

1. ESTATE OF TANIS PP-20210180

**Review Hearing Re: Inventory and Appraisal.**

Letters of Administration were issued on November 12, 2021. There is no Final Inventory and Appraisal in the court's file.

The personal representative reports: the only asset of the decedent's estate consists of a 50% interest in a Trust, which requires the appointment of a successor trustee and then sale of the trust's real property before distribution of decedent's interest in the Trust; and after distribution, the Final Inventory and Appraisal may be filed.

The personal representative requests a 6 month continuance of the hearing.

**TENTATIVE RULING # 1: UPON REQUEST OF THE PERSONAL REPRESENTATIVE, THE COURT CONTINUES THE HEARING OF THIS MATTER TO 8:30 A.M. ON WEDNESDAY, AUGUST 31, 2022 IN DEPARTMENT EIGHT.**

2. ESTATE OF GIAMBASTIANI PP-20210172

Review Hearing Re: Inventory and Appraisal.

TENTATIVE RULING # 2: THE FINAL INVENTORY AND APPRAISAL HAVING BEEN FILED ON NOVEMBER 2, 2021, THIS MATTER IS DROPPED FROM THE CALENDAR.

3. ESTATE OF HERBERT SHEARER PP-20190068

- (1) Review Hearing Re: Status of Administration.
- (2) Review Hearing Re: Inventory and Appraisal.
- (3) Hearing Re: Bond Amount.

It has been reported that the only asset of the estate to be administered is the final distribution from the Estate of Marie Shearer, PC-20170036 and that it is premature to file the Final Inventory and Appraisal at this time, because no distribution has been received from the Estate of Marie Shearer, PC-20170036.

The bond has not been set due to the lack of a final inventory and appraisal, which has not been filed since the last hearing. There is no final account and report in the court's file.

The court takes judicial notice that the Estate of Marie Shearer, PC-20170036 remains pending and, in fact, is set for a status of administration hearing on this same date.

**TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, FEBRUARY 23, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).**

4. ESTATE OF HUGHES PP-20200244

Review Hearing Re: Status of Administration.

Letters of Administration were issued on March 12, 2021. The Final Inventory and Appraisal was filed on July 23, 2021. There is no Final Account and Request for Order of Final Distribution in the court's file.

**TENTATIVE RULING # 4: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, FEBRUARY 23, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).**

5. ESTATE OF MARIE SHEARER PP-20170036

(1) Review Hearing Re: Final Account and Report.

(2) Review Hearing Re: Status of Administration.

Letters of Administration were issued on April 12, 2017. The Final Inventory and Appraisal was filed on May 26, 2017. The 1<sup>st</sup> Interim Account and Report was approved and settled on October 3, 2018. The 2<sup>nd</sup> Interim Account and Report was approved and settled on June 26, 2019. At the hearing on December 8, 2021 the court continued the hearings to February 23, 2022. There is no Final Account and Report in the court's file.

**TENTATIVE RULING # 5: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, FEBRUARY 23, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).**

6. ESTATE OF KENNY PP-20200237

Final Account and Report.

At the hearing on September 29, 2021 the personal representative filed the Final Inventory and Appraisal. The court then set this hearing on the Final Account and Report. There is no Final Account and Report in the Courts file.

**TENTATIVE RULING # 6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, FEBRUARY 23, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).**

7. ESTATE OF HAINSWORTH PP-20210191

Review Hearing Re: Inventory and Appraisal.

TENTATIVE RULING # 7: THE FINAL INVENTORY AND APPRAISAL HAVING BEEN FILED ON JANUARY 20, 2022, THIS MATTER IS DROPPED FROM THE CALENDAR.

**8. ESTATE OF FURNISS PP-20190129**

**Review Hearing Re: Status of Administration.**

Letters Testamentary were issued on September 4, 2019. The Final Inventory and Appraisal was filed on February 21, 2020.

