

Department 5 Probate Notes for Friday, July 12, 2024

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8:30 a.m.

1. **Conservatorship of Zapata (PR11778).** No appearance is necessary. The Court, having received and reviewed the Third Accounting, confirms that the account can be settled as presented and approved. Based on the line items therein, this Court intends to convert to biennial account reports and will set the hearing date accordingly.
2. **Estate of Babbitt (PR12375).** No appearance is necessary. This was to be the §8800 review hearing but Letters did not issue until 03/15/24, making this hearing technically premature. The Court notes that there is a “partial” I&A on file, and will hope to see a “final” one including all of the assets before the next hearing date. Court intends to continue the matter 60 days, give or take.
3. **Estate of Williams (PR12385).** No appearance is necessary. This was to be the §8800 review hearing but Letters did not issue until 03/29/24, making this hearing technically premature. The Court further notes that petitioner’s first appearance fee bounced, so that needs to be resolved before the next hearing. Court intends to continue the matter 60 days, give or take.
4. **Estate of Conlin (PR12480).** No appearance is necessary. Although petitioner failed to faithfully complete Para 8 of the petition, this court will certainly accept confirmation of Danny having predeceased Dolores prior to any distribution order from the estate. Court intends to grant the petition, issue the order and Letters, and set §§ 8800/12200 review dates.
5. **Estate of McGee (PR12228).** This estate is now in its 16th month of administration, and there is no updated TUO-PR-125 as ordered at the last hearing. Petitioner/counsel to advise.
6. **Estate of Howell (PR12465).** No appearance is necessary. Court intends to grant the petition, issue the order and Letters, and set §§ 8800/12200 review dates.
7. **Estate of Belletto (PR12442).** Assuming no objection from decedent’s natural heirs, this court will accept the supplemental papers as sufficient to meet the clear and convincing standard for authenticity of the holographic will. However, since the papers include the wrong date for this hearing, it may be necessary to reset the matter once more. Counsel to discuss.
8. **Estate of Schnell (PR12481).** No appearance is necessary. Although petitioner neglected to include the required resident statement (see Probate Code §8573), she will be expected to do so promptly. To avoid delay, Court intends to grant the petition, issue the order and Letters, and set §§ 8800/12200 review dates.
9. **Estate of Ahlswede (PR12282).** Attorney Tamara Polley represents Arthur Ahlswede, the appointed personal representative for the Estate of Ahlswede. On 05/31/24, papers were filed on behalf of Arthur Ahlswede seeking an order transferring an asset into the Estate. Those papers, however, were filed on his behalf by a different lawyer: Mary McEwen with Dambacher, Trujillo &

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Russell. Ordinarily, when a new law firm joins the case, they do so either by way of a substitution of attorney or an association of attorney. In this instance, neither accompanied the new papers, which is anomalous. However, since it does appear that Arthur signed the verification indicating Ms. McEwen's authority to file the papers on his behalf (see CCP §128.7), this Court will proceed as if Arthur has associated in co-counsel for the limited purpose of a *Heggstad* petition involving the sole asset (which was inventoried in the I&A prepared by Attorney Polley.

The petition itself requires significant mental dexterity to track, but less dexterity to fix. In 1996, William and Shirley Watson established The Watson Family Trust. Two years later, they acquired the subject property, but rather than take title in the trust, they took title "as joint tenants." William sided in 2007, resulting in Shirley acquiring a 100% stake in the property. See Civil Code §683.2; Probate Code §5042(b); and *Estate of Wall* (2021) 68 Cal.App.5th 168. Although Shirley recorded an instrument in 2008 attempting to love the property from The Watson Family Trust to a survivor's sub-trust therein, there is no record of the property having ever been moved into The Watson Family Trust after its acquisition in 1998. Thus, the subsequent transfer from the sub-trust to Shirley and Pamela (decedent herein) "as joint tenants" was a nullity. Decedent's Death of Joint Tenant Affidavit in 2015 was also a nullity. Equitable title rests with Shirley, alone. Shirley died in 2014, leaving behind three heirs: Pamela, Linda and Bonnie. If Shirley died intestate, then each of her three children share a 1/3 interest in the subject property. If Shirley died testate, the terms of the will would dictate who gets a share of the subject property. This information is not provided to the Court, so before any order can be made that might result in a vesting of the subject property solely in the heirs of Pamela, more information is required.

