

## Department 5 Probate Notes for Friday, January 17, 2025

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### 8:30 a.m.

1. **Estate of Stevenson (PR12381).** No appearance is necessary. This matter is on calendar for review of the filing of a final I&A, which took place on 11/06/24.
2. **Estate of Bacon (PR12329).** No appearance is necessary. This is a §12200 review hearing, but due to a delay between the order for probate and actual issuance of Letters, this hearing is technically premature. Court intends to continue 30-45 days.
3. **Estate of Campbell (PR12439).** No appearance is necessary. This matter is on calendar for review of the filing of a final I&A, which took place on 11/20/24. For future reference only, the “final” I&A is supposed to include all of the estate assets, not just the assets discovered since the partial I&A was filed.
4. **Estate of Walsh (PR12267).** No appearance is necessary. This Court, having received and reviewed petitioner’s TUO-PR-125, and having further reviewed PR12140 and CV65497, intends to find by a preponderance of the evidence that good cause exists to extend the administration of this estate an additional six months. Court intends to set a §12200 review hearing accordingly, and asks that if the parties resolve CV65497 before then that they kindly inform this Court so that this administration can get back on track.
5. **Estate of Walsh (PR12140).** No appearance is necessary. This Court, having received and reviewed petitioner’s TUO-PR-125, and having further reviewed CV65497, intends to find by a preponderance of the evidence that good cause exists to extend the administration of this estate an additional six months. Court intends to set a §12200 review hearing accordingly, and asks that if the parties resolve CV65497 before then that they kindly inform this Court so that this administration can get back on track.
6. **Estate of Bratcher (PR12436).** This probate action was released only just released into the wild on 12/05/24, having suffered an anomalous delay between issuance of the bond-less orders and issuance of the Letters. Since “the inventory and appraisal shall be filed within four months *after letters are first issued*,” (see §8800(b)), both this and the ensuing 12200 review hearings will need to be reset.
7. **Estate of Kincaid (PR12205).** No appearance is necessary. This Court, having received and reviewed petitioner’s TUO-PR-125, intends to find by a preponderance of the evidence that good cause exists to extend the administration of this estate an additional six months. Court intends to set a §12200 review hearing accordingly.

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8. **Estate of Lane (PR12556).** This summary spousal petition is not ready for approval. In order to have standing to bring such a petition, it must first be shown that the petitioner qualifies as a “surviving spouse.” See Probate Code §§ 78, 13650(a). In other words, there must be competent evidence sufficient to show that petitioner and decedent were lawfully married at the time of his passing. Although a lawful marriage in Utah might be similarly lawful in California (see Family Code §308), that is not a forgone conclusion. See, e.g., *Marriage of Elali & Marchoud* (2022) 79 Cal.App.5th 668, 683-686. This Court is free to inquire into the validity of the Utah marriage, and is curious given that decedent and petitioner had been California residents when the Utah post-mortem petition was commenced. The Utah file and marriage certificate/order will need to be filed here. Separate from the standing question is the lack of proof regarding decedent’s *contemporaneous* ownership of the real and personal property. For example, the reference to a grant deed from 1999 is insufficient to demonstrate by a preponderance of the evidence “the facts upon which the petitioner bases the allegation that all or a part of the estate of the deceased” passes to her without evidence of what he actually (still) owned at the time of his passing. For real property, a litigation guarantee or preliminary title report will do the trick. For personal property, registration cards are sufficient.
9. **Estate of Jenkins-Bushart (PR12455).** This probate action was released into the wild on 05/31/24. Pursuant to Probate Code §8800, petitioner had four (4) months from then to file a final Inventory & Appraisal. A review of the court file reveals a vacancy where the DE-160 should be. Since this is the second review hearing with no I&E, petitioner will soon face sanctions. Petitioner to advise.
10. **Estate of Vivit (PR12549).** This summary succession petition is not ready for approval. First, as an issue of first impression, petitioner must confirm that recent legislative changes to §13151 (limiting these petitions to the decedent’s personal residence) does not control this particular petition (filed before the change, but set for hearing after). Second, there is no evidence submitted with the petition showing decedent’s alleged ownership interest in the subject property at any time, let alone at the time of her passing. See §13152(a)(4). At the latter concern, a litigation guarantee or preliminary title report will do the trick.
11. **Estate of Elliott (PR12550).** This is a petition for Letters of Special Administration with general powers. The petition is not ready for approval because there is no proof of publication in the court file, no proffer of an appropriate bond, and no nominations from the heirs with co-equal priority to serve as personal representatives.

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### 10:00 a.m.

12. **Guardianship of Jones (PR10177).** Today is the ward's 18<sup>th</sup> birthday. There is no petition in the court file to extend the guardianship beyond its natural statutory termination date.
13. **Guardianship of De La Rosa (PR12180).** This is a guardianship case involving three wards. Since the last hearing, this Court has received and reviewed the various GC-251 reports, with attachments. Although the reports indicate that bio mom spends considerable time with the children, this Court intends to find by a preponderance of the evidence that the guardianship for all three remains necessary/convenient and that the guardian is acting in the wards' best interests. Court intends to set annual review date.
14. **Guardianship of Barnes (PR12324).** No appearance is necessary, as this guardianship was terminated by order of Court on 10/18/24. Court to update its records.
15. **Guardianship of Gonzalez (PR12541).** This is a petition by the maternal grandmother to establish a guardianship over two young children while the biological father remains on vacation and the biological mother remains uninvolved. The biological mother has provided her consent. At the hearing on 11/22/24, this Court granted the pending application for a temporary guardianship, and was informed by the court clerk that petitioner also has a permanent application pending (though not scanned). Court is awaiting full report from the court investigator before advancing further.
16. **Guardianship of Parker (PR10561).** No appearance is necessary. This is a guardianship case involving two wards. Just recently, the co-guardian passed away following a courageous battle with Alzheimers. Ward 1 will turn 18 in early September. Ward 2 has a little more time to go. This Court, having received and reviewed the GC-251 with attachments, intends to find by a preponderance of the evidence that the guardianship remains necessary/convenient and that the guardian is acting in the wards' best interests. Court intends to set termination date for Ward 1 and annual review date for Ward 2.
17. **Guardianship of Hicks (PR12524).** This is a petition by the paternal grandmother to establish a guardianship over two wards. Because the proposed wards have been living on the same property with petitioner for a substantial period of time, petitioner is presumably entitled to the §3041 stability/continuity presumption despite the absence of consent from bio mom. There is a competing petition for guardianship from the maternal grandmother (see PR12524). Court still awaiting investigative report, and will consider appointment of counsel for the proposed wards if the investigative report suggests any basis for doing so.

