

1. 22PR0251 ESTATE OF WHEAT

First and Final Report on Waiver of Account; Petition for Final Distribution

Letters Testamentary were issued to Petitioner on August 21, 2023. An Inventory and Appraisal was filed on August 28, 2023, with full authority under the Independent Administration of Estates Act.

Proof of Service of Notice of the hearing on the Petition was filed on November 20, 2023.

Laura Quaco and Zachary Wheat filed waivers of account on November 8, 2023. Frank Wheat and Jennifer Younts filed waivers of account on November 15, 2023. The proposed distribution of the estate is in equal shares to these four beneficiaries in equal shares in accordance with the terms of the Will.

The Petition requests:

1. The First and Final Report on Waiver of Accounting be approved as filed;
2. Petitioner be authorized to pay statutory attorney fees in the amount of \$13,115.56, plus \$957.20 for costs advanced to the estate;
3. Approval of distribution of the estate to the persons entitled to it pursuant to the Petition;
4. Petitioner be authorized to retain \$3,000 to pay for tax preparation for final estate income tax returns, and to deliver the unused part to the beneficiaries of the estate;
5. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed made to the beneficiaries as set forth in the Petition.

A status of administration hearing is currently scheduled for July 8, 2024.

TENTATIVE RULING #1: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

2. 22PR0092 ESTATE OF PICKELL

Status of Administration

At a previous hearing on January 30, 2023, the court granted the Petition for Final Distribution on Waiver of Account. There have been no additional filings since the January 30, 2023, hearing. There were no appearances at the May 22, 2023, status of administration hearing.

No receipts for final distribution or Petition for Order of Final Discharge (DE-295) have been filed with the court.

A status of administration hearing is currently scheduled for May 20, 2024.

TENTATIVE RULING #2: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 29, 2024, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

3. 23PR0313 ESTATE OF HARPER

Petition for Letters Testamentary

A Petition to administer decedent's estate was filed on December 18, 2023. The Petition requests full authority under the Independent Administration of Estates Act.

Decedent died testate on August 31, 2023, survived by two living adult children. Petitioner is decedent's daughter.

The Will was lodged with the court on December 18, 2023, and is admitted to probate.

Decedent's son David Harper was named as first Executor in the Will, but has filed a declination to serve as Executor on December 18, 2023. Petitioner was named as the second Executor in the Will.

The Will waives bond.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on December 18, 2023.

Proof of Service of Notice of the hearing on the Petition was filed on December 19, 2023.

Proof of publication was filed on January 16, 2024.

TENTATIVE RULING #3: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 27, 2025, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

4. PP20210005 ESTATE OF HING

Status of Administration

TENTATIVE RULING #4: AN ORDER FOR FINAL DISCHARGE HAVING BEEN ENTERED ON JUNE 5, 2023, THE MATTER IS REMOVED FROM CALENDAR.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

5. 23PR0002 ESTATE OF MARDEN

First and Final Account

Letters of Administration were issued on May 12, 2023, granting Petitioner full authority under the Independent Administration of Estates Act. Petitioner is decedent's daughter.

A Final Inventory and Appraisal was filed on July 10, 2023.

Proof of Service of Notice of the hearing on the Petition was filed on January 11, 2024.

The entire estate consists of the proceeds of sale of real property held by decedent as her separate property. Decedent is survived by her spouse and three adult children. Pursuant to Probate Code § 6401, the surviving spouse inherits one-third of the decedent's separate property where the decedent is survived by more than one child. Probate Code § 6401(c)(3)(A). The remaining two-thirds are to be divided equally among the surviving children. Probate Code § 6402(a). Petition, Schedule G specifies that the estate be divided in accordance with the Probate Code § 6401(c)(3)(A) and § 6402(a).