10. **Estate of Areias (PR12478).** The petition for probate and letters testamentary is not ready for approval. First, there is no proof of publication. Second, there is no request for IAEA authority (which seems an oversight). Third, the petition (notably Para 3) is incomplete. Fourth, notice must be provided to Sherri McKay as her name appears in the will and she is entitled to challenge the interlineation. Fifth, given the age and informality of the will, coupled with the exclusion of natural kin, witness attestations (DE-131) are required. Court intends to continue matter for 45-60 days.
11. **Estate of Vochatzer (PR12382).** No appearance is necessary. This was to be the §8800 review hearing but Letters did not issue until 03/20/24, making this hearing technically premature. Court intends to continue the matter 60 days, give or take.
12. **Estate of Burman (PR12470).** This is a petition for Letters of Administration. Although petitioner has so far failed to provide this Court with proof of service (see Prob. Code §1260), and no notice waivers are on file, this Court may find that the provision for formal notice has been impliedly waived by virtue of the fact that all those entitled to notice submitted a bond waiver. See §§ 8100 and 8481(a)(2).

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10:00 a.m.

- 13. Conservatorship of Kleier (PR12410).** Since nothing has been filed since the last hearing, this Court restates the Note from 04/05/24: *The petition for temporary general conservatorship is not ready for approval. This case is related to PR12120. Petitioners are “close family friends” and former guardians of the proposed conservatee. There is no nomination from conservatee. §§ 1802, 1810. Since the proposed conservatee “does not agree with the proposed conservatorship” (see GC-312, Para 8), notice must be provided to first-degree biological relatives (see §§ 1822(b)(2) and 1829(c)) to discharge the §1812 requirement for selecting even a temporary conservator that is in the best interests of the conservatee. There is no notice to biological father (he only waived notice as to guardianship of person). Notice must also be provided to the regional center. §1822(e). There is no Attachment 1C addressing the bond concern. Court to appoint investigator (§1826) to conduct the required investigation for temporary and permanent conservatorships (§2250.6), and attorney (§1471) for conservatee. Court requires clarification whether this is ought to be a limited conservatorship of a developmentally disabled adult (§1801(d)) or otherwise. There is also an issue regarding petitioner’s background (see §2650(d)). Court intends to set continued hearing with supplemental papers due [beforehand].*
- 14. Conservatorship of Fowles (PR12409).** Since nothing has been filed since the last hearing, this Court restates the Note from 04/05/24: *There is no nomination from conservatee (§§ 1802, 1810) and no indication as to whether the conservatee understands or desires/opposes the conservatorship. Counsel to confirm whether notice has been provided to first-degree biological relatives (see §§ 1822(b)(2) and 1829(c)) and to the regional center. §1822(e). There is no Attachment 1C addressing the bond concern. Court has already appointed investigator (§1826) to conduct the required investigation for temporary and permanent conservatorships (§2250.6). Court intends to appoint attorney for conservatee (§1471). Court requires clarification whether this is ought to be a limited conservatorship of a developmentally disabled adult (§1801(d)) or otherwise. There is also an issue regarding petitioner’s background (see §2650(d)). Court is “on the fence” regarding the factual predicate for the conservatorship as there are no capacity declarations provided and the petition is rather anemic. Court intends to set continued hearing with supplemental papers due [beforehand].”*
- 15. Conservatorship of Hanna (PR11661).** No appearance is necessary. The Court, having received and reviewed the most recent investigative report, intends to find by clear and convincing evidence that the conservatorship remains necessary, that a general conservatorship is the least restrictive option, and that the conservator is serving the conservatee’s best interests. Court intends to set annual review date.
- 16. Guardianship of Powell (PR12128).** Related to #18 and #21. 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 or convenient, and that the guardians are serving the wards’ best interests. Court intends to set annual review date.

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17. **Guardianship of Violett (PR12486).** Related to FL17448? This is the initial hearing on a petition to establish a guardianship without consent of either parent. Referral to Social Services for investigative report has already been made, but no report available for review. Ward appears to be residing long-term with proposed guardian.
18. **Guardianship of Powell (PR11603).** Related to #16 and #21. 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 or convenient, and that the guardians are serving the wards' best interests. Court intends to set annual review date.
19. **Guardianship of Cox (PR12392).** Court still required proof of bond and notice to parties of permanence. Petitioner to advise if guardianship still required.
20. **Conservatorship of Swenson (PR11918).** No appearance is necessary. The Court, having received and reviewed the court's investigative report, will find by clear and convincing evidence that the conservatorship remains necessary, that a general conservatorship is the least restrictive option available for present purposes, and that the conservator is acting in the conservatee's best interests. Court intends to set an annual review date.
21. **Guardianship of Powell (PR11554).** Related to #16 and #18. 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 or convenient, and that the guardian is serving the wards' best interests. Court intends to set annual review date.
22. **Guardianship of Steele (PR11943).** 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 or convenient, and that the guardian is serving the ward's best interests. Court intends to set annual review date.

1:30 p.m.

23. **County v. Randle (FL16502).** Day 2 of short cause hearing re visitation and orders. Nothing filed since last hearing.
24. **Guardianship of Rivera (PR11862).** Court to review amended petition.
25. **Tietgens and Messina (FL18476).** Review hearing.