition be settled, allowed and approved;
2. All acts and proceedings of the Personal Representative be confirmed and approved;

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3. Creditor's claims should be barred pursuant to Probate Code §9100 as time for filing claims has expired;
4. The Administrator be authorized to pay statutory attorney fees in the amount of \$10,494.70 and \$2,600.00 for compensation for extraordinary services, plus \$1,440.95 for costs advanced to the estate;
5. The Personal Representative be authorized to pay himself \$10,494.70 as statutory compensation; and
6. Approval of distribution of the estate to the persons entitled to it pursuant to the Petition for Final Distribution.

**TENTATIVE RULING #3:**

**ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED, WITH REDUCED EXTRAORDINARY FEES OF \$2,600.00. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).**

**A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, NOVEMBER 17, 2025, IN DEPARTMENT NINE, BY WHICH TIME THE COURT EXPECTS RECEIPTS AND AN EX PARTE PETITION FOR FINAL DISCHARGE (JUDICIAL COUNCIL FORM DE-295) TO BE FILED WITH THE COURT.**

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<b>4.</b>	<b>23PR0197</b>	<b>ESTATE OF BUTLER</b>
<b>Status</b>		

Letters Testamentary were issued on November 22, 2023.

There is no Inventory and Appraisal on file with the court. Pursuant to Probate Code §8800(b), an inventory and appraisal shall be filed within four months after letters are first issued. There has been no request for additional time.

**TENTATIVE RULING #4:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, NOVEMBER 18, 2024, IN DEPARTMENT NINE.**

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5.	24PR0260	ESTATE OF NEUNER
Letters Testamentary		

Decedent died testate on March 30, 2024, survived by spouse, one adult daughter, and three adult grandchildren (presumably the issue of decedent's predeceased daughter). Petitioner is decedent's spouse.

The Petition requests full authority under the Independent Administration of Estates Act. The Will was lodged with the court on September 23, 2024, and is admitted to probate. Petitioner was named as Executors in the Will. The Will waives bond. Under the Will, the estate goes to the Neuner Family Trust.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on September 23, 2024.

Proof of service of notice of the hearing on the Petition was filed on September 24, 2024.

Proof of publication was filed on October 15, 2024.

**TENTATIVE RULING #5:**

**ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043)**

**A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, NOVEMBER 17, 2025, IN DEPARTMENT NINE.**

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<b>6.</b>	<b>23PR0226</b>	<b>MATTER OR GALUSHA</b>
<b>Status</b>		

**TENTATIVE RULING #6:**

**AN ORDER FOR FINAL DISCHARGE HAVING BEEN ENTERED BY THE COURT ON SEPTEMBER 17, 2024, THE MATTER IS DROPPED FROM CALENDAR.**

7.	22CV1379	GONZALEZ v. GENERAL MOTORS
Motion for Attorney's Fees		

Plaintiff files this Motion for Attorney's Fees ("Motion"). This case involves a Lemon Law Song-Beverly Consumer Warranty Act lawsuit, where the parties recently achieved settlement and Defendant agreed to pay Plaintiff's attorney's fees, costs, and expenses upon motion to the Court. Plaintiff argues the fees totaling \$47,021.00 are reasonable in this case.

Plaintiff argues that Defendant was on notice of unrepairable defects in the vehicle but refused to repurchase it, forcing Plaintiff to file a lawsuit and litigate the case for almost two years. Plaintiff outlines the numerous discovery disputes and times before the Court. Plaintiff further argues that Defendant forced the instant Motion by refusing to settle the issue, and being nonresponsive to Plaintiff's efforts to informally resolve the issue.

An award of attorney fees and costs to Plaintiff as the prevailing party in this Song-Beverly case is mandatory:

If the buyer prevails in an action under this section, the buyer shall be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney's fees based on actual time expended, determined by the court to have been reasonably incurred by the buyer in connection with the commencement and prosecution of such action. Civ. Code §1794(d).

Plaintiff argues that the case law supports an award of their full fee request and that California courts have consistently "rejected the notion the fee award must be proportionate to the amount of damages recovered." *Niederer v. Ferreira* (1987) 189 Cal. App. 3d 1485, 1508.

Defendant also argues that the amount of attorney fees awarded by the court is excessive when compared to Plaintiff's recovery... It should be noted that an attorney's fee is to be based upon actual time expended rather than being tied to any percentage of the recovery. This requirement is designed to make the pursuit of consumer rights involving inexpensive consumer products economically feasible... The trial court did not err in calculating attorneys fees based on actual time expended. *Drouin v. Fleetwood Enterprises* (1985) 163 Cal. App 3d 486, 493.

Plaintiff argues that because Plaintiff is suing under "under consumer protection statutes involving mandatory fee-shifting provision, the legislative policies are in favor of [] recovery of all attorney fees reasonably expended, without limiting the fees to a proportion of [] actual recovery." *Graciano v. Robinson Ford Sales, Inc.* (2006) 144 Cal. App. 4th 140, 164.

