

1. ESTATE OF COMPTON PP-20210187

Review Hearing Re: Status of Administration.

The order of final distribution was entered on November 6, 2019, which directed the entire estate to be distributed to the personal representative. The estate included real property.

The personal representative appeared by counsel at the hearings on July 22 and October 7, 2020 and January 20, April 7, and July 14, 2021.

Although counsel reported that the deed was recorded, there is no ex parte Petition for Final Discharge (Judicial Council Form DE-295.) in the court's file that states the order of final distribution or a personal representative's deed was recorded concerning the distribution of the real property and that no receipts of distribution are required, because the personal representative is the sole distributee.

TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

2. ESTATE OF ADAMS PP-20180159

Review Hearing Re: Status of Administration.

Letters Testamentary were issued on June 3, 2019. There is no Final Account and Request for Final Distribution in the court's file

TENTATIVE RULING # 2: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

3. ESTATE OF HEILMAN PP-20190123

Review Hearing Re: Status of Administration.

Letters Testamentary were issued on October 23, 2019. There is no Final Account and Report in the court's file.

TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

4. ESTATE OF MAURINE MARTIN PP-20190239

Review Hearing Re: Status of Administration.

The order of final distribution was entered on November 4, 2020. The order provided for final distribution of cash and a 1/2 interest in real property. While there are receipts of distribution in the court's file concerning the distribution of the cash, the receipts do not acknowledge that each of the four beneficiaries were conveyed an equal interest in the 1/2 interest in the real property by recorded personal representative's deed or recording the order for final distribution. The ex parte Petition for Final Discharge (Judicial Council Form DE-295.) in the court's file states that no real property is on hand to distribute. This needs to be explained.

TENTATIVE RULING # 4: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

5. ESTATE OF SNOW PP-20200044

Review Hearing Re: Status of Administration.

Letters Testamentary were issued on June 17, 2020. The Final Inventory and Appraisal was filed on October 8, 2020. There is no Final Account and Report in the court's file.

TENTATIVE RULING # 5: UPON REQUEST OF THE PERSONAL REPRESENTATIVE'S COUNSEL, THIS MATTER IS CONTINUED TO 8:30 A.M. ON WEDNESDAY, MARCH 9, 2022 IN DEPARTMENT EIGHT.

6. ESTATE OF CARTER PP-20200059

1st and Final Report on Waiver of Account.

Paragraph 29 of the verified 1st and Final Report states that the eviction attorney is an interested person entitled to notice. There is no proof of service of notice of the hearing and a copy of the Report on the eviction attorney in the court's file. This needs to be remedied.

TENTATIVE RULING # 6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

7. ESTATE OF FORNI PP-20200097

(1) Petition for Final Distribution.

(2) Review Hearing Re: Status of Administration.

The petition does not state that the personal representative served the mandated notice of administration of the estate on the California Franchise Tax Board.

“(c)(1) Not later than 90 days after the date letters are first issued to a general personal representative, the general personal representative or estate attorney shall give the Franchise Tax Board notice of the administration of the estate. The notice shall be given as provided in Section 1215. ¶ (2) The provisions of this subdivision shall apply to estates for which letters are first issued on or after July 1, 2008.” (Probate Code, § 9202(c).)

The personal representative’s counsel previously reported to the court on August 13, 2021 that he sent the standard request to the State Franchise Tax Board for a release knowing the decedent’s taxes were paid, however, he had not received the release. The hearing was continued from August 18, 2021 to this date to allow sufficient time to receive the Franchise Tax Board’s response. There was no response in the court’s file at the time this ruling was prepared.

The court can not approve final distribution until this issue is resolved.

TENTATIVE RULING # 7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

8. ESTATE OF O’SULLIVAN PP-20200146

(1) Final Account and Report.

(2) Review Hearing Re: Inventory and Appraisal.

Letters of Administration were issued on December 18, 2020. The Final Inventory and Appraisal filed on August 6, 2021 is defective in that it does not include a property tax certificate for the real property appraised and the statement of the bond portion of the mandatory for Inventory and Appraisal is blank and not executed by counsel or the personal representative.

