

June 2, 2025
Dept. 9
Probate Tentative Rulings

1.	24PR0336	MATTER OF YORK-NORDERHAUG
Petition		

The parties appeared at the hearing on March 17, 2025, and requested a continuance. The parties are to provide the Court with a current status update.

TENTATIVE RULING #1:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JUNE 2, 2025, 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.

June 2, 2025
Dept. 9
Probate Tentative Rulings

2.	PP20210211	ESTATE OF DEISENROTH
Status		

Letters of Administration were issued on December 8, 2021. The Final Inventory and Appraisal was filed on May 3, 2022. To date, there is no final or Petition for Final Distribution. The Court expects counsel to update the Court regarding the delay in closing probate.

TENTATIVE RULING #2:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JUNE 2, 2025, IN DEPARTMENT NINE.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JUNE 1, 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.

June 2, 2025
Dept. 9
Probate Tentative Rulings

3.	25PR0064	FLEMING FAMILY TRUST
Petition		

Petitioners Elizabeth Fleming and Leland Fleming petition the Court to compel the Trustee to report and account, and for surcharge of the Trustee. Petitioners are children of decedent and Settlor Wray D. Fleming (“Wray”) and beneficiaries of The Wray D. Fleming and Nellie W. Fleming Family Trust (the “Trust”). They are the stepchildren of Nellie W. Fleming (“Nellie”).

Petitioners state that Trustee Michelle De Jarnette (“Respondent” or “Trustee”) provided an accounting, but they do not agree with it. Petitioners request the Court issue an Order that does not approve Respondent’s First Accounting and Report, requires Respondent to produce a Probate Code compliant Accounting, grants surcharge of Respondent in the event of malfeasance, and awards Petitioners’ attorney’s fees and costs.

This Petition concerns internal affairs of a trust, providing this Court with subject matter jurisdiction pursuant to Probate Code § 17200. The principal place of Trust administration under Probate Code § 17002 is in El Dorado County, where Respondent, the Trustee, presently resides. El Dorado County is the principal place of administration.

The Trust was amended and restated on October 1, 2007. Pursuant to Article VII of that amendment and restatement, upon the passing of the surviving Settlor, the Trust was to be divided into four sub-trusts: (1) Survivor’s Trust, (2) Decedent’s Bypass Trust, (3) Survivor’s QTIP Trust, and (4) Disclaimer Trust. Nellie passed away on or about August of 2008, making Wray the sole surviving Trustee.

Upon Nellie’s passing, Decedent's Bypass Trust became irrevocable. Wray as the surviving spouse executed the Second Amendment of the Trust on August 26, 2015, and the Third Amendment of the Trust on October 17, 2020. Petitioners state that the Third Amendment confirms that the Trust had not been divided into the sub-trusts upon Nellie’s death, but was split into a Bypass Trust and Survivor’s Trust as of October 17, 2020. Section 5 of the Third Amendment states the Bypass Trust was to be funded by the property at 18 Laurel Avenue, Belvedere, California 94920, while all other assets held by the Trust funded the Survivor's Trust.

Wray passed away on August 16, 2024. On September 19, 2024, Petitioners sent a demand letter to Respondent and her counsel requesting full copies of the trust and a full accounting of all Trust assets, income, and disbursements from the time Respondent began acting as Successor Trustee to present. On October 18, 2024, Petitioners sent an amended demand letter to Respondent and her counsel, with updated requests for an accounting of all Trust assets, income, and disbursements from 10 years prior to the date of Wray’s death to the present (August 16, 2014 to present). Although not received when they were expecting it,

June 2, 2025
Dept. 9
Probate Tentative Rulings

Petitioners did receive Respondent's Accounting on January 23, 2025. Respondent's Accounting covered August 16, 2024 through December 31, 2024, but Petitioners wanted it to cover August 16, 2014 to October 18, 2024. Petitioners' request is unreasonable, as Respondent's Accounting properly started when she assumed the role of Successor Trustee. Petitioners cite to *Giraldin v. Giraldin* (2012) 55 Cal.4th 1058, but fail to acknowledge that in *Giraldin* the settlor appointed a trustee to act while the settlor was still alive. That is not the case here – Respondent only began acting as Successor Trustee upon Wray's passing. Petitioners' request for an Accounting covering August 16, 2014 through October 18, 2024 is denied.

Petitioners then move to the second cause of action for surcharge of trustee, if the accounting requested herein indicates any negligence or malfeasance. However, the Court has denied the Accounting requested herein so this cause of action is moot.

Respondent raises several arguments and objections, including collateral estoppel and res judicata – as one of the Petitioners previously filed a Petition for Accounting in 22PR0246, which was denied because the Petitioner lacked standing to seek a pre-death accounting as contingent beneficiaries. Respondent requests attorney fees and costs in the amount of \$3,360.00 for 6.5 hours at \$450/hour plus the \$435.00 filing fee. Pursuant to Evidence Code §451, the Court grants Respondent's request for judicial notice of the Court's files in 22PR0246. Based on the prior finding, and Petitioner Elizabeth Fray's duplicative Petition of an issue already adjudicated, the Petition is denied and Respondent is awarded attorney fees and costs of \$3,360.00.