The Petition requests:

1. The administration of the estate be brought to a close;
2. The First and Final Account filed with the Petition be settled, allowed and approved;
3. All acts, transactions and proceedings of Petitioner be ratified, confirmed and approved;
4. Petitioner be authorized to pay statutory attorney fees in the amount of \$28,000, plus \$5,271.00 for costs advanced to the estate;
5. Petitioner be authorized to pay herself \$28,000 in statutory compensation.

Although it is not specified in the prayer of the Petition, the legally required distribution to the heirs is set forth in the proposed Order. There is no objection to the Petition on file with the court.

TENTATIVE RULING #5: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

6. PP20200044 ESTATE OF SNOW

Status of Administration

This matter was continued from August 10, 2022, and again on January 30, 2023.

Letters Testamentary were issued on June 17, 2020. The Final Inventory and Appraisal was filed on October 8, 2020. To date, there is no final account and request for order of final distribution in the court's file.

TENTATIVE RULING #6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 29, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 27, 2025, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

7. 21PR0004 ESTATE OF COX

Status of Administration

Letters Testamentary were issued to Jennnifer Fleming on October 19, 2021. Subsequently the executor passed away. On February 6, 2023, Letters of Administration with Will Annexed were issued to Eric Fleming, the husband of the prior Executor.

A Final Inventory and Appraisal was filed on October 30, 2023.

TENTATIVE RULING #7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 29, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 27, 2025, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

8. 23PR0285 ESTATE OF HALLIDAY

Letters of Administration

Decedent died intestate on October 26, 2023, survived by two daughters and three minor children of a predeceased child. Petitioner is decedent's daughter.

The Petition requests full authority under the Independent Administration of Estates Act.

A waiver of bond has been filed with the court by the adult beneficiary, Petitioner's sister. Orders appointing guardians ad litem for the three minor children were entered on January 24, 2024, and waivers of bond were filed on their behalf on January 24, 2024.

A Duties/Liabilities statement DE 147 was filed on November 13, 2023, but was not signed. A DE 147s form was filed on November 17, 2023.

Proof of Service of Notice of the hearing on the Petition was filed on December 9, 2023.

Proof of publication was filed on January 9, 2024.

TENTATIVE RULING #8: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED, SUBJECT TO THE REQUIREMENT THAT PETITIONER FIRST FILE A FORM DE-147 WITH HER SIGNATURE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

9. 23PR0304 ESTATE OF RATY

Letters of Administration

Decedent died intestate on September 28, 2023, survived by seven children. Petitioner is decedent's daughter. The Petition requests full authority under the Independent Administration of Estates Act.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on December 6, 2023.

Proof of service of Notice of the Petition was filed on December 11, 2023.

Proof of publication was filed on January 9, 2024.

Waivers of bond have been filed by five of decedent's seven children identified in the Petition. Either waivers of bond must be filed by the other two children, Renee Townsend and Cheryl Raty, or the court will set a bond amount for the estate valued at approximately \$366,500.

TENTATIVE RULING #9: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 29, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 27, 2025, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

10. 23PR0041 ESTATE OF ROBBINS

First and Final Account and Petition for Final Distribution

Letters of Administration were issued on April 17, 2023.

A Final Inventory and Appraisal was filed on July 3, 2023.

Notice of the hearing on the Petition was filed on November 20, 2023, however, the copy on file with the court does not include a service list of the individuals on whom notice was served.

The proposed distribution of the estate is proposed to be to the sole heir of the estate, after payment of outstanding obligations. Petitioner waives statutory compensation.

The Petition requests:

1. The First and Final Account be approved, allowed and settled;
2. That all reported acts and proceedings of Petitioner be confirmed and approved;
3. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed to the beneficiaries as set forth in the Petition.

TENTATIVE RULING #10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 29, 2024, IN DEPARTMENT NINE TO DETERMINE WHETHER NOTICE OF THE HEARING WAS PROPERLY SERVED ON THE BENEFICIARIES TO THE ESTATE. UPON SUCH SHOWING AND ABSENT OBJECTION, THE PETITION SHALL BE APPROVED AS REQUESTED.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

11. 22PR0222 ESTATE OF FENNESSY

Status of Administration

Letters Testamentary were issued on February 2, 2023.

