

## Department 5 Probate Notes for Friday, December 6, 2024

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### 8:30 a.m.

- 1. Estate of Ross (PR11991).** No appearance is necessary. The Court, having received and reviewed petitioner's declaration, finds by a preponderance of the evidence that no good cause exists to delay the closing of this estate, and that a petition for final distribution must be on file within 30 days. Failure to have that petition on file within 45 days will expose both petitioner and counsel to surcharge. See Probate Code §12205. Court intends to set OSC re sanctions for late January, 2025.
- 2. Estate of Conlin (PR12480).** No appearance is necessary. The review hearing for confirmation of the filing of a final I&A can go off-calendar since a final I&A was filed 11/13/24, alongside a petition for final distribution. Delores died 04/29/24. Bonnie, her daughter, assumed the role of executor but died 09/17/24. Petitioner secured special administrative letters to carry the ball into the endzone, which she has done. The Court, having received and reviewed the petition, intends to conclude with relative ease that the costs incurred are reasonably necessary for the conduct of the case, that the statutory and extraordinary fees sought by counsel are reasonable in amount and reflect beneficial services to the estate, and that the plan for distribution (transfer deed of the property to Bonnie in her individual capacity, with fees paid by petitioner) is warranted. If counsel appears, Court would only inquire whether a deed into Bonnie's trust might assist.
- 3. Estate of Howell (PR12465).** Pursuant to Probate Code §8800, petitioner had four months from the issuance of Letters to file a final Inventory & Appraisal. Letters were issued 07/12/24, which puts petitioner outside the four-month period, and yet no I&A appears in the court file. Counsel to advise.
- 4. Estate of Belletto (PR12442).** No appearance is necessary; a final I&A is already on file. This review hearing can go off-calendar.
- 5. Estate of Schnell (PR12481).** No appearance is necessary; a final I&A is already on file. This review hearing can go off-calendar.
- 6. Estate of Vasquez (PR12468).** No appearance is necessary; a final I&A is already on file. This review hearing can go off-calendar. As a note, however, the DE-160 marked "final" is supposed to include *all* of the assets of the estate, not simply the last asset uncovered (see §8850 and CRC 7.501). "Supplemental" is for new assets uncovered after the "final" is filed (see §8801), and "corrected" is for adjustments made to a previous "final," which includes all of the assets (see TCSC Rule 5.14.0). However, this is just guidance for the future – no changes are needed in this instance.

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7. **Estate of Burman (PR12470).** No appearance is necessary; a final I&A is already on file. This review hearing can go off-calendar.
8. **Estate of Hatler (PR12449).** Pursuant to Probate Code §8800, petitioner had four months from the issuance of Letters to file a final Inventory & Appraisal. Letters were issued 05/31/24, which puts petitioner outside the four-month period, and yet no I&A appears in the court file. Counsel to advise.

### 10:00 a.m.

9. **Conservatorship of Harris (PR11200).** Counsel to advise whether conservators are amenable to a discussion regarding limited conservatorship. Otherwise, this 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 will set annual review date.
10. **Conservatorship of Villasenor (PR9919).** The Court, having received and reviewed two separate accountings – one from Martha and one from Mark – notes that the two accountings combined provide a sufficient glimpse into the accountings for this conservatorship to permit a finding that no breach of fiduciary duty has occurred. Court intends to inquire of co-conservator (and petitioner on the pending §2651 motion) whether there is still a need to address the §2651 petition or whether this dispute has been resolved. Court open to setting annual review dates and moving forward.
11. **Conservatorship of Stone (PR7726).** Counsel to advise whether conservators are amenable to a discussion regarding limited conservatorship. Otherwise, this 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 will set annual review date.
12. **Guardianship of Ocanas (PR11471).** This is a guardianship involving two minor children. Pursuant to Probate Code §1513.2(a), every year the guardian shall complete and return to the court a status report (GC-251). The court clerk is required to provide a reminder to the guardian, along with a blank GC-251, which did occur herein on 10/07/24. Guardian to advise as to the status.