The personal representative previously reported: that the only remaining thing to do prior to closing administration of the estate is to pay decedent's income taxes; the personal representative continues to work with the Franchise Tax Board and IRS, however, the process is taking more time than anticipated and until it is completed, the final account and report can not be filed; the personal representative anticipated filing the Final Account and Report and request for distribution before December 31, 2021; and requested the court to continue the review hearing as the court deems necessary and appropriate.

The court continued to hearing from August 25, 2021 to February 23, 2022. There is no Final Account and Request for Order of Final Distribution in the court's file.

**TENTATIVE RULING # 8: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, FEBRUARY 23, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).**

9. ESTATE OF MARTIN PP-20210064

Hearing Re: Confirmation of Full Settlement.

.Patricia Reed filed a petition to administer the estate. Florencio Sinogui filed a cross-petition for probate and a creditor's claim. At the MSC on January 6, 2022 the parties settled the case wherein Patricia Reed would pay Mr. Sinogui \$25,000 by January 14, 2022; Mr. Sinogui withdraws his petition and creditor's claim; and the court grants the petition filed on March 30, 2021 and letters shall issue with full authority and no bond requirement.

On January 14, 2022 the court entered the order appointing Patricia Reed as administrator of the estate and Letters of Administration were issued on that same date. On January 24, 2022 the petition for probate of lost will and objections to appointment of Patricia Reed as administrator were voluntarily dismissed upon request of Mr. Sinogui.

Since it appears that the settlement has been effectuated, this matter is dropped from the calendar. The court will set dates for review hearings concerning filing the inventory and appraisal and status of administration.

**TENTATIVE RUIING # 9: THE HEARING RE: CONFIRMATION OF FULL SETTLEMENT IS DROPPED FROM THE CALENDAR. THE COURT SETS A REVIEW HEARING RE: INVENTORY AND APPRAISAL FOR 8:30 A.M. ON MAY 18, 2022 IN DEPARTMENT EIGHT. THE COURT FURTHER SETS A REVIEW HEARING RE: STATUS OF ADMINISTRATION FOR 8:30 A.M. ON JANUARY 18, 2023 IN DEPARTMENT EIGHT. THE CLERK IS DIRECTED TO SERVE THE PARTIES WITH A COPY OF THE FEBRUARY 23, 2022 MINUTE ORDER BY MAIL**

**10. MATTER OF THE PATRICK JOHN DUNN FAMILY TRUST 21PR0043****Petition for Trust Accounting, for Return of Trust Property, and Recovery of Damages.**

The verified petition alleges: the settlor passed away in 2009; Pauline Baker is the successor trustee of the Trust; on October 22, 2009 an affidavit of death was recorded by Pauline Baker; petitioner is a beneficiary of the Trust and recently learned that the successor trustee recently sold real property belonging to the Trust; on August 9, 2021 a letter was sent to the successor trustee requesting a complete schedule of the Trust assets and liabilities of the Trust, the information mandated to be provided under Probate Code, § 16061.7, and an accounting; none of the requested information was provided; petitioner has learned that the subject real property was sold by respondent Baker as successor trustee and the deed recorded on February 18, 2021; although petitioner does not have a complete copy of the Trust, she has seen it and read some of its contents; the petitioner's copy of the Trust was located in the home that was sold; petitioner is informed and believes that the Trust provided that the subject real property was to be kept for the lifetimes of all three of the settlor's children, unless a majority of the children agree to sell and all were informed of the sale; the Trust also provided that each of the children had the first right of refusal to purchase the property in event it was as decided to sell the property; petitioner was deprived of this first right of refusal; since the property was sold, petitioner has not received any distribution from the Trust or accounting of the proceeds of the sale; and petitioner is informed and believes that respondent successor trustee has taken the proceeds of the sale, which amounts to \$400,000, for her own benefit.

