

Department 5 Probate Notes for Friday, August 23, 2024

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8:30 a.m.

1. **Conservatorship of Wright (PR9958).** No appearance is necessary. The Court, having received and reviewed the 2022 investigative report, intends to find by clear and convincing evidence that a conservatorship of the person remains necessary, that a general conservatorship might be the least restrictive option, and that the conservator is serving the conservatee's best interests. Court intends first to continue the hearing another 60 days to permit the court investigator time to complete the required investigative report, and to thereafter set annual review date.
2. **Conservatorship of Schneider (PR8899).** No appearance is necessary. The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that a conservatorship of the person 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.
3. **Conservatorship of Dittman (PR11839).** No appearance is necessary. The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that a conservatorship of the person 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.
4. **Conservatorship of Kohler-Crowe (PR11454).** No appearance is necessary. The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that a conservatorship of the person remains necessary, that a general conservatorship is the least restrictive option, and that the conservator is serving the conservatee's best interests. Court does note some evidence that the conservatee may be eligible for a promotion to a limited conservatorship at some point in the near future. Court also notes that ought to be a succession plan in place for this individual given the conservator's recent health concerns. Court intends to set early review date for 11/22/24 to align with siblings.
5. **Conservatorship of Rutkin (PR10943).** No appearance is necessary. This is a general conservatorship which has terminated by operation of law (§1860(a)). Final accounting hearing set for 09/06/24.
6. **Conservatorship of Moyle-Armbricht (PR10119).** No appearance is necessary. The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that a conservatorship of the person 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.
7. **Conservatorship of Collie (PR10122).** Based solely on the investigative report, this Court is unable to find by clear and convincing evidence that any conservatorship of the person remains necessary, let alone a general conservatorship. There is little doubt that the conservators are serving

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the conservatee's best interests, but it would appear that the conservatee may not even qualify for a conservatorship. Parties to discuss. Court intends to solicit input from VMRC. Court intends to continue existing conservatorship on an interim basis.

8. **Estate of Ross (PR11991).** Pursuant to Probate Code §12200, petitioners had 12 months from when they received Letters to either petition for final distribution or secure an order from the Court extending administration. Letters were issued 10/20/21, and they have done neither. Although removal (§12204) and fee reductions (§12205) are theoretical options, little else can be done at this juncture to entice compliance with statutory mandates. Petitioners were ordered to invite to the next hearing the only other beneficiary (Dwight) and ascertain his willingness to take over. In the interim, this Court suspended Ms. Poland as co-administrator due to her inability to perform the functions, and authorized Ms. Lopez to proceed with the sale of the residence. Citation was issued to Ms. Poland regarding removal from office, but there is no proof of service in the court file.
9. **Estate of Welsh (PR12217).** No appearance is necessary. This matter has been effectively concluded. Court will review the ex parte petition for final discharge.
10. **Estate of Parreira (PR12058).** This Court intends to grant counsel's request for extraordinary fees, and to partially grant petitioner's request for extraordinary fees (at \$100/hr). In terms of the proposed distribution, this appears reasonable – except that it remains unclear to this Court whether the proposed amounts include, or exclude, Joyce's statutory fee of \$5,565.00). Counsel to clarify.
11. **Estate of Schrank (PR12350).** Letters were issued on 03/21/24. Pursuant to §8800, petitioner was to have on file a final I&A. A review of the court file fails to reveal said I&A. Petitioner to advise.
12. **Estate of Bettridge (PR12404).** Letters were issued on 03/21/24. Pursuant to §8800, petitioner was to have on file a final I&A. A review of the court file fails to reveal said I&A. Petitioner to advise on status.
13. **Estate of Gonzalez (PR12273).** This is a petition for distribution of decedent's intestate estate, coupled with approval of the final accounting and allowance of fees. While the Court is pleased with the effort made by petitioner as a self-represented individual, the use of a "form" petition found online leaves certain questions unanswered. Petitioner to appear and clarify how the assets (vehicle, residence) are held and how they are going to be distributed. Were all items in decedent's estate held as community property, or separate property subject to distribution in part to the children? Petitioner must also confirm how the two creditor claims (home loan, vehicle loan) will be resolved. Finally, petitioner must confirm whether she intends to waive statutory fees.
14. **Estate of Bratcher (PR12436).** This is a petition for probate and Letters Testamentary. There remains no proof of publication in the court file. Petitioner to advise.
15. **Estate of Thomas (PR12469).** This is a petition to open a decedent's estate. Unfortunately, the petition is not ready to be approved, as there are quite a few anomalies requiring cure. The petition

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indicates a request to probate a will, but then notes that the decedent died intestate. Petitioner must confirm. There is no request for IAEA authority, which petitioner would presumably like to have. There are no bond waivers attached, despite the reference. There are no other heirs listed in Para 8, but notice was provided to someone with the same surname as decedent. Petitioner resides out of state and did not include a permanent resident attestation required of out-of-state personal representatives. Para 3 does not appear to be filled out correctly. There is, also, no proof of publication. Petitioner will be encouraged to seek out the assistance of legal counsel in this matter to avoid delays.