At the hearing on August 11, 2021 the court continued the hearing on the inventory and appraisal to October 6, 2021 and set a hearing on a Final Account and Report on that same date. There is no Final Account and Report in the court’s file and no corrected Final Inventory and Appraisal in the court’s file.

TENTATIVE RULING # 8: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

9. **MATTER OF THE JACLYN EVANS REVOCABLE TRUST PP-20210011**

Petition to Contest 2nd and 3rd Amendments and to Determine Interests.

The spouse of the deceased settlor petitions for the court to determine that the 2nd and 3rd amendments to the Trust, which changed the plan of final distribution concerning petitioner, are invalid; and that pursuant to an agreement between petitioner and the settlor, he has a life estate interest in the Trust's residential property together with a right to receive \$100,000 from the sale of the home or \$100,000 to be distributed to his children if he died while still residing in the home

The proof of service declares that on January 29, 2021 the beneficiaries of the Trust were served notice of the hearing and a copy of the petition by mail; and successor trustee/beneficiary James Ianni acknowledged receipt of the petition and notice of hearing.

Trustee/Beneficiary James Ianni filed a response to the petition.

Contest to Validity of 2nd and 3rd Amendments to the Trust Instrument

A trustee or beneficiary of a trust may petition the court under this chapter concerning the internal affairs of the trust. (Probate Code, § 17200(a).)

"(b) Proceedings concerning the internal affairs of a trust include, but are not limited to, proceedings for any of the following purposes: * * * (3) Determining the validity of a trust provision." (Probate Code, § 17200(b)(3).)

"A proceeding under this chapter is commenced by filing a petition stating facts showing that the petition is authorized under this chapter. The petition shall also state the grounds of the petition and the names and addresses of each person entitled to notice of the petition." (Probate Code, § 17201.)

The verified petition alleges both the 2nd and 3rd amendments to the Trust instrument are invalid as they were obtained by undue influence exerted on the settlor and/or were the result of mistake on the part of the decedent settlor due to alleged misinformation being provided to her by one or more of her children.

Probate Code, § 850 Petition

“All proceedings concerning the transfer of property of the trust shall be conducted pursuant to the provisions of Part 19 (commencing with Section 850) of Division 2.” (Probate Code, § 17200.1.)

The trustee or any interested person may file a petition to determine ownership of real or personal property and to obtain an order directing the personal representative to convey or transfer real or personal property in any of the following cases: “(A) Where the trustee is in possession of, or holds title to, real or personal property, and the property, or some interest, is claimed to belong to another...” (Probate Code, § 850(a)(3)(A).)

The verified petition alleges: petitioner and the settlor completed their divorce in 2008; in 2010 they reconciled and lived together at the Previtali Road home; and on January 28, 2015 they remarried; petitioner has a claim to the Previtali Road home in the trust estate, because at the time of his and the settlor’s divorce they had an agreement confirmed in the court order that the home would be sold and he would receive \$200,000 from the proceeds; they later agreed to modify the arrangement by agreeing that the petitioner would have the right to reside in the home for the rest of his life, with a \$100,000 share of the sales proceeds to pass to him, or if he died while still using the home, a \$100,000 share of the sales proceeds would pass to his children; petitioner invested time and money to improve the home; and his community earnings after the remarriage in 2015 paid down the mortgage of the home, which gives him a community property interest in the home.

At the hearing on June 9, 2021 the parties advised the court that they are in settlement discussions. The court granted their request to continue the hearing. The court has not received any further word from the parties as to what progress, if any, has been made concerning the settlement of the case.

TENTATIVE RULING # 9: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

10. ESTATE OF SIMPSON PP-20210020

(1) Petition to Terminate Proceedings and Discharge Personal Representative.

(2) Review Hearing Re: Inventory and Appraisal.

The personal representative petitions for a court order terminating probate proceedings as a non-asset estate and discharging the personal representative. The verified petition states that there is no property belonging to the estate and subject to administration in probate, because all of decedent's property is held in a revocable trust, held in joint tenancy, held as community property with the right of survivorship, or is subject to a beneficiary or payable on death designation.