An Inventory and Appraisal was filed on June 13, 2023.

TENTATIVE RULING #11: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 29, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 27, 2025, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

12. 22PR0228 ESTATE OF MARSHALL

Status of Administration

Letters Testamentary were issued on January 25, 2023.

TENTATIVE RULING #12: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 29, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 27, 2025, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

13. 22PR0131 ESTATE OF LOCKE

First and Final Account and Petition for Final Distribution

Letters Testamentary were issued on November 14, 2022.

A Final Inventory and Appraisal was filed on September 2, 2022.

Notice of the hearing on the Petition was filed on December 11, 2023.

The proposed distribution of the estate is to Petitioner as trustee of the Sharon L. Locke Revocable Trust, in accordance with decedent's Will.

The Petition requests:

1. The administration of the estate be brought to a close;
2. Petitioner's accounting be settled, allowed and approved;
3. All acts and proceedings of Petitioner as alleges in the Petition be ratified, confirmed and approved;
4. Petitioner be authorized to pay statutory attorney fees in the amount of \$7,728.00;
5. Petitioner be authorized to pay herself \$7,728.00 in statutory compensation;
6. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed as set forth in the Petition.

TENTATIVE RULING #13: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

14. 23PR0292 MATTER OF ANDREW AND ROBALYNN KING REVOCABLE FAMILY TRUST

Trust Petition

This unopposed Petition concerns a Trust executed by settlors who resided at a residential real property located in Sacramento County. The residence of the trustee and thus the principal place of administration of the Trust is in El Dorado County. There is currently an action ongoing in Sacramento County Superior Court clear title to and partition the real property (Case No. 23CV011491).

Petitioner filed this Petition in El Dorado Superior Court in order to prevent any claim that she is estopped from asserting her rights under Probate Code § 16061.8¹ for failing to bring an action to contest the issue of whether the real property is properly included among Trust assets.

Petitioner requests this court to stay this Petition pursuant to Probate Code § 854:

If a civil action is pending with respect to the subject matter of a petition filed pursuant to this chapter and jurisdiction has been obtained in the court where the civil action is pending prior to the filing of the petition, upon request of any party to the civil action, the court shall abate the petition until the conclusion of the civil action. This section shall not apply if the court finds that the civil action was filed for the purpose of delay.

TENTATIVE RULING #14: ABSENT OBJECTION, THE PETITION IS ABATED PENDING THE CONCLUSION OF THE CIVIL ACTION IN SACRAMENTO COUNTY, CASE NO. 23CV011491.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

¹ “A person upon whom the notification by the trustee is served pursuant to paragraph (1) of subdivision (a) of Section 16061.7, whether the notice is served on the person within or after the time period set forth in subdivision (f) of Section 16061.7, shall not bring an action to contest the trust more than 120 days from the date the notification by the trustee is served upon the person, or 60 days from the date on which a copy of the terms of the trust is delivered pursuant to Section 1215 to the person during that 120-day period, whichever is later.” Probate Code § 16061.8.

15. 22PR0099 ESTATE OF MCNULTY

Status Conference re Compliance with Court Orders

At the hearing of October 2, 2023, the court issued an Order requiring Carrie Schroeder to comply with Requested Orders Nos. 1, 2, 3 and 7 requiring the filing of an accounting for the period from March 4 through October 2, 2023, and turning over certain information and keys to the property and the vehicles that belong to the estate. The court deferred a Requested Order for compliance with Orders Nos. 4, 5 and 6 related to payment of rent and her occupation of the property that is the principal asset of the decedent's estate.

At the hearing of October 16, 2023, counsel for Petitioner Bolduc confirmed compliance with some but not all of the court Orders, and the Order to Show Cause was continued to November 27, 2023.