16. **Estate of Ward (PR12198).** No appearance is necessary. The Court, having received and reviewed the TUO-PR-125, finds by a preponderance of the evidence that good cause exists to extend the statutory period for completing this administration. Court intends to set a \$12200 review hearing to occur in or about for 90 days.
17. **Estate of Keller (PR12402).** No appearance is necessary. This was to be the \$8800 review hearing, and a final I&A is already on file.
18. **Guardianship of Rivera (PR11862).** Confidential proceeding to determine whether the matter is at issue, the need for discovery, and trial setting. Parties and counsel to confirm parties waive necessity of citation to appear (§7880), whether ward should be interviewed (§7891), 45-day time waiver (§7870), service by publication (§7882), demand for live testimony (§217) versus evidence by declaration, etc., and whether either side requests trial by jury.
19. **In re Ylimaki Family Trust (PR12370).** No appearance is necessary. If no appearance occurs, Court intends to dismiss the action without prejudice. If appearance is made, petitioner/counsel should be prepared to advise whether the case should remain open for future trust administration concerns, or if it can be closed. §17202.
20. **In re R.B. Rocco Declaration of Trust (PR12471).** This is a petition to appoint a successor trustee to fill an existing vacancy in the office of trustee for the aforementioned trust. Pursuant to Probate Code §15660(d), a trial court may appoint a successor trustee on petition of “any interested person.” The petition does not make plain to this Court how petitioner qualifies as an interested person under Probate Code §48. Moreover, since petitioner herein was not named in the subject trust, bond is required absent “compelling circumstances.” §15602(b). Who are the remaining beneficiaries of the trust, and will they jointly nominate petitioner? This case is related to PR8993 and PR11421.
21. **In re J.D. Husher Trust (PR12452).** No appearance is necessary as the final order has been entered.
22. **Estate of Cascio (PR12396).** Court is awaiting declaration from counsel regarding the legal basis for having this action dismissed. See §12251.

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10:00 a.m.

23. **Conservatorship of Browne (PR11654).** No appearance is necessary. The Court, having received and reviewed the proposed final accounting, finds that the informal accounting provided is sufficient to meet the requirements herein, and that no formal accounting is required (see probate Code §§ 2620(b) and 2631). The accounting is approved, and the conservatorship of the estate is hereby terminated by operation of law.
24. **Conservatorship of Acosta (PR12114).** Court is still awaiting submission of the first accounting. Petitioner to advise as to the delay.
25. **Guardianship of Moore (PR12503).** This is a petition to appoint two NREFM individuals as co-guardians of an infant. Although both parents signed consents (§1500), it is unclear if either parent is subject to the heightened ICWA voir dire requirement. See §1500.1. Either way, the additional §1541 requirements are applicable since this is a nonrelative placement. Notice appears to have been provided (§1542). Court is awaiting Social Services report. Court will require additional information from both applicants regarding their responses on the GC-212. Petitioners to supply court with copy of proposed ward's birth certificate.
26. **Guardianship of Hagerman (PR11704).** Petition to terminate guardianship by biological mother. No proof of service. See §1601. Annual review hearing already set for 09/13/24. Court to re-appoint investigator. Matter is related to PR11676.
27. **Guardianship of Violet (PR12486).** Petition to graduate temporary guardianship to permanent. Confirm parties received DCSS report. Consider interview of proposed ward (age 12.5).
28. **Guardianship of Bustamante (PR11337).** Annual review hearing. Court is awaiting receipt of the GC-251 with attachments.
29. **Guardianship of Lima (PR12496).** This is a petition by the maternal grandmother to secure a non-consensual guardianship over two children – one with recent 5150 hold. Proposed wards are of age to be heard (§1514(e)(2)). Biological father objects, and notes that he has sole physical and legal custody in related dissolution action (FL16854). Court to address heightened burden for petitioner under §3041. Court to await receipt and review of investigative report. Consider coordination of this and family case here or in D.2.
30. **Guardianship of Martinez (PR11676).** Petition to terminate guardianship by biological parents. No proof of service. See §1601. Annual review hearing already set for 09/13/24. Court to re-appoint investigator. Matter is related to PR11704.
31. **In re Greener Special Needs Trust (PR11296).** No appearance is necessary. The Court, having received and reviewed the 5th Accounting, approves the accounting in all particulars, including the request for trustee and legal representation fees/costs. Court intends to sign the proposed order.

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32. **Conservatorship of Vincelet (PR9001).** No appearance is necessary. The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that a conservatorship of the person remains necessary and that the conservator is serving the conservatee's best interests. The Court's only concern, echoed in part by VMRC, is that the conservator is getting on in years, there does not appear to be a firm succession plan in place, and the conservator is a likely candidate for promotion to a limited conservatorship. Petitioner should consider these prior to the next hearing. Court intends to set annual review date.
33. **Conservatorship of Thomas (PR11810).** No appearance is necessary. The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that a conservatorship of the person 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.
34. **Conservatorship of Poe (PR11956).** No appearance is necessary. The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that a conservatorship of the person remains necessary, that a general conservatorship is the least restrictive option, and that the conservator is serving the conservatee's best interests. The Court's only question is whether this individual is a candidate for promotion to a limited conservatorship. Court intends to set annual review date.
35. **Guardianship of Carvalho (PR11074).** 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.
36. **Guardianship of Tuchsén (PR10954).** Court is awaiting updated GC-251.
37. **Guardianship of Burns-Brown (PR10965).** 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.
38. **Guardianship of Burell-Walters (PR10610).** Pursuant to Probate Code §1600(a), "a guardianship of the person terminates when the ward attains majority unless, pursuant to Section 1510.1, the ward requests the extension of, or consents to the extension of, the guardianship of the person until the ward attains 21 years of age." It would appear as though this guardianship has already terminated by operation of law. Petitioner to confirm.
39. **Guardianship of Castillo (PR11445).** Court is awaiting updated GC-251.

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1:30 p.m.

40. **Marriage of Ankiewicz (FL18501).** Settlement conference.
41. **Petition of D.F. (CV66277).** Nonconfidential petition to change last name. No proof of publication.
42. **In re Wick Revocable Trust (PR12418).** Settlement conference, day 2 – off calendar.
43. **Petition of R.L. (CV66268).** Nonconfidential petition to change last name.

3:00 p.m.

44. **Petition of R.W. (CV66189).** Confidential petition to change first name.