"At any time after appointment of a personal representative and whether or not letters have been issued, if it appears there is no property of any kind belonging to the estate and subject to administration, the personal representative may petition for the termination of further proceedings and for discharge of the personal representative. The petition shall state the facts required by this subdivision." (Probate Code, 12251(a).)

"Notice of the hearing on the petition shall be given as provided in Section 1220 to all interested persons." (Probate Code, 12251(b).)

The proof of service declares that on August 5, 2021 notice of the hearing and a copy of the petition were served by mail to the interested persons. There are no oppositions or objections to the petition in the court's file.

"If it appears to the satisfaction of the court on the hearing that the facts stated in the petition are true, the court shall make an order terminating the proceeding and discharging the personal representative." (Probate Code, 12251(c).)

Under the circumstances stated in the verified petition, it appears appropriate to grant the petition and discharge the personal representative.

TENTATIVE RULING # 10: THE PETITION IS GRANTED.

11. ESTATE OF ROSS PP-20210021

Review Hearing Re: Inventory and Appraisal.

TENTATIVE RULING # 11: THE FINAL INVENTORY AND APPRAISAL HAVING BEEN
FILED ON SEPTEMBER 29, 2021, THIS MATTER IS DROPPED FROM THE CALENDAR.

12. ESTATE OF WARDEN PP-20210026

Review Hearing Re: Inventory and Appraisal.

Letters of Administration were issued on August 17, 2021. There is no Final Inventory and Appraisal in the court's file.

TENTATIVE RULING # 12: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

13. ESTATE OF THOMAS MARTIN PP-20210064

Review Hearing Re: Inventory and Appraisal.

TENTATIVE RULING # 13: THE FINAL INVENTORY AND APPRAISAL HAVING BEEN
FILED ON AUGUST 28, 2021 THIS MATTER IS DROPPED FROM THE CALENDAR.

14. MATTER OF THE BAUER FAMILY TRUST PP-20210087**Hearing Re: Results of Mediation.**

The petition alleges: petitioner is co-trustee and beneficiary of the subject Trust; since the death of her father and incapacity of her mother over two years ago Sonja Bauer has acted as co-trustee and refused to provide any information or accounting to the petitioning co-trustee; respondent has refused to cooperate in the most basic tasks of administration of the Trust; and respondent has breached the Trust in various ways.

Petitioner requests the court to remove Sonja Bauer as trustee; compel Sonja Bauer to provide an accounting; provide relief from the alleged breaches of trust; surcharge Sonja Bauer; and order restitution of any attorney fees paid by the litigants from the Trust assets.

The proofs of service declare that Sonja Bauer was personally served the summons and petition, which included notice of the hearing date and time, in Nevada on May 4, 2021; and various persons were served the petition, which included notice of the hearing date and time, by mail on May 7, 2021, with service of an informational copy on Sonny Bauer "to be served".

On July 21, 2021 petitioner filed a list of all interested persons related to the Trust. The court notes that the proof of service does not declare that interested person Michael Bauer was served notice of the hearing and a copy of the petition. This needs to be remedied. The court can not rule on the petition in the absence of proof of adequate notice on all interested parties.

Respondent Sonja Bauer filed a declaration of counsel related to meet and confer efforts concerning the filing of a demurrer to the petition and counsel concluded that they were unable to meaningfully meet and confer such that the June 3, 2021 deadline to file the demurrer was extended 30 days.

“Except as provided in Section 15800, a trustee or beneficiary of a trust may petition the court under this chapter concerning the internal affairs of the trust or to determine the existence of the trust.” (Probate Code, § 17200(a).) “Proceedings concerning the internal affairs of a trust include, but are not limited to, proceedings for any of the following purposes: ¶
* * * (10) Appointing or removing a trustee.” (Probate Code, § 17200(b)(10).)

“A proceeding under this chapter is commenced by filing a petition stating facts showing that the petition is authorized under this chapter. The petition shall also state the grounds of the petition and the names and addresses of each person entitled to notice of the petition.” (Probate Code, § 17201.)