Plaintiff next argues that the Lodestar fees are reasonable. First, the Court must multiply the time reasonably spent by Plaintiff's counsel by a reasonable hourly rate. *See In re Consumer Privacy Cases* (2009) 175 Cal. App. 4th 545, 556-57. The hours billed by Plaintiff counsel are to be



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multiplied by a “reasonable hourly rate” to generate the lodestar figure. *In re Consumer Privacy Cases*, 175 Cal. App. 4th at 556. In determining an appropriate hourly rate, the trial court should look to apply rates commensurate with the “hourly prevailing rate for private attorneys in the community conducting noncontingent litigation of the same type.” *Ketchum*, 24 Cal. 4th at 1133. Evidence of the basic hourly rates sought by and awarded to the same law firm in other litigations, as well as experience of counsel, are “obviously relevant” to the attorney fees determination. *Margolin v. Regional Planning Com.* (1982) 134 Cal. App. 3d 999, 1005-06. In this case, Plaintiff had two attorneys, who billed at \$515/hour and \$415/hour, which Plaintiff argues are reasonable rates based on caselaw and the National Association of Consumer Advocates attorney fee survey, along with the experience and qualifications of the attorneys. The Court finds the hourly rates to be reasonable.

In terms of the hours spent, Plaintiff argues that the 115.2 hours billed are reasonable, reflect the actual time spent, and that any duplicative, redundant, or unnecessary billing entries have been removed. Plaintiff argues that the hours expended were prompted by were prompted by (1) Defendant’s denial of liability; and (2) Defendant’s decision to continuously withhold crucial internal investigation documents. Plaintiff argues that the fees requested are consistent with fee awards in similar actions, and therefore requests and award of the total fees of \$47,021.00.

Defendant opposes the Motion and asks that the Court exercise its discretion to reduce Plaintiff’s request to fees actually and reasonably incurred. Defendant argues that Counsel has the burden of showing that the fees were allowable, were reasonably necessary to the conduct of the litigation, and were reasonable in amount. (Civ. Code, § 1794(d); *Robertson v. Fleetwood Travel Trailers of Cal., Inc.* (2006) 144 Cal.App.4th 785, 817-818; *see also Morris v. Hyundai Motor Am.* (2019) 41 Cal.App.5th 24, 34, as modified (Oct. 11, 2019), rev. denied (Jan. 2, 2020) (internal quotations and citations omitted).) If the party seeking fees fails to meet this burden, and the court finds the time expended or amount charged is not reasonable under the circumstances, “then the court must take this into account and award attorney fees in a lesser amount.” (*Mikhaeilpoor v. BMW of N. Am., LLC* (2020) 48 Cal.App.5th 240, 247 (citing *Nightingale v. Hyundai Motor Am.* (1994) 31 Cal.App.4th 99, 104); *see also Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138 (where prevailing party fails to meet that burden, the court “has broad discretion to adjust the fee downward or deny an unreasonable fee altogether”).)

Defendant requests that the Court exercise its discretion to take into account the unjust enrichment that Counsel has received from their repeated filing of templated motions, discovery drafts and meet and confer letters. Defendant argues that templates are used, based on the sheer number of cases brought against Defendant, and that Plaintiff’s counsel should not be able to use this to their advantage by continuously billing large amounts of time for drafts that do not change from case to case, save for the case style and vehicle type. Defendant argues that Counsel repeatedly requests that the courts award Counsel with fees for preparing the same

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templates over and over again. For example, from September 2023 to September 2024, Counsel filed a total of 112 fee motions against GM. (Quezada Decl., ¶ 13, Ex. J). Defendant argues that the templates have remained fundamentally the same and Defendant should not have to continue to pay for the same work time and time again.

Defendant does not dispute the application of the lodestar method, but does dispute several entries as unnecessary, padded, and unsupported. The Court agrees that clerical work is not recoverable and reduces the paralegal time to 12.4 hours (\$2,604). See *Missouri v. Jenkins by Agyei* (1989) 491 U.S. 274, 288 fn. 10 (“purely clerical or secretarial tasks should not be billed at a paralegal rate, regardless of who performs them.”) Defendant argues that the case involves many standard templates used by Plaintiff’s counsel against Defendant in other cases, and that the block-billing makes it impossible to assess the entries. The Court agrees that Plaintiff’s counsel engaged in block-billing throughout, as evidenced by the billing entries including several tasks in one.

Defendant also argues there was redundant and excessive “review” throughout the case, with 19.6 hours billed for things such as reviewing tasks and deadlines, reviewing and approving filings, and database reviews. The Court agrees that billing entries for review taking up nearly one-fifth of the total billing is unreasonable and unnecessary.

Lastly, Defendant argues that counsel’s 3.8 hours billed for auditing the bills should be stricken. The Court agrees that this is an administrative task that is part of overhead and should not have been charged.

Defendant requests that Plaintiff’s counsel be limited to a recovery of no more than \$12,266.25.

Based upon the Court’s review of the billing entries and the arguments from both parties, the Court awards attorney’s fees in an amount of \$24,279.00, including 12.4 hours for paralegal time at \$210.00 per hour, 30 hours for attorney time at \$515.00 per hour, and 15 hours for attorney time at \$415.00 per hour.

**TENTATIVE RULING #7:**

**COURT AWARDS ATTORNEY’S FEES IN THE AMOUNT OF \$24,279.00 PAYABLE BY DEFENDANT.**

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<b>8.</b>	<b>24PR0257</b>	<b>ESTATE OF ABRAMENKOFF</b>
<b>Letters of Administration</b>		

This case was heard on November 4, 2024. The Court noted that no bond waivers were on file, despite the Petition stating that all heirs were adults who waived bond, and there was no proof of publication. No additional documents have been filed.

**TENTATIVE RULING #7:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, NOVEMBER 18, 2024, IN DEPARTMENT NINE.**

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