Petitioner seeks a court order providing the following: directing respondent trustee to deliver a copy of the Trust within 30 days; compelling the respondent trustee to file an accounting with

the court within 30 days; and the respondent trustee's share of the Trust be surcharged the costs of suit and attorney fees incurred.

### Jurisdiction

The verified petition states that trustee/beneficiary Baker is a resident of Texas. Petitioner argues that it is appropriate for the California Courts to exercise jurisdiction over the issues raised in this petition in that it involves conduct concerning the main asset of the Trust, which is real property located in California

"The court may exercise jurisdiction in proceedings under this division on any basis permitted by Section 410.10 of the Code of Civil Procedure." (Probate Code, § 17004.)

"Section 17004 recognizes that the court, in proceedings relating to internal trust affairs or other purposes described in Section 17000, may exercise jurisdiction on any basis that is not inconsistent with the California or United States Constitutions, as provided in Code of Civil Procedure Section 410.10. See generally Judicial Council Comment to Code Civ.Proc. § 410.10. In addition, Section 17003 codifies a basis of personal jurisdiction derived from concepts of presence in the state and consent to jurisdiction. However, personal jurisdiction over a trustee may be exercised where the trustee is found, regardless of the location of the trust property. See Estate of Knox, 52 Cal.App.2d 338, 348, 126 P.2d 108 (1942). Similarly, jurisdiction may be exercised to determine matters concerning trust property, particularly land, located in California even if the principal place of administration of the trust is not in California. See Restatement (Second) of Conflict of Laws § 276 & comments (1969); 5 A. Scott, The Law of Trusts §§ 644-47, at 4074-83 (3d ed.1967)" (Emphasis added.) (Law Revision Commission Comments to Probate Code, §17004.)

The court will reserve ruling on the issue of jurisdiction until after the respondent trustee has the opportunity to raise objections and opposition at the hearing.

Accounting, Return of Property, and Damages

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).) Proceedings concerning the internal affairs of a trust include, among other things, “(7) Compelling the trustee to do any of the following: ¶ (A) Provide a copy of the terms of the trust. ¶ (B) Provide information about the trust under Section 16061 if the trustee has failed to provide the requested information within 60 days after the beneficiary’s reasonable written request, and the beneficiary has not received the requested information from the trustee within the six months preceding the request. ¶ (C) Account to the beneficiary, subject to the provisions of Section 16064, if the trustee has failed to submit a requested account within 60 days after written request of the beneficiary and no account has been made within six months preceding the request.” (Probate Code, § 17200(b)(7).)

“The trustee has a duty to keep the beneficiaries of the trust reasonably informed of the trust and its administration.” (Probate Code, § 16060.) “[T]he general duty provided in this section is ordinarily satisfied by compliance with Sections 16061 and 16062 unless there are special circumstances requiring particular information to be reported to beneficiaries.” (Law Review Commission Comment to 1990 Enactment of Probate Code, § 16060.) “Except as provided in Section 16064, on reasonable request by a beneficiary, the trustee shall provide the beneficiary with a report of information about the assets, liabilities, receipts, and disbursements of the trust, the acts of the trustee, and the particulars relating to the administration of the trust relevant to the beneficiary’s interest, including the terms of the trust.” (Probate Code, § 16061.)

“Trustees are \* \* \* under an obligation to render to beneficiaries a full account of all their dealings with the trust property, and where there has been a negligent failure to keep true

accounts all presumptions are against them upon a settlement.' (*Estate of McCabe* (1950) 98 Cal.App.2d 503, 505, 220 P.2d 614, 616; see also, *Purdy v. Johnson* (1917) 176 Cal. 521, 527, 163 P. 893.)" (*Blackmon v. Hale* (1970) 1 Cal.3d 548, 560.)

"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 conveyance 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. (B) Where the trustee has a claim to real or personal property, title to or possession of which is held by another. (C) Where the property of the trust is claimed to be subject to a creditor of the settlor of the trust." (Probate Code, § 850(a)(3).)

