

May 5, 2025  
Dept. 9  
Probate Tentative Rulings

1.	24PR0037	ESTATE OF HEIMBERG
Status		

Letters issued on May 6, 2024.

A creditor's claim by UC Davis Health was filed on July 22, 2024. A Final Inventory and Appraisal was filed on September 6, 2024.

**TENTATIVE RULING #1:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 5, 2025, IN DEPARTMENT NINE.**

**A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MAY 4, 2026, IN DEPARTMENT NINE.**

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

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2.	25PR0042	ESTATE OF BARRERA
Letters of Administration		

Decedent died intestate on July 26, 2024. The Petition indicates decedent was survived by two individuals but does not list their relationship to decedent. However, one of them is the Petitioner who is identified as decedent's daughter.

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

Waivers of bond have been filed with the court by the presumed heirs.

A Duties/Liabilities Statement (DE 147) was filed on March 3, 2025, but there is no DE-147s form on file with the court, as required by Local Rules of El Dorado County Superior Court, Rule 10.02.10.

Proof of service of notice of the hearing on the Petition was filed on March 3, 2025.

Proof of publication was filed on April 7, 2025.

**TENTATIVE RULING #2:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 5, 2025, IN DEPARTMENT NINE.**

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3.	23PR0007	ESTATE OF SMITH
OSC		

The personal representative failed to appear at the December 9, 2024, hearing so the case was set for an OSC hearing and to address removal of the personal representative.

Attorney Sheri Hoffman appeared at the hearing on March 3, 2025.

**TENTATIVE RULING #3:**

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4.	25PR0055	ESTATE OF ROSCOE
Letters Testamentary		

Decedent died testate on December 29, 2024, survived by three adult daughters, and two adult grandchildren. Petitioner is decedent's daughter.

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

Katherine was named Executor in the Will, but she has filed a declination to serve as Executor on January 27, 2025. Petitioner is named as the alternate Executor.

The Will has not yet been lodged with the court. A copy was attached to the Petition but the Petition does not indicate whether or not the original Will has been lost.

The Will waives bond.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on March 11, 2025.

Proof of service of notice of the hearing on the Petition was filed on April 3, 2025.

Proof of publication was filed on April 11, 2025.

**TENTATIVE RULING #4:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 5, 2025, IN DEPARTMENT NINE.**

**A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MAY 4, 2026, IN DEPARTMENT NINE. APPEARANCE BY THE EXECUTOR, OR HER COUNSEL, IS REQUIRED.**

**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>5.</b>	<b>PP20180237</b>	<b>ESTATE OF KOCMICH</b>
<b>Status</b>		

Letters of Administration were issued on February 6, 2019. On July 26, 2022, the Administrator Austyn Copley filed a status report stating that the Administrator was waiting for a communication from the I.R.S. and when that was received a final accounting could be prepared. The status report stated that “[d]isbursements are ready to be made and Estate finalized once confirmation is made from IRS.” That was the last filing in this case.

There were no appearances at the hearing on May 6, 2024.

**TENTATIVE RULING #5:**

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**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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6.	24PR0188	ESTATE OF SCHWOERER
Final Distribution		

Letters Testamentary were issued on September 9, 2024, granting Petitioner full authority under the Independent Administration of Estates Act. A Final Inventory and Appraisal was filed on October 24, 2024. Waivers of Account were executed by all the heirs entitled to distributions under the estate. Proof of Service of Notice of the hearing on the Petition was filed on February 27, 2025. No one has filed a request for special notice in this proceeding.

The proposed distribution of the estate includes distribution to Donald Jeffrey Schwoerer, Trustee of the Schwoerer Family Trust.

The Petition requests:

1. The First and Final Report filed with the Petition be settled, allowed and approved;
2. All acts and proceedings of the Executor be confirmed and approved;
3. The Executor be authorized to pay himself \$11,433.28 in statutory compensation;
4. The Executor be authorized to pay statutory attorney fees in the amount of \$11,433.28, plus \$1,636.63 for costs advanced to the estate;
5. The Executor be authorized to retain \$500 in closing expenses and to pay liabilities, and to deliver the unused part to the beneficiaries of the estate without further court order after closing expenses have been paid;
6. Approval of distribution of the estate pursuant to the Petition for Final Distribution;
7. The administration of the estate be brought to a close;
8. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed to the beneficiaries as set forth in the Petition; and,
9. Upon filing of receipts that Petition may apply to be discharged and released from all liability that may be incurred hereafter.

**TENTATIVE RULING #6:**

**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, MAY 4, 2026, 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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7.	25PR0045	ESTATE OF DAVIS
Letters of Administration & Lost Will		

Decedent died intestate on November 19, 2025 (presumably 2024), survived by her sister and brother-in-law. Petitioner is a professional fiduciary.

