

Department 5 Probate Notes for Friday, September 20, 2024

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8:30 a.m.

- 1. Estate of Ross (PR11991).** Counsel to advise whether the repeated efforts by this Court to convince Title to proceed with closing the pending escrow have borne fruit. Court intends to set a filing deadline for the final petition.
- 2. Estate of Conlin (PR12507).** No appearance is necessary. The Court, having received and reviewed the Spousal Property Petition is satisfied that the statutory elements have been satisfied. This Court intends to enter the order, but queries whether creating an estate for Delores arguably subject to probate can be avoided given that the equitable owner of the property now would be whomever takes through Delores' estate.
- 3. Estate of Diaghilev (PR12393).** This is a petition to probate a will and for annex Letters. Decedent used a California will prepared in 2019 to pour assets into her Oregon trust established in 2016 (thrice amended thereafter). Decedent first nominated her son John to serve as executor, but he is no longer living. Decedent nominated her other son Thierry to serve in John's stead, but Thierry declined. Since the will does not expressly include the power to delegate (§8422), Thierry's nomination of petitioner herein is not alone sufficient. Pursuant to §8411(b), priority is given to those with the largest devise, and from there closest in the intestate line. There is no information provided as to who petitioner is. She is not a devisee under the will, or a beneficiary in the trust. It seems to this Court that Karina has current priority over petitioner, and all others. Counsel to advise.
- 4. Estate of McGee (PR12228).** No appearance is necessary. The Court, having received and reviewed the supplement to the petition, finds that in the interests of justice the petition and accounting shall be approved, and the order for transfer executed. As part of the future ex parte petition for discharge, counsel must include proof of full assumption of the mortgage. In addition, the unpaid legal fees must be secured via a note from the personal representative, not the estate. Counsel is free not to act on the note, but it must be outside the estate. Counsel to submit proposed order including these two conditions.
- 5. Estate of Schmidig (PR12117).** There is no proof of service attached to the simple accounting summary provided by petitioner, which makes it difficult for this court to confirm that all beneficiaries are on notice (and agree with) the stated distribution plan. In addition, there is no mention of the cash account from the dividends.
- 6. Estate of Carrigan (PR12367).** No appearance is necessary. The Court, having received and reviewed the petition for distribution and allowance of fees/costs, finds that the petition is proper in all respects and ready for approval. Court intends to enter order thereon.
- 7. Estate of Fortune (PR12502).** The petition indicates that decedent passed intestate, but counsel checked the box for probate of a will (presumably in error). Counsel indicates that the client is "Allison" but it appears that the client is actually Jacqueline. The nominations are acceptable (see §8465(a)(1)); however, when the nominated personal representative resides out of state (Oregon), a

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permanent residence attestation is also required (see §8573). Although the intestate heirs have requested no bond, this Court notes that a bond was imposed in Oregon for the primary action and asks whether that bond can be increased to cover the CA property at issue here (or if a new bond would be required).

8. **Estate of Larson (PR12422).** No appearance is necessary. This was to be the §8800 review hearing, but a final I&A is on file.

10:00 a.m.

9. **Conservatorship of Stevenson (PR11972).** Court still awaiting final accounting §§ 2630-2631.
10. **Conservatorship of Kohler (PR9777).** There is still no petition to terminate the conservatorship on file (see §1860.5(b)), or any proffer made by conservatee's counsel regarding the propriety of what appears to be the general consensus that the conservatee ought to be released into the wild sans protection. The County has echoed this Court's concern regarding intervention when/if an emergency arises, and whether the conservatee has sufficient tools to navigate that on his own. VMRC provided a supplemental report indicating in the affirmative. Pursuant to §1860.5(g), this court "shall order the termination of the limited conservatorship unless the court finds *by clear and convincing evidence* that the limited conservatee still meets the criteria for appointment of a limited conservator under Section 1801 and a limited conservatorship remains the least restrictive alternative needed for the limited conservatee's protection." Emphasis added. It does not appear that the conservatee still meets criteria or that the conservatorship is needed.
11. **Conservatorship of McVey (PR12301).** The Court is unable to find by clear and convincing evidence, based on the investigative report alone, that a general conservatorship is appropriate in this instance. This Court is also concerned that medical procedures may be scheduled/performed without appropriate judicial oversight. Counsel to advise.
12. **Conservatorship of Hempler (PR11622).** Court awaiting declaration from counsel before waiving requirement of final accounting.
13. **Conservatorship of Hix (PR11561).** No appearance is necessary. The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that the conservatee still qualifies for a general conservatorship, that a general conservatorship remains the least restrictive alternative for the conservatee's protection, and that that the conservator is serving the conservatee's best interests. Court intends to set annual review date.
14. **Guardianship of Mellott (PR11905).** No appearance is necessary. There being no application for extension on file, this guardianship has terminated by operation of law.
15. **Guardianship of Millis (PR12440).** No notes pending interview of proposed wards.

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16. **Guardianship of Spengler (PR12467).** Awaiting review of interview transcripts.
17. **Guardianship of Heinze (PR12458).** No appearance is necessary. On 07/19/24, this Court found the existence of exigent circumstances warranting the grant of a permanent guardianship despite the absence of a completed investigative report. This is a review hearing to confirm, with the aid of that report, the propriety of the guardianship. The Court, having received and reviewed that report, finds by a preponderance of the evidence that the guardianship remains necessary or convenient, and that the guardians continue to serve the ward's best interests. Court intends to set an annual review date.
18. **Guardianship of Leonard (PR12347).** Bio mom has filed a petition to terminate the guardianship, but has apparently failed to tender the court costs associated therewith. Unless some indication is made to correct this, the petition will need to be stricken.

1:30 p.m.

19. Petition of LC (CV66188). Nonconfidential petition for name change.
20. Marriage of Fairfield (FL7115). Hearing off calendar. Matter under submission.
21. Petition of JO (CV66318). Confidential petition for name change.
22. Marriage of Pearson (FL16809). Trial continued.