The petition essentially alleges that the trustee has improperly retained the proceeds from the sale of the Trust's real property and that the other two beneficiaries have a claim to their share of the proceeds of the sale of a Trust asset.

Where the petition to determine ownership of property involves a Trust, notice of the hearing and a copy of the petition must be served at least 30 days prior to the hearing on the trustee and each person claiming an interest in, or having title to or possession of, the subject property in the same manner as service of a summons and complaint and by mail to all beneficiaries and the Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of the Attorney General. (Probate Code, §§ 851(a)(2), 851(b)(3) and 17203(a).)

"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.)

“At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of hearing to be mailed to all of the following persons: ¶ (1) All trustees. ¶ (2) All beneficiaries, subject to Chapter 2 (commencing with Section 15800) of Part 3. ¶ (3) The Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of the Attorney General.” (Probate Code, § 17203(a).)

The proof of service declares that notice of the hearing and a copy of the petition were served by mail to the successor trustee/beneficiary and beneficiary Cherien Mitchell on November 29, 2021.

Although there are no oppositions or objections in the court’s file, an objection can be made at any time and even orally at the hearing. (Probate Code, § 1043.) Therefore, appearances are required.

**TENTATIVE RULING # 10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, FEBRUARY 23, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY “VCOURT”, WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).**

**11. MATTER OF THE SMITH FAMILY TRUST 21PR0018****Petition for Instructions.**

The successor trustee of the decedent's trust of the Smith Family Trust alleges in the verified petition: a dispute has arisen as to the characterization of Trust property as community or separate property of the settlors and the funding of the decedent's trust and the survivor's trust that should have taken place upon the death of the decedent settlor Tom Smith on July 18, 2012; the surviving settlor passed away on August 1, 2017; the settlors executed a memorandum of agreement regarding property ownership, which stated its purpose was to specify the ownership of the properties between the parties in order to avoid confusion and provide a clear record of their mutual understanding and assent and the memorandum was to dictate the proper ownership rights categorization as either property acquired during marriage of the parties or as separate property of each of the parties; the 3341 Coon Hollow property is listed in the memorandum as settlor Gloria Smith's separate property and confirms all other property is community property; respondent trustee of the survivor's trust claims that three additional real property Trust assets are Gloria Smith's separate property subject to being included in the survivor's trust; and respondent trustee of the survivor's trust has argued that the memorandum and Schedule A of the Trust was not a sufficient written transmutation of separate property into community property.

Petitioner seeks issuance of an order instructing petitioner trustee of the decedent's trust and respondent trustee of the survivor's trust as follows: that the assets listed in Schedule A of the trust instrument are to be characterized as either community or separate property according to the instructions in Schedule A and the accompanying memorandum of agreement regarding property ownership; the only piece of real property that should be characterized as separate

property is the real property located at APN 003-082-12, also known as 003-082-012-000, and that all other real property in the Smith Family Trust is the settlors' community property; and respondent is to reimburse petitioner for his attorney fees and costs incurred in this case.

"Proceedings concerning the internal affairs of a trust include, but are not limited to, proceedings for any of the following purposes: ¶ \* \* \* (6) Instructing the trustee..." (Probate Code, § 17200(b)(6).)

"At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of hearing to be mailed to all of the following persons: ¶ (1) All trustees. ¶ (2) All beneficiaries, subject to Chapter 2 (commencing with Section 15800) of Part 3. ¶ (3) The Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of the Attorney General." (Probate Code, § 17203(a).)

The proof of service declares that on November 9, 2021 notice of the hearing and a copy of the petition were served on the interested persons, including the trustee of the survivor's trust and his counsel.

Although there are no oppositions or objections in the court's file, an objection can be made at any time and even orally at the hearing. (Probate Code, § 1043.) Therefore, appearances are required.

