

Department 5 Probate Notes for Friday, October 18, 2024

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8:30 a.m.

1. **Conservatorship of Villasenor (PR9919).** No appearance is necessary. This hearing is off-calendar – reset to 12/06/24.
2. **Estate of Conlin (PR12480).** This is a petition for special administrative letters to reportedly wrap up the estate after the acting administrator passed away. Contrary to that stated in the petition, Letters were not issued more than four months prior. In fact, Letters were only issued in July, and no I&E or substantive administrative steps have been completed to this Court's knowledge. The petition does not specify what "special" tasks are needed, but since this is an entire administration, and Delores did not include in her will the power to delegate/designate (§8422), the proper procedure here is a fully-noticed petition to appoint a successor personal representative (in this case administrator with will annexed) pursuant to §8522. Even though Jo Ellen may be a logical choice for personal representative, she is not presumptively entitled thereto and must demonstrate an absence of others with statutory priority to serve as Delores' personal representative. See §8522(b). For example, a review of the trust instrument suggests that Julie would have higher priority than Jo Ellen (see §8441(b)), which begs the question was her consent with full knowledge of this? The Court would be amenable to both serving as co-administrators, but notice/publication is required.
3. **Estate of Dutton (PR12359).** No appearance is necessary. The Court, having received and reviewed the petition for allowance and final distribution, finds no issues therewith and intends to grant the petition. However, upon submission of the final receipts in advance of the application for discharge, petitioner must submit proof to the Court that the vehicle has been re-registered out of the decedent's name.
4. **Estate of Thornton (PR12237).** The Court, having received and reviewed the petition for allowance and final distribution, notes that the petition is not ready to be approved. The Petition is unclear if the assets attributable to the Thornton 1998 Trust has in fact been distributed to the estate because it is described as a non-cash asset (see page 3). In addition, assuming that Phillip survived the requisite period of time to vest as an heir of Mark's estate, Phillip's share must be directed to an estate established for Phillip to avoid the potential of defrauding Phillip's creditors, if any. Counsel to advise whether that office will handle that estate (§13100 petition?).
5. **Estate of Ahlswede (PR12282).** No appearance is necessary. The Court, having received and reviewed the petition for allowance and final distribution, notes that the petition is not ready to be approved. Although the Notice of Hearing filed 08/26/24 properly identifies the party with a current interest therein, there is no proof of service in the court file regarding the two orders entered 07/23/24 which informed other putative beneficiaries of this Court's determination of their standing. Since notice of those orders does not appear in the court file, they should have been included in the Notice of Hearing. Court intends to continue for proper notice. In the interim, the Court kindly requests counsel to revisit the amount of the extraordinary fees sought when compared to the size of the estate, the lack of formal opposition to the petition, and the number of internal communications between separately-billing members of the firm.

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6. **Estate of Reeves (PR12248).** Review hearing to ascertain whether the OAJR was sufficient to effectuate the necessary transfer of title.
7. **Estate of Spearer (PR12435).** No appearance is necessary. The Court, having received and reviewed petitioner's 12201 status report, intends to find by a preponderance of the evidence that good cause exists to (1) extend the period of time required for the filing of the I&A (see §8800(b) and (2) extend the period of administration for this estate in six-month increments, and that doing so is in the best interests of the estate (§12201(c)(1)). Court intends to set new §8800/12200 review date in mid-Spring.
8. **Estate of McMeehan (PR12511).** No appearance is necessary. The Court, having received and reviewed the spousal property petition, intends to find by a preponderance of the evidence that the conditions set forth in §§ 13540 and 13651 have been satisfied except that there is a gap in "the facts upon which the petitioner bases the allegation that all or a part of the estate of the deceased spouse is property passing to the surviving spouse" (see §13651(a)(3)) because there is no evidence submitted with the petition to demonstrate how title is *currently* held. Since an order confirming passage is conclusive against the world (§13657) this Court requires contemporaneous proof that decedent and petition currently own the parcels at issue. All that is offered is proof of ownership back in 2002. Court intends to continue unless such proof can be made at the hearing.
9. **Estate of Bain (PR12032).** This estate administration was released into the wild on 02/04/2022, and has been bogged down by a civil action that has already been resolved (CV64737). Court expected to already see a final petition, but alas there is none. Court intends to set a deadline for when the final petition must be on file.
10. **In re Farren Living Trust (PR12110).** Patience is a virtue ... until it is not.

10:00 a.m.

11. **Conservatorship of Juniewicz (PR12158).** 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 meets the statutory qualifications for a general conservatorship, that a general conservatorship remains the least restrictive alternative for the conservatee's protection, and that that the conservators are serving the conservatee's best interests. Court to set annual review date.
12. **Conservatorship of Dorsett (PR11572).** The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that the conservatee *may* still meet meets the statutory qualifications for a *general* conservatorship, that a general conservatorship *could still be* the least restrictive alternative for the conservatee's protection, and that that the conservators are serving the conservatee's best interests. Given that conservatee appears to be high-functioning, and appears to have stable support at home regardless, should the parties consider graduation to a limited conservatorship?