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

The Petition includes a copy of decedent's will, dated February 14, 2001, but the original Will has been lost. The Wills names three Executors, but two are since deceased. The remaining nominee, Patricia McKinney, nominated Petitioner to act as Administrator. Pursuant to the terms of the Will, if the named Executors are unwilling or unable to serve, a new Executor is to be appointed by the Court. (6.2)

The Will waives bond.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on March 6, 2025.

Proof of service of notice of the hearing on the Petition was filed on March 20, 2025.

Proof of publication was filed on April 11, 2025.

**TENTATIVE RULING #7:**

**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, MAY 4, 2026, IN DEPARTMENT NINE. THE ADMINISTRATOR, OR HER COUNSEL, ARE REQUIRED TO APPEAR.**

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8.	24PR0034	ESTATE OF FELTON
Final Distribution		

Letters of Administration were issued on June 11, 2024, granting Petitioner full authority under the Independent Administration of Estates Act. A Final Inventory and Appraisal was filed on February 6, 2024. Waiver of Account was executed by the sole heir entitled to distributions under the estate.

Proof of Service of Notice of the hearing on the Petition was filed on March 27, 2025. No one has filed a request for special notice in this proceeding.

The proposed distribution of the estate includes full distribution to Melvin Felton, Jr. The Petition ¶16 states there is no known address for the beneficiary because he is homeless, yet he was served at an address, care of Catholic Charities, the Notice of Hearing. Clarification is needed.

The Petition ¶5 states no creditor claims were filed against the estate; however, in the prayer for relief the Petition requests authorization for payment of “the single creditor claim.” Clarification is needed.

The Petition requests an Order:

1. Settling the report, approving all reported acts and transactions of the Petitioner;
2. Authorizing payment of the single creditor claim and closing the administration;
3. Approving the Administrator’s payment of statutory attorney fees in the amount of \$4,150.00;
4. Approving distribution of the estate to the person entitled to it pursuant to the Petition for Final Distribution;
5. All creditor claims not properly filed with the court and served on the estate be barred;
6. Distribution of the estate in Petitioner’s hands and any other property of the estate not now known or later discovered be distributed to the beneficiaries as set forth in the Petition; and,
7. Upon filing of receipts that Petition may apply to be discharged and released from all liability that may be incurred hereafter.

**TENTATIVE RULING #8:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 5, 2025, IN DEPARTMENT NINE.**

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<b>9.</b>	<b>24PR0061</b>	<b>ESTATE OF MICHOFF</b>
<b>Status</b>		

Letters issued on May 6, 2024. In violation of Probate Code §8800, no Inventory and Appraisal has been filed. Two creditor's claims have been filed.

On January 21, 2025, the Administrator filed a status report and Petition, requesting that decedent's purported fiancé, Penny Swanson, produce the original will of decedent and offer it for probate.

**TENTATIVE RULING #9:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 5, 2025, IN DEPARTMENT NINE.**

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10.	25PR0036	ESTATE OF HAPPE
Letters Testamentary		

Decedent died testate on March 19, 2023, survived by four adult sons and a wife.  
Petitioner is decedent's son.

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

No Executor was named in the Will.

The original Will has not yet been lodged with the court because he was domiciled in Belgium at the time of death. However, a copy is attached to the Petition.

Waivers of bond have been filed with the court by the beneficiaries and the Will waives bond.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on February 21, 2025.

Proof of service of notice of the hearing on the Petition was filed on March 6, 2025.

Proof of publication was filed on April 7, 2025.

**TENTATIVE RULING #10:**

**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).**

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11.	25PR0038	ESTATE OF MARABUTO
Letters of Administration		

Decedent died intestate on February 19, 2011, survived by two adult children, another child whose age and address are not identified, and seven adult grandchildren. Petitioner is decedent's son.

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

The Petition requests that bond be fixed at \$110,000.00 and furnished by an admitted surety insurer.

A Duties/Liabilities Statement (DE 147) was filed on February 24, 2025, but there is no DE-147s form on file with the court, as required by Local Rules of El Dorado County Superior Court, Rule 10.02.10.

Proof of service of notice of the hearing on the Petition was filed on April 22, 2025.

Proof of publication was filed on April 25, 2025.

**TENTATIVE RULING #11:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MAY 5, 2025, IN DEPARTMENT NINE.**

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12.	24PR0334	MCGHIE REVOCABLE TRUST
Motion to Consolidate		

**See related case, 22PR0037 (no. 15)**

This hearing was set on the Court's own motion, to consolidate the two cases. Absent objections at the hearing, the court consolidates the matters, with case number 22PR0037 as the lead case.