**TENTATIVE RULING # 11: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, FEBRUARY 23, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY "VCOURT", WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).**

**12. MATTER OF THE TRUST OF YOUMANS FAMILY 21PR0067****Petition to Determine Ownership of Trust Property and for Order Authorizing and Directing Trustee to Transfer Estate Property.**

Petitioner is the successor trustee and one of three Trust beneficiaries. The verified petition alleges: surviving settlor/trustor Zoe Youmans passed away on August 15, 2021; after she passed away it was discovered that she was entitled to a refund of the unamortized balance of the entrance fees she had paid to Acts Retirement – Life Communities, Inc., which entry fee refund needs to be titled in the name of the Trust; it is believed that the entrance fee to be refunded is less than \$60,000; a Probate Code, § 13100 affidavit was sent to Acts Retirement – Life Communities, Inc. claiming the refund as a trust asset to be paid to the trustee; Acts Retirement – Life Communities, Inc. refused to transfer the fees to the trustee; and pursuant to Probate Code, § 13105(b) petitioner is entitled to recover from Acts Retirement – Life Communities, Inc. the attorney fees and costs incurred to bring the petition.

Petitioner requests the issuance of an order providing the following: the entrance fee refund is an asset of the Trust; the entrance fee refund is to be distributed to the trustee of the Trust; the successor trustee is authorized to execute any and all necessary instruments and commitments to complete the transaction; and Acts Retirement – Life Communities, Inc. is directed to pay the successor trustee of the Trust the legal fees and costs incurred in this proceeding.

Attached to the petition are consents to the petition to determine the Trust owns the subject entrance fee refund executed by the other two beneficiaries of the Trust. (See Petitioner's Exhibits F and G.)

“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 conveyance or transfer of 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. (B) Where the trustee has a claim to real or personal property, title to or possession of which is held by another. (C) Where the property of the trust is claimed to be subject to a creditor of the settlor of the trust.” (Probate Code, § 850(a)(3).)

“Except as provided in Sections 853 and 854, if the court is satisfied that a conveyance, transfer, or other order should be made, the court shall make an order authorizing and directing the personal representative or other fiduciary, or the person having title to or possession of the property, to execute a conveyance or transfer to the person entitled thereto, or granting other appropriate relief.” (Probate Code, § 856.)

Settlors who are also the trustees of a trust may create a trust by written declaration in the Trust instrument that certain real and personal property that they own is held as trustees of the Trust without having to formally transfer or convey the property to the Trust in a separate instrument such as a deed. (Estate of Heggstad (1993) 16 Cal.App.4th 943, 947-948.)

A written document declaring a trust in the property described in Schedule A signed by the settlor who owns the described property at the time he or she made the declaration constitutes a proper manifestation of his or her intent to create a trust. There is no requirement that the settlor/trustee execute a separate writing conveying the property to the trust. (Estate of Heggstad (1993) 16 Cal.App.4th 943, 948.)

The appellate court opinion in Ukkestad v. RBS Asset Finance, Inc. (2015) 235 Cal.App.4th 156 essentially held that where the Trust Instrument states that all of trustor's "right, title and interest" to all of his or her real and personal property is included in the Trust's assets and it is possible by resorting to extrinsic evidence to determine that the trustor held title to the subject property, then such a designation is sufficient to designate that property as being held in Trust and to satisfy the statute of frauds related to real property. (Ukkestad v. RBS Asset Finance, Inc. (2015) 235 Cal.App.4th 156, 164.) In fact, the appellate court stated a general assignment of personal property in a written instrument is legally effective. "The rule expressed in *Sterling* and in *Beverage* is consistent with our Supreme Court's long-standing view that a general assignment of a party's real and personal property in a written instrument is sufficiently certain to be legally effective..." (Ukkestad v. RBS Asset Finance, Inc. (2015) 235 Cal.App.4th 156, 162, fn. 6.)