At the hearing of November 27, 2023, the court ordered Carrie Schroeder:

1. To provide Tax ID to Attorney Yang by the end of the day; and
2. To meet with Attorney Yang to review accounting and to supply the requested documentation by December 8, 2023.

The hearing to determine compliance with court orders was then continued to January 29, 2024.

TENTATIVE RULING #15: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 29, 2024, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

16. 22PR0133 MATTER OF THE ROBERT SIMAS FAMILY REVOCABLE TRUST

Status Conference

On May 10, 2022, a Petition to Remove Trustee, to Compel Trustee to Account and to Appoint Successor Co-Trustees was filed by Jean Simas Varozza, a beneficiary and co-trustee of the Robert Simas Family Revocable Trust Dated July 23, 1980. Petitioner alleges that the Trustee has failed to abide by the terms of the Eleventh Amendment to the Trust, that a deed signed by the settlor conveying real property to the Trustee was signed unintentionally, that the Trustee has failed to allow Petitioners to act as co-Trustees as required by the Trust, and that the Trustee has failed to provide any information or accounting to the beneficiaries/coTrustees. The Petition requests that James Simas be removed as Trustee and that Gail Simas aka Gail Elise be appointed as sole Trustee.

On August 15, 2022, James Simas, Trustee, filed a response to the Petition to Remove Trustee denying the allegations. A hearing set for August 17, 2022, was continued due to insufficient notice. Proof of service and a notice of hearing on the Petition was served on the beneficiaries and other interested persons on December 22, 2022.

On February 6, 2023, this matter was continued to March 13, 2023. On March 13, 2023, the court set a date for Settlement Conference on May 24, 2023, which was later vacated due to unavailability of the court. A Review Hearing was conducted on June 12, 2023, and the matter was continued to October 2, 2023.

At the October 2, 2023, hearing a settlement conference was scheduled for January 17, 2024, but due to the unavailability of the court, the settlement conference was rescheduled to May 29, 2024.

TENTATIVE RULING #16: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 29, 2024, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

17. 22PR0317 MATTER OF THE JOHN M. "MIKE" SHIELDS REVOCABLE LIVING TRUST

Trust Petition

Petitioners, Ruby Shields and Paul Shields, are beneficiaries of the John M. "Mike" Shields Revocable Living Trust, dated August 11, 2000, and with a First Amendment dated March 26, 2021 ("Trust").

On December 9, 2022, Ruby Shields and Paul Shields filed a Petition to confirm trust terms, for an order to compel trustee to account, request for financial documents, and request for attorney fees and costs. Petitioners are the children of John M. "Mike" Shields, the settlor and initial trustee of the Trust.

Respondent Leslie C. Myrick was the girlfriend of the decedent, the acting successor trustee of the Trust, and also a beneficiary of the Trust.

The Petition requests that Respondent provide a full and complete copy of the Trust; that she prepare and file a complete account and report of her acts as successor trustee from April 15, 2022 (date of settlor's death) to the present; that she be instructed to petition this court for settlement of the account and give notice of the hearing on the petition, and that Respondent provide documentation for any and all financial accounts owned by the settlor as of the date of his death, including accounts held in joint tenancy with any other person or assets payable on death through beneficiary designation. Petitioners also request attorney fees and costs.

On January 12, 2023, Respondent filed a response and objection to the Petition. Specifically, Respondent objects to an award of attorney fees and costs as there was no formal or specific demand to do an accounting. Respondent agrees to provide an account of the Trust's assets and expenses as of the settlor's date of death to the present, and then annually as required by the Probate Code. Respondent states that a copy of the terms of the Trust as possessed by Respondent was provided to the beneficiaries along with the notice of trust administration. She will collect and provide whatever other documents she has.

At the hearing of March 13, 2023, the court ordered an accounting to be filed, served and delivered to the office of counsel for Petitioners by May 15, 2023.

On May 10, 2023, Respondent filed a First Accounting. At a hearing held on May 22, 2023, the court ordered all documents regarding the evaluation of personal property and the Trust be given to counsel for Petitioners, and that any declarations regarding the Trust be filed by June 16, 2023. The hearing was then continued.

