

PROBATE CALENDAR NOTES

July 29, 2022

8:30 AM, Department 40

Placer County Superior Court

Published July 26, 2022, 3:30 PM

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For current local court COVID-19 information, visit:

<http://www.placer.courts.ca.gov/general-covid-19.shtml>

See Emergency Local Rule 10.28 & Local Rule 10.24 concerning remote appearances. Local Rule 10.27, "eDelivery/eFiling," requires electronic filing of documents by attorneys and represented parties.

These calendar notes are provided pursuant to Local Rule 80.1.4 for the probate calendar set for hearing **July 29, 2022, 8:30 AM, in Department 40**, the Hon. Colleen M. Nichols, presiding. Remote appearances are generally available for this calendar, as provided in the Local Rules.

Pursuant to Local Rule 80.1.4, these calendar notes are **not** a tentative ruling on the merits of any matter before the court.

Updated notes may be posted at any time and will generally be updated the court day prior to the hearing. Staff may respond to limited questions concerning calendar notes; however, court staff may not give legal advice to parties or attorneys. Messages may be left for the Office of Legal Research at (916) 408-6119.

1. S-PR-0008779 Stagner, Lois S. - In Re the Trust of

Trustee account and petition for fees is recommended for approval as prayed.

2. S-PR-0009374 Sagaria, Scott Joseph - Estate of

Appearance is required for continued estate hearing.
Current status is needed.

3. S-PR-0010445 In Re the Keenan Fam 1998 Rev Trust

Appearance is required for hearing on motion re breach of duty and damages.

4. S-PR-0010462 Brookhart, Betty Jean - In Re the Estate of

It is recommended the petition to admit the purported will of decedent be denied. Petitioner appears to be categorically barred from seeking admission of the will by Prob.C. § 8226(c) in light of the two prior orders (in October 2020 and in July 2021) finding decedent died intestate. Court determination is needed concerning arguments advanced in response to calendar notes.

If the petition proceeds despite the apparent procedural bar of Prob.C. § 8226(c): missing proof of will; will is not witnessed / missing evidence to satisfy Prob.C. § 6110(c)(2). It appears portions of the purported will may be missing or omitted: the type font changes on page 2; typed number is absent from pages 3 and 6; page six appears to begin mid-word ("[repre]sentative"?); portions of Article Tenth appear to be missing, all without explanation. Court determination is needed concerning arguments advanced in response to calendar notes.

5. S-PR-0010557 1992 Traynor Rev Trust, et al.; In re the

Appearance is required for continued status hearing.

6. S-PR-0010559 Dykstra, Gloria Ann - In re the Estate of

Petition for final distribution is recommended for approval as prayed.

7. S-PR-0010892 In Re the Estate of Guerrero, Rudy

Petition for final distribution is recommended for approval as prayed.

8. S-PR-0011008 In Re the Florence M Hughes Fam Trust

Missing notice of hearing on amended petition to determine trust terms. Missing 30 days' service of notice of hearing. New notice and service are required for the amended

petition, C.R.C. 7.53. Note that the amended petition was not verified until July 13, 2022. Notice for a July 29 hearing

9. S-PR-0011283 In Re the Estate of Frank, Brian

Petition to administer estate (R Frank)

It appears that petitioner intends to drop this petition in favor of the competing petition, below.

Petition to administer estate (C Kinsman)

Petition to administer estate is recommended for approval as prayed.

10. S-PR-0011329 In Re the Corpuz Rev Liv Trust

Petition to determine trust property is recommended for approval as prayed.

11. S-PR-0011342 In Re the Estate of Steves, Fred Lemonte

Appearance is required for continued hearing on spousal property petition.

Note: the petition to administer estate was scheduled by the clerk for hearing September 2, 2022. For reasons that do not appear in the record, petitioner filed, served, and published notice as though said petition had been scheduled to be heard on this calendar.

12. S-PR-0011448 In Re the 2001 Marco Ramos Rev Trust

Appearance is required for hearing on petition to approve settlement agreement.

13. S-PR-0011472 In Re the Wedman Rev Inter Vivos Trust

It is recommended the petition to determine trust property be denied. The general assignment does not include language reaching after-acquired property, and it appears from the allegations that the subject account did not exist when the general assignment was executed.