Attached as Exhibit B to the verified petition is a written general transfer and assignment of all of the trustors' personal property interests to the trustees of the Trust. It provides: the agreement is effective as to all assets and benefits of the trustors when signed; and effective prospectively with respect to all other assets and benefits hereafter acquired by the trustors, with specified exceptions. (Petition, Exhibit B – General Transfer, paragraphs 2 and 5.) The written general transfer agreement was executed by both trustors/settlors on July 3, 2014.

"(a) If the requirements of Sections 13100 to 13104, inclusive, are satisfied: ¶ (1) The person or persons executing the affidavit or declaration as successor of the decedent are entitled to have the property described in the affidavit or declaration paid, delivered, or transferred to them. ¶ (2) A transfer agent of a security described in the affidavit or declaration shall change the registered ownership on the books of the corporation from the decedent to the person or persons executing the affidavit or declaration as successor of the decedent. ¶ (b) If

the holder of the decedent's property refuses to pay, deliver, or transfer any personal property or evidence thereof to the successor of the decedent within a reasonable time, the successor may recover the property or compel its payment, delivery, or transfer in an action brought for that purpose against the holder of the property. If an action is brought against the holder under this section, the court shall award reasonable attorney's fees to the person or persons bringing the action if the court finds that the holder of the decedent's property acted unreasonably in refusing to pay, deliver, or transfer the property to them as required by subdivision (a).” (Probate Code, § 13105.)

Where the petition to determine ownership of property involves a Trust, notice of the hearing and a copy of the petition must be served at least 30 days prior to the hearing on the trustee and each person claiming an interest in, or having title to or possession of, the subject property in the same manner as service of a summons and complaint and by mail to all beneficiaries and the Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of the Attorney General. (Probate Code, §§ 851(a)(2), 851(b)(3) and 17203(a).)

The proof of service declares that on January 5, 2022 the Trust beneficiaries and Acts Retirement – Life Communities, Inc., which is allegedly in possession of the subject funds claimed to be a trust asset, were served notice of the hearing and a copy of the petition by ordinary mail. As the entity having title to or possession of the subject property, Acts Retirement – Life Communities, Inc. must be served notice of the hearing and a copy of the petition in the same manner as service of a summons and complaint. Acts Retirement – Life Communities, Inc. is located in Pennsylvania.

“A summons may be served on a person outside this state in any manner provided by this article or by sending a copy of the summons and of the complaint to the person to be served by first-class mail, postage prepaid, requiring a return receipt. Service of a summons by this

form of mail is deemed complete on the 10th day after such mailing.” (Code of Civil Procedure, § 415.40.)

“Proof that a summons was served on a person outside this state shall be made: ¶ (a) If served in a manner specified in a statute of this state, as prescribed by Section 417.10, and if service is made by mail pursuant to Section 415.40, proof of service shall include evidence satisfactory to the court establishing actual delivery to the person to be served, by a signed return receipt or other evidence;” (Code of Civil Procedure, § 417.20(a).)

There is no evidence before the court that the notice of hearing and petition were served on Acts Retirement – Life Communities, Inc. by mail requiring a return receipt and there was no signed return receipt in the court’s file at the time this ruling was prepared.

Service by ordinary mail without requiring a return receipt and without filing the executed return receipt does not meet the statutory requirements for service of a summons and complaint by mail to a party outside of the state. The court can not reach the merits of the petition until there is proof that Acts Retirement – Life Communities, Inc. has been served in the same manner as a summons and complaint.

**TENTATIVE RULING # 12: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON WEDNESDAY, FEBRUARY 23, 2022 IN DEPARTMENT EIGHT. IF A PARTY OR PARTIES WISH TO APPEAR TELEPHONICALLY THEY MUST APPEAR BY “VCOURT”, WHICH MUST BE SCHEDULED AND PAID THROUGH THE COURT WEBSITE AT [www.eldorado.courts.ca.gov/online-services/telephonic-appearances](http://www.eldorado.courts.ca.gov/online-services/telephonic-appearances).**