

Department 5 Probate Notes for Friday, September 13, 2024

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8:30 a.m.

1. **Conservatorship of Villasenor (PR9919).** The court file does not reflect the reason for this particular hearing.
2. **Estate of Babbitt (PR12375).** No appearance is necessary. This was to be the §8800 review hearing, but a final I&A is on file.
3. **Estate of Williams (PR12385).** No appearance is necessary. Given the nature of this proceeding, this Court accepts the representation that the estate consists of no assets save for whatever may come of the pending wrongful death claim. The Court intends to waive petitioner's obligation to file an I&A and will accept the same in conjunction with a petition to approve the settlement or a petition to close/distribute the estate.
4. **Estate of King (PR11586).** This probate administration was released into the wild 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 since ended – and counsel advised on July that a final petition would be forthcoming. Court finds that the time to roll out sanctions under §§ 12204-12205 is fast-approaching. Counsel to advise.
5. **Estate of Herell (PR12109).** This probate administration was released into the wild 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. Court finds that the time to roll out sanctions under §§ 12204-12205 is fast-approaching. Counsel to advise.
6. **Estate of Walsh (PR12267).** This matter relates in part to PR12029, PR12140, CVL65554 and CV65497. According to the status report filed by counsel for petitioner herein, resolution of CV65497 is required before petitioner may properly ascertain decedent's share in the related estate (PR12140). Since someone lodged on 12/07/21 an instrument purporting to be the Last Will and Testament of John Leonard Walsh dtd 05/10/21 (see PR12029), it seems to this Court that all five of these cases ought to be deemed related and coordinated together in Dept 5 in order to best position these cases for resolution. Counsel to advise.
7. **Estate of Hayes (PR11917).** This probate administration was released into the wild on 06/17/21. At the hearing on 03/15/24, this Court found good cause to extend the administration to permit resolution of what appeared to relatively minor matters. There is no new status report, no petition for final distribution, and no basis provided to this Court to continue delaying resolution. The supplemental I&A identifying functionless vehicles belies the assertion that “more work” was required before the property could be listed for sale. Court finds that the time to roll out sanctions under §§ 12204-12205 is fast-approaching. Counsel to advise.

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8. **Estate of Vochatzer (PR12382).** No appearance is necessary. This was to be the §8800 review hearing, but a final I&A is on file.
9. **In re Farren Living Trust (PR12110).** Parties to advise if the petition is ready for dismissal.
10. **In re Hardin Trust (PR12351).** This is a renewed request to have the currently-serving co-trustees removed from office for alleged breaches of their fiduciary duties. This issue was to have been decided along with related matters at the scheduled trial, which all parties agreed to have continued. The stipulation filed 07/29/24 specified that the continuance was intended to allow the parties to conduct discovery, complete an additional accounting, engage in “meaningful settlement discussions” and consider “potential alternative dispute resolution” – all of which was described as “beneficial to facilitate an amicable resolution of this matter.” This Court accepted the represented reasons for the requested continuance, granted said request, and fully expected the parties to proceed accordingly. In the interim, this Court authorized Petitioner to record a lis pendens against the Hope Lane property to avoid any risk of Ms. Garon further moving said property without the consent of all involved. Using “status quo” as the baseline, this Court was surprised to receive a motion filed 08/06/24, seeking penultimate relief on the petition (removal of the co-trustees) without any *new* averment as to why the issue should be addressed prior to trial. This Court has made no rulings or indications as to the merits of the petition, and notes for the benefit of all that some of the averments – if established – raise some flags. It is for that reason that this Court orders the parties to meet and confer and to evaluate the efficacy of identifying and retaining a private fiduciary to serve as successor trustee and to carry this thorny football over the endline. Whether the claims of wrongdoing have merit or not, the ongoing angst could be alleviated with a neutral ball carrier. If the parties cannot agree on this, the Court intends to require the co-trustees to post a bond in the amount of \$3M, notwithstanding the instrument’s waiver (see §15602(a)(2)). The amount represents – to this Court’s current understanding – 5/7ths of the trust res.

10:00 a.m.

11. **Conservatorship of Kleier (PR12410).** Counsel to provide status on bond and modified orders/Letters.
12. **Conservatorship of Fowles (PR12409).** Counsel to provide status on modified orders/Letters.
13. **Conservatorship of Friedman (PR12182).** No appearance is necessary. There being no opposition filed from conservatee’s counsel of record, the Court, having received and reviewed the recent investigative/interview report, and, intends to find by clear and convincing evidence (§2541.5) that the requested sale of the conservatee’s residence in Columbia is in the conservatee’s best interests, that the conservatee is unable to live in the residence, that 24/7 in-home care is neither warranted (given her eloping transgressions) nor financially viable, and that the conservatee requires – but has no other – access to liquid funds to maintain her level of care. Probate Code §2540(b). The property shall be sold in a private sale for cash (not deferred payments) for a total brokerage commission not to exceed 4.75%.

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14. **Guardianship of Sanchez (PR12168)**. No appearance is necessary. The Court having not received any petition to extend, confirms that this guardianship has terminated by operation of law.

10:30 a.m.

15. **Guardianship of Stone (PR11178)**. This is the annual review but the Court has not yet received any GC-251 from petitioner.

1:30 p.m.

16. **DeLeon v. Evans (FL18680)**. Trial on DVRO filed 07/30/24. TRO with OPP (minors) granted. Still no POS, despite DV-116. Presume matter is to go o/c.
17. **Freed v. Haskayne (CV66262)**. Trial on EARO filed 07/05/24. TRO with OPP (roommate) granted. Carve-out to retrieve personal items. Query SPCO?
18. **Petition of I.R. (CV66290)**. Nonconfidential hearing re name change. No proof of publication.

4:00 p.m.

19. **Guardianship of Garner (PR12361)**. Continued hearing on petition for permanent guardianship (filed 11/13/23), petition to terminate guardianship (filed 05/16/24), RFO re bio dad visitation (filed 07/24/24), and Court's *sua sponte* order re: 3041 hearing (made 07/26/24). All matters to be set for consolidated trial.