14. S-PR-0011473 In Re the Estate of Ludwig, Diane Mae

Petition to administer estate is recommended for approval as prayed.

15. S-PR-0011474 In Re the Estate of Esselborn, Liselotte G.

Petition to administer estate is recommended for approval as prayed.

16. S-PR-0011475 In Re the Estate of Byrd, Georgia Virginia

Missing certified copy of will, Prob.C. § 8202. The petition includes only a *copy of a certified copy* of the will.

Missing proof of holographic instrument.

17. S-PR-0011476 In Re the Estate of Nutter, Jon

Missing adequate publication of notice of hearing. Notice, as published, incorrectly includes ¶ 4 of the notice form which does not apply to this intestate proceeding. Notice was published in an incorrect newspaper. The Lincoln News Messenger is not a newspaper of general circulation in Roseville, California (see Prob.C. § 8121).

Missing requested bond amount, ¶ 2d.

Petitioner's request for Prob.C. § 2591 powers (see Attachment 2c) cannot be granted. Prob.C. § 2591 applies to conservatorship and guardianship proceedings and does not apply to decedent's estates. Petitioner requests full powers under the Independent Administration of Estates Act, which establishes IAEA procedures for sale of estate property.

18. S-PR-0011477 In Re the Antoinette D Vernon Exemption Trust

It is recommended the petition for instructions concerning trust distribution be denied. The trust does not define "operating" and petitioner offers no other legal basis to find that the charitable actions of Pet Adoption, Inc., including making donative gifts to other pet rescue charities, is insufficient.

If the court were satisfied that the gift to Pet Adoption, Inc., failed, it is recommended the secondary relief requested by petitioner (that the gift falls to the ¶ 8.6 remote contingency clause) be denied. The ¶ 8.5 gift of "the remaining assets of the exemption trust" appears to be a residue gift for purposes of Prob.C. § 21111(c), and § 21111(b) applies.

19. S-PR-0011478 In Re the Estate of Freedle, James Damon

Missing waivers of bond by Phillip Cullinan and Levi Cullinan.

20. S-PR-0011480 In Re the Estate of Drexen-Wiens, Helen

Missing notice of hearing on petition to administer estate. Missing service of notice of hearing. Missing proof of publication of notice of hearing.

Missing original will, Prob.C. § 8200(a).

Missing required allegations at ¶ 5a(3)-(4) (RDP).

Missing declaration re trust terms or authenticated copy of beneficiary trust, Local Rule 89.2.1.

Missing bond of \$550,000 as previously ordered by the court. The court should not have issued letters of special administration due to special administrator's failure to post bond as ordered.

21. S-PR-0011481 In Re the Estate of Murray, Robert F.

Petition to administer estate is recommended for approval as prayed.

22. S-PR-0011626 In Re the Helen Drexen-Wiens Trust

Missing notice of hearing on petition to determine trust property. Missing 30 days' service of notice of hearing, Prob.C. §§ 851 & 17203.

If notice issues are resolved to the satisfaction of the court, it is recommended:

(i) the petition to determine trust property be granted as to Merrill Lynch account - 769.

(ii) the petition be denied as to any other financial account. The petition does not sufficient identify or describe any other financial account. Note that the notice of hearing must also sufficiently identify or describe each asset subject to the petition, Prob.C. § 851(c)(1).

(iii) the petition be denied as to the subject real property. *Ukkestad v. RBS Asset Finance, Inc.* (2015) 235 Cal.App.4th 156 did not consider and does not appear to hold that an all-real-property writing satisfies the statute of frauds as to *after-acquired* real property. Further, property of a decedent's estate does not pass by will to a trust until the estate has been administered. "It [is] error for the court to award [the property] directly to the trust in the absence of a probate proceeding." *Placencia v. Strazicich* (2019) 42 Cal.App.5th 730, 734 & 743-744, citing *Estate of Hart* (1957) 151 Cal.App.2d 271, 280-281 (the right to possession of property subject to administration is deferred until distribution of decedent's estate). See also Prob.C. § 7001.

23. S-PR-0011669 In Re the John A Wall Separate Property Trust

Missing notice of hearing on petition to appoint sole trustee. Missing 30 days' service of notice of hearing, Prob.C. § 17203.