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Court will also consider co-guardians if the grandmothers will concede. This Court is aware of a hearing taking place in another department at the same time involving many of the interested parties, and is willing to have these matters continued for one week to accommodate the schedules of these individuals. Court will make a “game day” decision on Friday morning.

18. **Guardianship of Hicks (PR12532).** This is the competing petition by the maternal grandmother for a guardianship over the same two young men. She does not have consent from – nor any current relationship with – the bio mom. She also does not have consent from bio dad.
19. **Guardianship of Hicks (PR12531).** No appearance is necessary, as this petition by the maternal grandfather and his new spouse (involving the same two young men) was voluntary dismissed without prejudice on 11/18/24.
20. **Guardianship of Lima (PR12496).** This is a petition by the maternal grandmother to establish a guardianship over two proposed wards, both of whom reside full-time with bio dad. As a result events taking place in the related family law case (FL16854), bio mom has zero parenting time. Bio mom consents to guardianship. Bio dad does not. Court investigator did not recommend guardianship; the minor children expressed a desire for considerable time with guardian and bio mom. There is a pending OSC re Contempt in the child support action (FL18454). At the last hearing, bio dad agreed to allow proposed guardian visitation time; since then, proposed guardian filed RFO in FL16854 seeking additional grandparent visitation. Court intends to stay guardianship case and allow family court (D.2) to proceed unabated.
21. **Guardianship of Klaverweiden (PR11794).** No appearance is necessary. The Court, having received and reviewed the GC-251 with attachments, intends to find by a preponderance of the evidence that the guardianship remains necessary/convenient, and that the guardians continue to serve the ward’s best interests. Court intends to set an annual review date.
22. **Guardianship of Cox (PR12392).** This is a review hearing to confirm invoices actually paid from funds released from a blocked account. No receipts are on file. Petitioner to advise.

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**1:30 p.m.**

23. **Petition of AB (CV66662).** Nonconfidential petition to change last name only. No proof of publication. Different from order issued in FL18295.
24. **Petition of SC (CV66639).** Confidential proceeding to change name.
25. **Petition of ND (CV66641).** Nonconfidential petition to change last name only. No proof of publication.
26. **Petition of JD (CV66630).** Confidential proceeding to change name.
27. **Estate of Areias (PR12478).** Scheduled as a “short cause” hearing, this is a challenge to a holographic interlineation allegedly made by the testator at the time he executed his will, removing the objector as a devisee. Much to this Court’s surprise, the witness lists include thirteen (13) individuals, one of whom is a retained handwriting expert. It may not be feasible to complete this hearing in one session, but more importantly the cost/effort put forth by petitioner and objector would seemingly bear more fruit in a settlement posture given the modest size of the estate. Court staff will inquire of the parties if they would prefer to convert this into a settlement conference and leave the witnesses at home for now. Otherwise, objector is correct that petitioner will be required to bring to trial the original will and the subscribing witnesses in person since there was no will attached to the DE-131.
28. **Patterson v. Weldon (CV66305).** Initial Case Management Conference. This is a quiet title action in which plaintiff seeks to acquire legal ownership to a strip of land along the boundary with adjoining neighbors, roughly 4.5 feet in width and 414 feet in length. Although the operative pleading did not include a presumptively helpful CRC 3.1151 diagram, the answer provided some direction for this Court on where the issue lies. The parties are here for an initial case management conference. In addition to the regular CRC 3.727 issues germane thereto, the parties will be expected to specifically discuss with the Court: (1) Removing parties: there is as yet no effective dismissal for the County; (2) Adding parties: shouldn’t co-owner of the dominant tenement (Ms. Starr) be here; (3) Being at issue: Plaintiff says Questo not in; Defense Counsel says they are; and (4) how many separate taxable parcels would require lot line adjustment if plaintiff prevails? Court intends to set trial date and related pretrial filing/exchange dates (WL, EL, TB). Court also intends to waive the MSC under TCSC Rule 2.05.0 unless the parties request otherwise.
29. **Petition of LS (CV66642).** Nonconfidential petition to change name. No proof of publication.

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30. **Thomas v. Grogan (FL18372).** Petitioner and respondent previously agreed to a “first round” of testing pursuant to Family Code §7555, which revealed favorable results for petitioner. Respondent objected. Pursuant to Family Code §7560, “the court shall order additional genetic testing upon the request of a person who contests the results of the initial testing.” That was ordered 07/11/24. To date, no results have been filed with the Court. Respondent to advise re status, and whether genetic testing of a deceased person under §7562 is to be required.
31. **Petition of CW (CV66668).** Confidential proceeding to change name.
32. **Petition of AW (CV66670).** Confidential proceeding to change name.