On June 5, 2023, Respondent filed a Declaration, dated May 24, 2023, stating that she has not been able to locate a signed original of the Trust document, or any entire copy of the 10-

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On September 1, 2023, Petitioners filed a status report with the court:

(1) indicating that Respondent has not provided complete information about decedent's non-Trust assets, and

(2) requesting that Respondent be disqualified from serving as Executor and that she be replaced with the named alternate, Ruby Shields.

At the hearing held on September 11, 2023, the court continued the hearing to allow Respondent time to finish collecting and distributing assets. The court ordered the trustee to provide authority regarding the use of Trust funds to pay attorney's fees.

On September 18, 2023, counsel for the trustee filed a Declaration describing legal services provided in the course of preparing an accounting and responding to other issues raised by Trust beneficiaries and stating that there are fees due for such services that are reimbursable from Trust assets. In response to the Order from the court to provide authorities on the subject, the Declaration cites Donahue v. Donahue (2010) 182 Cal.App.4th 259, 267 ("Preparing the accounting and responding to the beneficiaries; objections to that accounting are aspects of trust administration."). The Declaration also cites Estate of Gump (1991) 1 Cal.App.4th 582, 604 ("It is established that attorney fees and litigation costs incurred in the trustee's successful defense of an action brought by the beneficiary are recoverable. *Estate of Cassity*, 106 Cal.App.3d 569, 574; cf., *Estate of Trynin* (1989) 49 Cal.3d 868, 874 [782 P.2d 232].")

At the hearing on October 9, 2023, the court ordered Respondent to provide all documentation of all Trust accounts to counsel for Petitioners by October 23, 2023, and ordered the parties to meet and confer.

At the hearing on October 30, 2023, the court ordered the parties to submit any further briefing by November 27, 2023, and the court stated that it would rule on the matter at a hearing set for January 29, 2023.

Both parties submitted additional briefs.

TENTATIVE RULING #17: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 29, 2024, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

18. 23PR0176 MATTER OF THE VANDER VEEN FAMILY TRUST

Petition for Instructions

Petitioner is a beneficiary of the Vender Veen Family Revocable Living Trust (“Trust”), which was established by the settlor, Dean Albert Vander Veen on July 20, 2006. The Petition alleges that the Trust was funded with the settlor’s separate property, assets that were gifted to the settlor by his mother. The Respondent represents that the Trust was also funded by Respondent’s inheritance and employment income, and that the parties agreed to hold all of the Trust assets as community property. Settlor passed away on November 3, 2006, whereupon his spouse, Respondent, became sole trustee and the Trust was split into a family and survivor’s trust, pursuant to the terms of the Trust.

The Petition states that accountings filed over the years show an annual payment of \$5,000 to the trustee, in addition to a \$120,000 payment purportedly to reimburse the trustee for expenses advanced to the Trust, as described in the May 24, 2022 account. In addition, the Petition states that the trustee transferred a real property to herself to repay funds she claims to have loaned to the Trust. After transferring the real property to herself, the Petition alleges that the trustee personally profited from that property by logging it. Respondent represents that the cost of tree removal through salvage logging is a necessary expense to clear the burned property, not a profitable enterprise.

Respondent states that informal accountings were initially provided, until she received legal advice to prepare more formal accountings and did so beginning in 2014. Respondent argues that Probate Code § 16460² bars any breach of trust claims by a beneficiary after three

² Probate Code § 16460(a) provides:

(a) Unless a claim is previously barred by adjudication, consent, limitation, or otherwise:

(1) If a beneficiary has received an interim or final account in writing, or other written report, that adequately discloses the existence of a claim against the trustee for breach of trust, the claim is barred as to that beneficiary unless a proceeding to assert the claim is commenced within three years after receipt of the account or report. An account or report adequately discloses existence of a claim if it provides sufficient information so that the beneficiary knows of the claim or reasonably should have inquired into the existence of the claim.