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13. **Guardianship of Miller (PR10760).** No appearance is necessary. Despite the guardian's failure to complete Para 2 of the GC-251, the Court has received and reviewed the balance of the GC-251 with attachments and intends to find by a preponderance of the evidence that a guardianship remains necessary or convenient. Court intends to set annual review date.
14. **Guardianship of Johnson (PR11692).** No appearance is necessary. The Court, having received and reviewed the GC-251 with attachments, and intends to find by a preponderance of the evidence that a guardianship remains necessary or convenient. If the guardian appears, a conversation regarding the obligation to control the ward's contacts is needed, including the issues of potential civil liability for allowing ward to have social contacts with potential undesirables. Court intends to set annual review date to correspond to the termination by operation of law date, as ward will be aging out soon.
15. **Guardianship of Tuggle (PR11477).** No appearance is necessary. The Court appreciates the submission of an updated GC-251, but notes that the guardianship terminated by operation of law in April of this year. Court wishes to thank the guardians for their service in developing an exceptional young adult.
16. **Guardianship of Underwood (PR10766).** Following a discussion with the guardians in February, it would appear to this Court that while a guardianship for this young man remains necessary, the guardians' request that it transfer to maternal grandmother makes sense (1) the ward has resided full-time with the maternal grandmother for a substantial period of time (Family Code §3041) and (2) wards are supposed to be raised in a permanent stable environment (Probate Code §1610(a)), which is hard to control for when the ward does not reside with the guardians. A guardian may at any time tender a resignation from the office upon a noticed motion, which resignation "shall" be accepted "when it appears proper." Probate Code §2660. However, appointment of a successor guardian requires "notice and hearing as in the case of an original appointment of a guardian." Probate Code §2670. Ideally, the hearing on the resignation and the hearing on appointment of the successor should occur together, and the Court has nothing from the maternal grandmother commencing a substitute guardianship.
17. **Guardianship of Stevens (PR11478).** This is a co-guardianship (person and estate) involving one minor children. Pursuant to Probate Code §1513.2(a), every year the guardians shall complete and return to the court a status report (GC-251). The court clerk is required to provide a reminder to the guardian, along with a blank GC-251, which did occur herein on 10/07/24. Guardians to advise as to the status.

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**18. Guardianship of Alexander (PR12459).** This is a petition by concerned family members (paternal aunt and spouse) to establish a guardianship for a minor child over the strong objection from both biological parents. Since the proposed guardians have not assumed the role of *de facto* parent status, Family Code §3041 requires them to show by clear and convincing evidence that leaving custody in the hands of the biological parents would be detrimental to the child and that creating the guardianship is required to serve the best interest of the child. This Court is aware of the fact that both biological parents are facing current criminal charges. See CRM72969, CRM72269, CRM74538, CRM74626, and CRM74537. Based on the initial court investigative report, and the equivocal evidence of unfitness, this Court reminded petitioners of the risk associated with pursuing unmeritorious petitions (see Probate Code §1611). The updated investigative report confirms that the child has been regularly attending school, in clean clothes, and with proper hygiene. The latest issue appears to be that the parents are no longer receptive to extended family input, but that is the Constitutional right of parents to control contacts. However, the court investigator notes that the parents have been a challenge to reach and schedule the home visit, so a brief continuance appears needed.

**1:30 p.m.**

**19. Petition of JDF (CV66548).** Confidential proceeding to change name.

**20. Freed v. Haskayne (CV66262).** This is a petition for a civil harassment restraining order protecting a dependent adult from a former significant other. Parties were ordered to file and serve witness lists, exhibits lists and trial briefs by 11/22/24. A review of the court file fails to reveal any trial documents, which permits an inference for this Court that perhaps the parties have agreed to proceed by way of a stipulated personal conduct order instead.