TENTATIVE RULING #3:

ABSENT OBJECTION, THE PETITION IS DENIED. RESPONDENT IS AWARDED ATTORNEY FEES AND COSTS OF \$3,360.00, PAYABLE BY PETITIONERS BEFORE MONDAY, AUGUST 4, 2025. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).

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June 2, 2025
Dept. 9
Probate Tentative Rulings

4.	24PR0232	ESTATE OF GERNANDT
Final Distribution		

Letters of Administration were issued on October 7, 2024, granting Petitioner full authority under the Independent Administration of Estates Act. A Final Inventory and Appraisal was filed on March 25, 2025.

Waiver of Account was executed by all of the heirs entitled to distributions under the estate. The proposed distribution of the estate includes equal distribution between Petitioner and Tracee Ann Gernandt. However, Tracee Ann Gernandt executed a complete Assignment and Transfer of her Interest in Decedent's estate to Petitioner.

Proof of Service of Notice of the hearing on the Petition was filed on May 22, 2025. No one has filed a request for special notice in this proceeding.

The Petition requests:

1. The administration of the estate be brought to a close;
2. All acts and proceedings of the Administrator be confirmed and approved;
3. The Administrator be authorized to pay reduced statutory attorney fees in the amount of \$7,880.00;
4. The Assignment and Transfer of Tracee Ann Gernandt's beneficial interest to Petitioner Mark Shane Gernandt be approved;
5. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed to Mark Shane Gernandt;
6. Upon filing of receipts that Petition may apply to be discharged and released from all liability that may be incurred hereafter.

TENTATIVE RULING #4:

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, OCTOBER 6, 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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June 2, 2025
Dept. 9
Probate Tentative Rulings

5.	23PR0318	ESTATE OF GILBERT
Final Distribution		

Letters Testamentary were issued on March 18, 2024, granting Petitioner full authority under the Independent Administration of Estates Act. A Final Inventory and Appraisal was filed on February 27, 2025. Waivers of Account were executed by all of the heirs entitled to distributions under the estate.

Proof of Service of Notice of the hearing on the Petition was filed on May 2, 2025. No one has filed a request for special notice in this proceeding.

The proposed distribution of the estate includes full distribution to Emily G. Gilbert, Trustee of the James A. Gilbert Revocable Living Trust of 2005, dated December 12, 2005.

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 the Executor be confirmed and approved;
3. The Waiver of Account and Report of Executor, Petition for Allowance of Statutory Fees and for Final Distribution be settled, allowed, and approved as filed;
4. No reserve be withheld;
5. The Executor be authorized to pay statutory attorney fees in the amount of \$32,862.91 plus \$3,839.70 for costs advanced on behalf of the estate;
6. Approval of distribution of the estate to the persons entitled to it pursuant to the Petition for Final Distribution; 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 #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, MARCH 9, 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.

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

June 2, 2025
Dept. 9
Probate Tentative Rulings

6.	24PR0053	ESTATE OF YOU-FONG LEE
Status		

The Administrator's former counsel filed a Request for Special Notice on October 8, 2024. On January 7, 2025, a Notice of Proposed Action regarding the sale of real property was filed but no proof of service accompanied it. On January 7, 2025, a Final Inventory and Appraisal was also filed.

TENTATIVE RULING #6:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JUNE 2, 2025, 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.

June 2, 2025
Dept. 9
Probate Tentative Rulings

7.	22PR0099	ESTATE OF MCNULTY
Final Distribution		

Letters of Administration were issued on May 22, 2023, granting Petitioner full authority under the Independent Administration of Estates Act. A Final Inventory and Appraisal was filed on November 20, 2023. Waivers of Account were executed by all of the heirs entitled to distributions under the estate.

Proof of Service of Notice of the hearing on the Petition was filed on April 25, 2025. No one has filed a request for special notice in this proceeding.

The intestate distribution of the estate includes equal distribution amongst Ruby McNulty, Drew McNulty, and Forrest McNulty. However, Ruby has signed her interest in the estate to Drew and Forrest.

The Petition requests:

1. The administration of the estate be brought to a close;
2. The Waiver of Accounting of Petitioner as Personal Representative be allowed;
3. All acts and proceedings of the Personal Representative be confirmed and approved;
4. All creditor claims not properly filed with the court and served on the estate be barred;
5. That waiver of statutory compensation to the Personal Representative be approved;
6. The Personal Representative be authorized to pay statutory attorney fees in the amount of \$12,117.87 and \$5,840.00 for compensation for extraordinary services;
7. The Personal Representative be authorized to pay attorney William L. Adams \$7,615.50 for his legal services to Personal Representative and the estate;
8. The Personal Representative be authorized and directed to reimburse herself \$5,985.40 for expenses advanced to the estate;
9. The Assignment of Beneficial Interest by Ruby McNulty be allowed and approved;
10. Approval of distribution of the estate to the persons entitled to it pursuant to the Petition for Final Distribution, Drew McNulty and Forrest McNulty equally; and,
11. Upon filing of receipts that Petition may apply to be discharged and released from all liability that may be incurred hereafter.