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13. **Conservatorship of Harris (PR11200).** The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that the conservatee *may* still meet meets the statutory qualifications for a *general* conservatorship, that a general conservatorship *could still be* the least restrictive alternative for the conservatee's protection, and that that the conservator is serving the conservatee's best interests. Given that conservatee appears to be high-functioning, and appears to have stable support at home regardless, should this be limited conservatorship?
14. **Conservatorship of Stone (PR7726).** The Court, having received and reviewed the investigative report, intends to find by clear and convincing evidence that the conservatee *may* still meet meets the statutory qualifications for a *general* conservatorship, that a general conservatorship *could still be* the least restrictive alternative for the conservatee's protection, and that that the conservators are serving the conservatee's best interests. Given that conservatee appears to be high-functioning, and appears to have stable support at home regardless, should this be limited conservatorship?
15. **Guardianship of Labrado (PR10632).** 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/convenient and that the guardians are serving the ward's best interests. Court intends to set annual review date.
16. **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), the bio mother is a member of the Choctaw Nation and is subject to the heightened ICWA voir dire requirement. See §1500.1. In addition, since this involves a nonrelative placement, the additional §1541 requirements are applicable. Court is still awaiting Social Services report and notice from Choctaw nation as to whether they intend to intervene. Biological parents cited to appear in order to confirm parentage and consent to guardianship.
17. **Guardianship of Ramirez (PR11538).** No appearance is necessary. This is related to #24. 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/convenient and that the guardians are serving the ward's best interests. Court intends to set annual review date.
18. **Guardianship of Towler (PR11524).** No appearance is necessary. As it first pertains to E.T., her guardianship has already terminated by operation of law (§1600), and there was no petition to extend. As it pertains to K.T., 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/convenient and that the guardian is serving the ward's best interests. Court intends to set annual review date with a notation that the ward will age out soon thereafter.
19. **Guardianship of Payne (PR10864).** 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/convenient and that the guardian is serving the ward's best interests. Court intends to set annual review date.

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20. **Guardianship of Barnes (PR12324).** This is a petition filed by the legal parent of a minor child to terminate an existing guardianship. A court can terminate a guardianship upon proper notice “if the court determines that it is in the ward's best interest to terminate the guardianship.” §1601. Ward will age out in nine (9) months (§1600). In addition, given the general rule that “a minor's parent may not be appointed as a guardian of the person of the minor” (§1514(b)(2)), and the evidentiary burden for a nonparent to retain custody over the objection of a parent (see Family Code §3041), the need for this particular guardianship will be closely scrutinized.
21. **Guardianship of Bacon (PR11781).** No appearance is necessary. This is related to #23 and #26. 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/convenient and that the guardians are serving the ward’s best interests. Court intends to set annual review date.
22. **Guardianship of Rector (PR11220).** 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/convenient and that the guardians are serving the ward’s best interests. Court intends to set annual review date.
23. **Guardianship of Perkins (PR11004).** No appearance is necessary. This is related to #21 and #26. 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/convenient and that the guardians are serving the ward’s best interests. Court intends to set annual review date.
24. **Guardianship of Flynn (PR11513).** No appearance is necessary. This is related to #24. 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/convenient and that the guardians are serving the ward’s best interests. Court intends to set annual review date.
25. **Guardianship of Brennan (PR11461).** The Court is awaiting an updated GC-251. Separately, there is a petition filed by the biological mother to terminate the guardianship. Court has already appointed investigator. Court intends to inquire of guardian whether she intends to object to the petition and request an evidentiary hearing thereon. The Notice for the hearing does not include any notice to the biological father, which is required. See §1601.
26. **Guardianship of Betti (PR11632).** No appearance is necessary. This is related to #21 and #23. 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/convenient and that the guardians are serving the ward’s best interests. Court intends to set annual review date.
27. **Guardianship of Avilla (PR11592).** 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/convenient and that the guardians are serving the ward’s best interests. Court intends to set annual review date.

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1:30 p.m.

28. **Petition of R.B. (CV66353).** Confidential proceeding to change name.
29. **Marriage of Smiley (FL17674).** Settlement conference.
30. **Thomson v. Grogan (FL18372).** Cheek swab results in. Blood test scheduled. Matter continued per party request.

3:00 p.m.

31. **Beach v. Glenn (FL18432).** Trial setting. Court declined to accept stipulated agreement and appointed counsel for the minor child (see Family Code §3150(a); CRC 5.240(a), 5.241(c)). Stipulated agreement likely to be set aside based on ADA conditions and support person not present. Court will consider assignment to investigator to ensure best interests of the child are being met given the representation that the biological father resides in a van.