(2) If an interim or final account in writing or other written report does not adequately disclose the existence of a claim against the trustee for breach of trust or if a beneficiary does not receive any written account or report, the claim is barred as to that beneficiary unless a proceeding to assert the claim is

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years from the date that the accounting or report was received that provided notice of potential claims. To the extent that past accountings are still subject to challenge by beneficiaries, Respondent further states that she cannot respond to the allegations in the Petition without more specifics.

The Petition requests an accounting for claims of reimbursement for Trust expenses and alleges that the accountings that have been provided are inadequate because they do not sufficiently justify these reimbursements. For example, the Petition indicates there are expenses for well drilling, although the Trust's real property does not have a well but real property owned separately by the trustee does have a well. The Petition seeks explanation of work that the Trust paid for that was done by a friend of the trustee, Ted Hamel.

A residence on the real property was destroyed in the Caldor fire, and the Trust received insurance proceeds in the amount of \$253,072.70, which was split between the family trust and the survivor's trust. The trustee distributed \$50,000 of these insurance proceeds to herself as compensation for her personal effects that were burned in the fire. Petitioner seeks confirmation that none of this personal property constituted trust assets. Respondent states that all furnishings and personal belongings that were in the residence that burned belonged to Respondent and was assigned to the survivor's trust by a written assignment executed on December 31, 2008, 12 years before the Caldor Fire insurance settlement was received. See Opposition, Exhibit B.

While the Trust authorizes distributions to the trustee as surviving spouse and to settlor's child and grandchildren, the Petition alleges that most of those distributions were made to the trustee to the point of rendering the Trust insolvent. Respondent counters that such distributions were discretionary within the trustee's authority, not mandatory, that the settlors never intended to support the beneficiaries through payments from the Trust, that Petitioner was married and employed when Dean Vander Veen died, and did not require support from the Trust.

The Petition requests:

1. That the trustee be instructed to redress her actions with respect to Trust assets and distributions;
2. For an order of surcharge for damages to the Trust and its beneficiaries pursuant to Probate Code § 16440;

commenced within three years after the beneficiary discovered, or reasonably should have discovered, the subject of the claim.

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3. For a constructive trust in favor of the Trust on any property, including the real property transferred from the Trust to the trustee in her individual capacity.

Respondent requests an Order:

1. denying Petitioner's objections to past accountings;
2. denying to the imposition of a constructive trust,
3. accepting the interim and final accountings of the trustee
4. for attorneys fees and costs.

The parties appeared at the hearing held on October 30, 2023, and following arguments, the matter was continued.

TENTATIVE RULING #18: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 29, 2024, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

19. 23CV1948 NAME CHANGE OF ROBERT P.

Petition for Name Change

Petitioner filed a Petition for Change of Name on November 9, 2023.

Proof of publication was filed on January 11, 2023, as required by Code of Civil Procedure § 1277(a).

A background check has been filed with the court as required by Code of Civil Procedure § 1279.5(f).

The Petition was filed by the mother of the minor. The father of the minor filed an Objection to the Petition on January 4, 2024.

Code of Civil Procedure § 1278 and 1278.5 address the procedure for hearing an objection by one parent to the petition for a name change filed by the other parent:

[T]he petition or application shall be heard at the time designated by the court, only if objections are filed by a person who can, in those objections, show to the court good cause against the change of name. At the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons touching the petition or application, and may make an order changing the name, or dismissing the petition or application, as the court may deem right and proper.

Code of Civil Procedure § 1278(a)(1).

In any proceeding pursuant to this title in which a petition has been filed to change the name of a minor, and both parents, if living, do not join in consent, the court may deny the petition in whole or in part if it finds that any portion of the proposed name change is not in the best interest of the child.

Code of Civil Procedure § 1278.5.

TENTATIVE RULING #19: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 29, 2024, IN DEPARTMENT NINE.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.