“A petition and account involving a trust must state the names and last known addresses of all vested or contingent beneficiaries, including all persons in being who may or will receive income or corpus of the trust, provided, however, that (1) during the time that the trust is revocable and the person holding the power to revoke the trust is competent, the names and last known addresses of beneficiaries who do not hold the power to revoke do not need to be stated, and (2) the petition or account does not need to state the name and last known address of any beneficiary who need not be given notice under Probate Code section 15804.” (Rules of Court, Rule 7.902.)

An objection can be made at any time and even orally at the hearing. (Probate Code, § 1043.) Therefore, appearances are required.

The parties appearing at the hearing on June 23, 2021 presented argument. The court ordered petitioner to file proof of service as to all interested parties; and continued the hearing for oral argument on Sonja Bauer’s demurrer and motion for an independent medical examination.

On July 21, 2021 Sonja Bauer filed objections to the petition.

At the hearing on July 28, 2021 the parties advised the court that they are engaged in mediation and their request for continuance was granted. The court set this review hearing re: mediation and has not heard any word on the progress, if any, in the mediation efforts.

TENTATIVE RULING # 14: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

15. ESTATE OF WARNER PP-20210106

Review Hearing Re: Status of Administration.

Letters Testamentary were issued on July 14, 2021. There is no Final Inventory and Appraisal and no Final Account and Request for Order of Final Distribution in the court's file.

TENTATIVE RULING # 15: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

16. ESTATE OF MARK PP-20210155**Petition to Administer Estate.**

Petitioner failed to state in the petition whether decedent had a spouse, and if there was no spouse, whether he was divorced, never married, or the spouse is deceased. (See Petition, paragraph 5.a.) This needs to be explained.

The verified petition states that decedent died intestate leaving a daughter, son, and adult granddaughter. The granddaughter is the petitioner. There is no proof of service of notice of the hearing and a copy of the petition on the decedent's daughter and son in the court's file.

"At least 15 days before the hearing of a petition for administration of a decedent's estate, the petitioner shall serve notice of the hearing by mail or personal delivery on all of the following persons: (a) Each heir of the decedent, so far as known to or reasonably ascertainable by the petitioner. (b) Each devisee, executor, and alternative executor named in any will being offered for probate, regardless of whether the devise or appointment is purportedly revoked in a subsequent instrument." (Probate Code, § 8110.) The notice of hearing of a petition for administration of a decedent's estate that is served on the interested persons shall substantially state the language set forth in Section 8100. (Probate Code, § 8100.) Petitioner failed to provide a proof of service of the mandatory Judicial Council Form DE-121 – Notice of Petition to Administer Estate, which includes the statutory notice language.

The court can not rule on the petition until adequate notice of the hearing and a copy of the petition is served on all interested persons.

There is no proof of publication in the court's file. (See Probate Code, §§ 8120 and 8121(a).) The court can not consider this petition absent proof of publication.

The petitioner has not filed an executed statement of duties and liabilities. (Judicial Council Form DE-147.) Prior to issuing letters of administration, the personal representative, other than a trust company or public administrator, shall file an acknowledgement of receipt of a statement of duties and liabilities of the office of personal representative. The statement is a mandated Judicial Council form. (Probate Code, § 8404(a).)

Except as otherwise provided by statute, every person appointed personal representative of an estate shall, before letters are issued, give a bond approved by the court. (Probate Code, § 8480.)

The court finds that should the petition be granted, setting bond in the amount of \$184,090 would appear to be appropriate.

TENTATIVE RULING # 16: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

17. ESTATE OF HANDEN PP-20210157

Petition to Administer Estate.

Petitioner's counsel failed to execute the petition. This needs to be remedied.

TENTATIVE RULING # 17: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, OCTOBER 6, 2021 IN DEPARTMENT EIGHT. IF YOU WOULD LIKE TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT tdavy@eldoradocourt.org AND MEETING INFORMATION WILL BE PROVIDED.

18. ESTATE OF TEEL PP-20210158

Spousal Property Petition.

TENTATIVE RULING # 18: THE PETITION IS GRANTED.