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, JUNE 1, 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.

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

June 2, 2025
Dept. 9
Probate Tentative Rulings

8.	23PR0259	ESTATE OF FOX
OSC		

There were no appearances at the hearing on March 10, 2025. However, Petitioner has since filed a Final Inventory and Appraisal.

Petitioner is represented by Pretlove Law, PC.

TENTATIVE RULING #8:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JUNE 2, 2025, 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.

June 2, 2025
Dept. 9
Probate Tentative Rulings

9.	25PR0089	DUDLEY NEWTON REVOCABLE LIVING TRUST
Petition to Confirm Trust Assets		

Petitioner Tammy Lynn Newton is the currently acting Successor Trustee of the Dudley Newton IV Revocable Living Trust of 2023 (the “Trust”). She is the daughter of Settlor Dudley Newton IV (“Dudley” or “Decedent”). Dudley died on March 6, 2025. At the time his Trust was executed, Dudley also executed a Pour-Over Will, giving all of his real and personal property to his Trust. He also executed a General Assignment of Property to Trust and expressed the intention that all of his property be transferred to the Trust. The Trust states all property listed on its Schedule A would be the initial Trust assets, and the Schedule A included the real property at Ivy Trail. At the time of his death, it was discovered that the real property at Ivy Trail was not property titled in the name of the Trust.

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 and filed on April 21, 2025.

June 2, 2025
Dept. 9
Probate Tentative Rulings

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

TENTATIVE RULING #9:

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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June 2, 2025
Dept. 9
Probate Tentative Rulings

10.	25PR0078	MATTER OF NOWELL
§ 850 PETITION		

Petitioner Connie L. Nowell, as trustee of the Wallace H. Currey Living Revocable Trust dated July 22, 1988 (“the Trust”) hereby petitions this Court for an order confirming the following-described real property (hereinafter “Property”) as an asset of the Trust: the single-family residence commonly known as 4811 Dry Dock Way. Wallace Currey died on March 8, 2025. The principal place of administration of the Trust is in El Dorado County, California. At the time his Trust was executed, Settlor Wallace H. Currey also executed a Pour-Over Will, giving all of his assets to the Trust. The Schedule A to the Trust lists the subject real property as a trust asset. However, at the time of his death, the property was held in his individual name.

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 and filed on April 8, 2025.

June 2, 2025
Dept. 9
Probate Tentative Rulings

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

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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June 2, 2025
Dept. 9
Probate Tentative Rulings

11.	25PR0077	ESTATE OF BOSTROM
Letters Testamentary		

Decedent died testate on September 27, 2024, survived by one adult daughter, who is the Petitioner. The Petition requests full authority under the Independent Administration of Estates Act.

A copy of the Will was filed with the Petition, as the original has been lost. Decedent's Will is self-proving. The Will is admitted to probate. The Will waives bond and Petitioner was named as Executor.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on March 28, 2025.

Proof of service of notice of the hearing on the Petition was filed on March 28, 2025.

Proof of publication was filed on May 21, 2025.

TENTATIVE RULING #11:

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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June 2, 2025
Dept. 9
Probate Tentative Rulings

12.	PP20210129	ESTATE OF VAN NESS
Status		

An Order for Final Distribution was filed on November 20, 2023. There are no Receipts of Distribution on file with the court. There is no ex parte Petition for Final Discharge (Judicial Council Form DE-295) on file with the court.

There were no appearances at the hearing on June 3, 2024. The personal representative is represented by Attorney Daniel Duree.

TENTATIVE RULING #12:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JUNE 2, 2025, IN DEPARTMENT NINE.

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June 2, 2025
Dept. 9
Probate Tentative Rulings

13.	23PR0212	ESTATE OF STRICKLER
OSC		

TENTATIVE RULING #13:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JUNE 2, 2025, IN DEPARTMENT NINE.

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June 2, 2025
Dept. 9
Probate Tentative Rulings

14.	25PR0063	ESTATE OF WORRELL
Letters of Administration		

Decedent died intestate on December 28, 2024, survived by two adult sons. Petitioner is one of decedent's sons.

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

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

A Duties/Liabilities Statement (DE 147) was filed on April 7, 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 7, 2025.

Proof of publication was filed on May 2, 2025.

TENTATIVE RULING #14:

ABSENT OBJECTION AND UPON FILING OF THE DE-147S 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, JUNE 1, 2026, IN DEPARTMENT NINE.

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