

## Department 5 Probate Notes for Friday, June 21, 2024

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### 8:30 a.m.

- 1. Conservatorship of Ennis (PR10906).** Pursuant to Probate Code §2352, “the conservator may establish the residence of the conservatee at any place within this state without the permission of the court. The conservator shall select the least restrictive appropriate residence that is available and necessary to meet the needs of the conservatee, and that is in the best interests of the conservatee. If permission of the court is first obtained, a conservator may establish the residence of a conservatee at a place not within this state.” Here, the conservators permitted the conservatee to move out of state, without notice or first obtaining court approval (see also CRC 7.1063), and without commencing any proceeding here or in Nevada to transfer the conservatorship (see §2001). However, based on the investigative report, it would appear to this Court that the conservatee is doing quite well in Nevada, the conservators have no intention of having the conservatorship transferred to Nevada, and the conservatee may not even qualify for a conservatorship in Nevada given his high level of independent functioning. The Court will entertain an oral motion to terminate the conservatorship (§1861), waive good cause for the appointment of counsel and hearing (§1861.5), waive formal notice (§1862), and waive the evidentiary hearing itself (§1863(h) and TCSC Rule 6.17.0).
- 2. Conservatorship of Lee (PR10728).** This Court received notice on 06/04/24 that the conservatee passed away almost two years ago. Pursuant to §1860(a), the conservatorship terminates by operation of law upon the conservatee’s passing. However, “the conservator continues to have the duty of custody and conservation of the estate after the death of the conservatee pending the delivery thereof to the personal representative of the conservatee's estate or other disposition according to law.” §2467. Notice must also be delivered “to the heirs or devisees of the deceased conservatee.” TCSC Rule 6.17.0(b). Although this was just a conservatorship of the person, and not the estate, is there a related probate proceeding?
- 3. Conservatorship of Kopyn (PR8895).** This Court, having received and reviewed the confidential investigative report, will find by clear and convincing evidence that some level of conservatorship remains necessary for this individual, and that the conservators are acting in the conservatee’s best interests. However, it does appear to this Court that this general conservatorship is due for a promotion to *limited* conservatorship, which would result in continued biennial reviews (rather than the annual requirement for general conservatorships). Parties to discuss.
- 4. Estate of Costa (PR12441).** The petition for probate and for letters testamentary is still not ready for approval. Although the bulk of the notes previously issued have been cleared, the will does not contain any witness signatures (§6110(c)). The jurat only establishes *who* signed the document, not the intention behind the signature. As such, petitioner is required to separately establish “by clear and convincing evidence that, at the time the testator signed the will, the testator intended the will to constitute the testator's will.” A declaration from Ms. Isley, or anyone with personal knowledge of decedent’s intentions on 10/04/23, would suffice.

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5. **Estate of Antonich (PR12155).** Although petitioner repeatedly refers to disclaimers from decedent's father and mother, a review of the court file fails to reveal said disclaimers. See Probate Code §280(a). In addition, the two disclaimers on file (from the siblings) do not adequately "describe the interest to be disclaimed" since there is no POS on the I&A and no evidence from which to glean that the disclaimants actually knew the value of what they were disclaiming. See Probate Code §278(b). There is insufficient information provided to the Court to permit the optional fairness. See §11604 and *Estate of Bennett* (2008) 163 Cal.App.4th 1303, 1311. Finally, since the sibling disclaimers were filed well beyond the 9-month window set forth in §279(b)(2), it is incumbent upon them to explain how their disclaimers were "filed within a reasonable time." Supplemental declarations from all three surviving disclaimants will be required.
6. **Estate of Wall (PR12466).** This is a petition to determine succession to property by way of a testamentary will. Although petitioner failed to attach DE-300 to the petition, this Court waives that requirement in order to reach the merits. As for the merits, this court is unclear how the property was appraised at \$150,000 considering the fixer-upper next door sold for \$190,000 earlier this year, and online estimates place the value of the property closer to \$290,000. Has this a manufactured home subject to exemption under §13050(b)(3)? Petitioner to advise how the estimate was reached for Court to make required finding under §13154(b)(1).
7. **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 they were received left hanging with the departure of their attorney, their inability to work together was precisely the reason for the delays and his departure. 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 are ordered to invite to the next hearing the only other beneficiary (Dwight) and ascertain his willingness to take over.
8. **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. Either way, this Court finds good cause exists to extend the administration and intends to set a review hearing for 90 days out.
9. **Estate of Hayes (PR11917).** At the prior 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. Counsel to advise in writing the basis for the delay and why sanctions under §§ 12204-12205 should not be considered/imposed at this juncture.