There is also a Supplemental Petition for Order Confirming Title to Trust Property filed by Petitioner on calendar. Petitioner KEVIN E. MCGHIE, the duly appointed Trustee of THE LYNDAL. MCGHIE REVOCABLE TRUST DATED April 6, 2015 (hereinafter "the Trust", seeks an Order of this Court confirming that a Charles Schwab account is an asset of THE LYNDAL. MCGHIE REVOCABLE TRUST DATED APRIL 6, 2015, subject to the duties and the power of the Trustee as set forth in the Trust instrument.

Probate Code § 850 permits a trustee who has a claim to property, the title to or possession of which is held by another, to file a petition requesting that the court make an order pursuant to Probate Code § 856 authorizing and directing the person having title to or possession of real property to execute a conveyance or transfer to a person entitled thereto, or granting other appropriate relief. Probate Code § 851 requires the Petitioner to serve notice of the hearing and a copy of the Petition at least 30 days prior to the hearing to each person claiming an interest in or having title to or possession of the property. When the matter concerns a decedent estate, notice shall also be given to any heir or devisee whose interest may be affected by the Petition in accordance with Probate Code § 1200.

Probate Code § 857 provides that in the event that the court issues such an Order:

(a) The order is prima facie evidence of the correctness of the proceedings and of the authority of the personal representative or other fiduciary or other person to make the conveyance or transfer.

(b) After entry of an order that the personal representative, other fiduciary, or other person execute a conveyance or transfer, the person entitled thereunder has the right to the possession of the property, and the right to hold the property, according to the terms of the order as if the property had been conveyed or transferred in accordance with the terms of the order.

Notice of the hearing and a copy of the Petition were mailed at least 30 days prior to the hearing, to each person claiming an interest in or having title to or possession of the property, as well as any heir or devisee whose interest may be affected by the Petition. The notice and Petition were mailed on March 18, 2025 and filed on March 18, 2025.

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Pursuant to Probate Code §850 and *Estate of Heggstad* (1993) 16 Cal.App. 4th 943, 947-950, along with the Schedule A of the Trust and related transfer documents, the Court finds sufficient evidence that decedent intended the above-mentioned asset be part of the Trust.

**TENTATIVE RULING #12:**

**ABSENT OBJECTION CASE NUMBERS 24PR0334 AND 22PR0037 ARE CONSOLIDATED WITH 22PR0037 AS THE LEAD CASE. 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).**

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13.	25PR0003	HUBBARD LIVING TRUST
Accounting, Petition/Objection		

**TENTATIVE RULING #13:**

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<b>14.</b>	<b>PP20200096</b>	<b>BROWARD TRUST</b>
<b>Final Account and Report</b>		

Petitioner was appointed Trustee of the Trust by order of this Court on July 17, 2019, made in the matter of the *Conservatorship of Joan E. Broward*, El Dorado Superior Court Case No. PP20180083 ("Conservatorship").

The Trust was established by an order of the El Dorado County Superior Court, which retains jurisdiction over the Trust. JOAN E. BROWARD ("Joan") was the sole beneficiary of the Trust during her lifetime. Joan died on June 14, 2020. The Trust was not revoked or amended by order of this Court during Joan's lifetime, pursuant to Article Three, Section 3.1 of the Trust. After Joan's death, the beneficiaries of the Trust are her children, DENNIS W. BROWARD and KAREN E. BROWARD.

Petitioner's fourth and final account and report ("Fourth and Final Account") covers the period from June 22, 2022, through October 23, 2024. Petitioner has distributed most of the remaining assets and now has on hand cash of less than \$80,000.

The Trustee requests an Order:

1. That the Fourth and Final Account and Report of Petitioner, as Trustee of the JOANE. BROWARD FAMILY TRUST, be confirmed and approved;
2. That all reported acts and transactions of Petitioner, as Trustee of the JOAN E. BROW ARD FAMILY TRUST, be confirmed and approved;
3. That the Court discharge the bond of Petitioner, as Trustee of the JOAN E. BROW ARD FAMILY TRUST;
4. That the Court approve fees to Petitioner in the sum of \$4,020 for ordinary Trustee services rendered to the Trust;
5. That the Court approve fees to Lera Tiberini PC in the sum of \$18,435 for services rendered to the Trustee, plus an amount for anticipated additional services performed after filing of this Petition in the amount actually incurred, but not to exceed \$2,500, and authorize and direct Petitioner to pay to Lera Tiberini PC said sums from assets of the Trust; and,
6. That the Court approve reimbursement to Lera Tiberini PC of the sum of \$327 .97 for costs advanced, plus any additional amount actually incurred, but not to exceed \$750, from the assets of the Trust.

**TENTATIVE RULING #14:**

**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).**

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<b>15.</b>	<b>22PR0037</b>	<b>MCGHIE TRUST</b>
<b>Motion to Consolidate</b>		

**See related case, 24PR0334 (no. 12)**