

Department 5 Probate Notes for Friday, July 19, 2024

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8:30 a.m.

- 1. Estate of King (PR11586).** This probate administration was released into the wild (aka Letters issued) on 10/26/18. For reasons which shall forever remain a mystery, a de minimus creditor claim in the amount of \$2,350.00 has unilaterally held this administration hostage for the better part of three years (see CVL62521). However, that dispute closed back in 2022, leading the way to another (and in all fairness more substantive) dispute filed in Merced County. That dispute has just recently ended – so it appears that the seas have parted. Counsel to advise.
- 2. Estate of Herell (PR12109).** This probate administration was released into the wild (aka Letters issued) on 06/17/22. This administration appears to be held up by a math error made by the escrow company, an error which for reasons not entirely clear is requiring many months to clear up. Counsel to advise.
- 3. Estate of Moreno (PR12151).** This administration was cursed from the outset. As observed in prior notes, this entire estate weighed in at just under \$10,000, and despite its de minimus existence has enjoyed extensive litigation between competing personal representatives and a creditor claim better suited for small claims court. Following a settlement conference in which several related actions were globally resolved, this Court anticipated smooth sailing to the end. Not so. This is now the third hearing in which petitioner’s counsel has failed to submit a basic proposed order for this Court’s consideration and entry in order to make distributions (here, paying the lawyers mostly) and discharge. This Court assumes that the lawyers have already paid themselves, which might make a final order academic, but it is nevertheless required. See Probate Code §§ 1048; 11603. If counsel fails to provide a proposed order at this upcoming hearing, this Court will give serious consideration to an order dismissing the administration altogether.
- 4. Estate of Powers (PR12278).** No appearance is necessary. The Court, having received and reviewed petitioner’s TUO-PR-125, finds by a preponderance of the evidence that good cause exists to extend the pending administration in order to account for the unresolved creditor claims and the newly-discovered real property asset. Court intends to set §12200 hearing for early November.
- 5. Estate of Benoit (PR12133).** This probate administration was released into the wild (aka Letters issued) on 09/09/22. On 12/20/23, counsel for petitioner informed this Court that the petition to settle the accounting and permit distribution “will be filed within six weeks.” While this Court does not profess to be a math whiz of any kind, it seems that “six weeks” from 12/20/23 expired long ago. Counsel to advise.
- 6. Estate of Nichols (PR12411).** This is a continued hearing on the initial petition to probate decedent’s will and secure Letters Testamentary. At the initial hearing, this Court noted that petitioner has failed to submit proof of publication or the original will. The hearing was continued. Since then, neither petitioner nor counsel have appeared at any of the continued hearing dates, indicating to this Court that those persons have lost interest in moving this petition along. If there is no appearance at the hearing, this Court intends to dismiss the petition.

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10:00 a.m.

7. **Conservatorship of Stevenson (PR11972).** Letters were issued in the related action (PR12381), which means there is nothing holding up completion of the final accounting in this conservatorship estate. Counsel to advise.
8. **Conservatorship of Cox (PR9994).** No appearance is necessary. The Court, having received and reviewed the combined 9th and Final accounting on this conservatorship estate, which terminated by operation of law on 09/06/24, intends to find by a preponderance of the evidence that both portions of the combined accounting (premortem and postmortem) are to be approved as submitted (including counsel's request to exceed the federal formula under SB 303). Court intends to enter proposed order.
9. **Conservatorship of Villasenor (PR9919).** This Court previously observed that while some degree of conservatorship is warranted here, there is a question (1) whether the conservatee can be promoted to a limited conservatorship and (2) whether it remains in the conservatee's best interests to have one sibling serve as conservator of the estate and another sibling serve as conservator of the person. As to the former, a recent report from VMRC appears to support the continued placement in a general, as opposed to limited, conservatorship. As to the latter, since the last hearing, the conservator of the person filed a request to withdraw his "ex parte request" to resolve an impasse between the conservators. The request did not state that the siblings are now getting along, only that one of them no longer wants judicial intervention/oversight. Absent further information at the hearing, this Court intends to 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 conservators are acting in the conservatee's best interests. Court intends to set an annual review date.
10. **Guardianship of Phillips (PR12462).** Court is awaiting investigative report, update from CWS, filing of Family Safety Plan, guardian's residency confirmation, and proof of service on bio dad. Court is likely to extend temporary guardianship of the two minors and continue hearing on permanency pending these issues.
11. **Guardianship of Heinze (PR12458).** Court is awaiting investigative report. Court is likely to extend temporary guardianship of the minor and continue hearing on permanency pending review of the report.
12. **Guardianship of Leonard (PR12347).** Parties to report success on maternal and paternal parenting allocations, and whether anyone intends to bring a motion to terminate the guardianship in the near future.
13. **Guardianship of Hartzell (PR11369).** This is a long-term guardianship of three minors being cared for by an elderly family member. Although this is set for annual reviews, this Court has not heard from the guardian since 12/01/22. On the eve of releasing the court investigator into the wild

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to locate the guardian (and the wards), this Court received from the bio mom a petition to terminate the guardianship. Notice was provided. This Court will reserve the question of another investigation and appointment of counsel until such time as the Court can hear from the guardian as to the circumstances and whether a Family Safety Plan remains in effect.

14. **Guardianship of Chen (PR12453).** No appearance is necessary. This Court has already found by a preponderance of the evidence that the proposed guardianship here is both necessary and convenient, and further that the special immigrant juvenile findings are present.
15. **Guardianship of Garner (PR12361).** This is a newly-established temporary guardianship, the product of herculean efforts made by the paternal grandparents to liberate the minor child from a sporadic and unsettled life “on the run” with her biological mother and half-siblings. In conjunction with a hearing on the permanence of said guardianship, there is pending a petition to terminate the guardianship filed by the biological father – who was just released from prison (following his failure to comply with a simple obligation to stay at home and not get into bar fights). The petition to terminate is not ready to be heard on the merits as there is no proof of service on the biological mother (who reportedly resides in Colorado). See §1510(c).
16. **Guardianship of Chandler (PR12295).** This is to be the annual review of a guardianship, but as yet the guardians have not submitted their GC-251.

3:00 p.m.

17. **Petition of Haralambous (CV66156).** Nonconfidential petition to change first name. No proof of publication in the court file yet.
18. **Petition of Harrison (CV65989).** Confidential petition to change to change first, middle and last name to conform. Voir dire required.
19. **Petition of Hundza (CV66164).** Confidential petition to change first and middle names to conform. No copy of prior name change decree as referenced in Para 3.