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10. **Estate of Gallegos (PR12463).** No appearance is necessary (which is fortuitous given that petitioner listed the hearing time as 8:00 a.m.) After review of the petition for administration and letters, this Court finds that the petition is proper in all respects, including waivers and the nomination. Court intends to grant, issue Letters, and set §§ 8800 and 12200 review dates.
11. **Estate of Thornton (PR12237).** Pursuant to Probate Code §12200, petitioner had 12 months from when he received Letters to either petition for final distribution or secure an order from the Court extending administration. Letters were issued 03/24/23. A request for additional administrative was made. This Court finds good cause to grant that request and intends to reset the review hearing for 60 days out.
12. **Estate of Reeves (PR12248).** Pursuant to Probate Code §12200, petitioner had 12 months from when he received Letters to either petition for final distribution or secure an order from the Court extending administration. Letters were issued 04/14/23. Petitioner has previously demonstrated some difficulty figuring out how to navigate estate administration, and this is another example. There is no status report or petition to file the administration. Petitioner is going to have to put some effort in with a legal assistant to get this one over the goal line.
13. **Estate of Ramsgard (PR12135).** No appearance is necessary. While a bench officer with thinner skin might take offense to the tone peppered throughout counsel's written response, the substance thereof is sufficient to satisfy the prior probate notes. The Court intends to grant the petition.
14. **Estate of Cascio (PR12396).** This is an OSC re sanctions. Following this Court's grant of special administrative authority to ward off a possible foreclosure on the estate's primary asset, petitioner has gone radio silent regarding the actual petition for administration, or any report.

### 10:00 a.m.

15. **Conservatorship of Acosta (PR12114).** This matter is set for a review of the first accounting. Letters were issued 06/02/22, making the first accounting quite tardy. Petitioner to advise.
16. **Guardianship of Gonzales (PR12260).** No appearance is necessary. The Court, having received and reviewed the GC-251 with attachments, finds by a preponderance of the evidence that the guardianship remains necessary/convenient, and that the guardians are serving/meeting the ward's best interests. Court intends to set annual review date.
17. **Guardianship of Dalrymple (PR11165).** Guardians were to supplement the GC-251 and address concerns raised in the prior probate note from 05/17/24.
18. **Guardianship of Guida (PR12448).** Hearing to determine whether the existing temporary guardianship should be converted to a permanent guardianship or terminated altogether. No investigative report yet to review, but notes in the file suggest that additional time will be needed to ascertain both the necessity of a guardianship and the propriety of the petitioner to serve.

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### 10:30 a.m.

- 19. Conservatorship of Aguirre (PR12272).** No appearance is necessary. This Court, having received and reviewed the confidential investigative report, will find by clear and convincing evidence that a conservatorship remains necessary for this individual, that a general conservatorship appears to be the least restrictive option, and that the conservator is acting in the conservatee's best interests. Court intends to set annual review date.

### 1:30 p.m.

- 20. In re Calabrese (PR12430).** Nonconfidential hearing re relief from firearm restriction per §8103(g). Applicant is deemed the petitioner, not the D.A. Applicant to advise whether hearing shall be closed. "If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms." However, "it shall be unlawful for any person who has been committed to a mental institution to possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce." 18 USC §922(g)(4).

### 3:00 p.m.

- 21. Marriage of Darrow (FL17941).** Chambers interview per §3042; CRC 5.250.