

1. PP20200089 CONSERVATORSHIP OF CAROLYN FOWLER

Accounting Hearing

See Related Case No. PP20210174 ESTATE OF FOWLER (#3)

Letters of Conservatorship were issued on August 27, 2020, and the conservatee passed away on November 9, 2020. Probate for the conservatee's estate was opened on November 5, 2021 (Case No. PP20210174).

A Status Memorandum on the Final Accounting was filed with the court on March 20, 2023, and another was filed on February 29, 2024, both of which indicated that there were continuing issues preventing the preparation of the Final Accounting.

TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 4, 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.

2. 22PR0201 ESTATE OF PLANT

**Status of Administration
Final Distribution**

See Related Case No. 22PR0202 ESTATE OF UNRUH (#13)

Decedent Arnold Oscar Plant and Yvonne Unruh were unmarried partners, and on January 15, 2011, they both executed Wills that were in substantially similar form with differing appointments and bequests. Decedent died on April 12, 2022, surviving Unruh, who died on March 2, 2016, by six years.

Decedent devised \$1,000 each to nine individually named grandchildren, and left the residue of his estate in equal shares to his biological children, Arnold Plant III (his son who was later appointed co-Administrator of his estate in addition to being appointed the Administrator of the Estate of Unruh [Case No. 22PR0202]), his daughter Arnetta Gonzales aka Arnetta Champlain (who was also appointed co-Administrator of his estate) and his daughter Sylvia Plant, whose daughter Linda Cunningham has filed objections in this proceeding that are discussed below.

Both Decedent and his partner Unruh left each other a life estate in the real property that they owned as tenants in common, as well as their respective interests in a vehicle and a motor home.

Arnold Plant III was named executor in the Will, and Arnetta Gonzales aka Arnetta Champlain, was named as an executor in the alternative.

The issuance of Letters of Administration was substantially delayed by repeated failures of service of notice of the Petition to appoint an Administrator. The initial Petition was not filed until July 18, 2022, three months after decedent's death. At the first hearing on the Petition held on November 16, 2022, the court continued the matter, noting that there was no proof of service of the Petition, and that the Petition failed to list the nine grandchildren who were entitled to bequests under the Will. The Petition also erroneously listed Yvonne Unruh's children as heirs to decedent Arnold Plant. On the continued hearing date on December, 21, 2022, the proof of service filed on November 16, 2022, was again found deficient for failing to include Petitioner's sister, Sylvia Plant, who had filed her first of two requests for special notice, and the matter was continued to January 18, 2023. Sylvia Plant again filed a request for special notice on January 11, 2023, as did her daughter Linda Cunningham, who appeared at the January 18, 2023, hearing to register her objections to the Petition. The result was the filing of an amended Petition on February 8, 2023, and a compliant proof of service on February 9, 2023, more than

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nine months after decedent's death. Letters of Administration were issued to Petitioner Arnold Plant III and his sister Arnetta Champlain on March 1, 2023.

Remarkably, no proof of service of the Petition for Final Distribution is on file with the court.

Objections

Objector Linda Cunningham is the daughter of Sylvia Plant, decedent's daughter who is entitled to an equal one-third share of the assets of the estate.

The first Objection was dated January 16, 2023, and stated that neither Sylvia Plant nor Linda Cunningham had received notice of this Petition for Final Distribution. It stated that those two individuals, who had requested special notice of the proceedings, "have had no contact from Arnold III or Arnetta C. since January, 2023." Declaration of Linda Cunningham, dated January 16, 2024. Linda Cunningham filed a second Declaration, dated January 25, 2024, after she had obtained a copy of the Petition for Final Distribution by requesting it from the court. Cunningham submitted the following specific objections following her review of the Petition and the accounting:

1. She had participated in cleaning the property upon promise to be paid for her work, including a promise that she would receive her grandfather's hunting rifle, but she was not paid and she did not get the rifle.
2. There is a real property in Arizona that is not included in the accounting.
3. There is no reference to bank accounts held by the decedent in the accounting, including the "accounts at Bank of America, Cameron Park Branch that was specifically referenced in the Will.
4. There were additional items of personal property that were not mentioned in the accounting, including a Rolex watch, gold jewelry, a coin collection, a collection of military medals and other collectible items, ammunition, and \$309,000 cash, which included instructions as to its disbursement.
5. There is no reference to the proceeds from an estate sale in the accounting.
6. The Petition for Final Distribution states that no requests for special notice were received, when in fact there were three requests for special notice filed by Linda Cunningham and Sylvia Plant, all of which are in the court's file.
7. Cunningham's Declaration represents that Sylvia Plant received a notice for her signature to accept distribution of a ring that the Administrators assumed was in her possession, but she states that she does not possess the ring.

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8. The Declaration states that the personal property has not been equally divided among the three siblings, and that Sylvia Plant was never given an opportunity to choose from among the personal possessions.
9. The Declaration alleges that the Administrators used the money from the safe to upgrade and register the vehicles that they apportioned to themselves, but that Sylvia Plant did not receive any funds to repair the two vehicles that were distributed to her.
10. Objector notes the discrepancy between Arnetta Champlain's request for reimbursement for \$9,617.73 on page 8:9-11, and her claim to have spent \$7,490.23 on page 7:20-22.
11. Objector requests to documentation of the firearms appraisal.
12. Objector notes that \$8,000 of appraised jewelry was distributed to Arnold Plant III at an unexplained "distribution of value" of \$2,410.

Cunningham requests copies of the bank statements where the Administrators have represented that all cash from the estate was deposited.

As the Administrators should by now be aware, the court is not able to take action on this Petition until a proof of service is filed with the court. Probate Code § 1202 authorizes the court to require additional notice be given in addition to notice that is statutorily required. Given the intermingling of costs and assets of this estate with those of the Estate of Unruh (Case No. 22PR0202) and the fact that the Administrator for both estates is the same person represented by the same counsel who holds a direct pecuniary interest in the division of costs and assets between the two estates, the court orders that the proof of service for this case include the interested parties on whom service is required for the Estate of Unruh, including those who have requested special notice in that case.

In the interim, the Administrator is encouraged to review the accounting and address the deficiencies and discrepancies identified in this Tentative Ruling and in the Objection.

TENTATIVE RULING #2: THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, APRIL 15, 2024 IN DEPARTMENT NINE. THE HEARING SET FOR 8:30 A.M. ON MONDAY, MARCH 18, 2024, IN DEPARTMENT NINE IS VACATED. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 3, 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.

3. PP20210174 ESTATE OF FOWLER

Inventory & Appraisal

See Related Case No. PP20200089 CONSERVATORSHIP OF CAROLYN FOWLER (#1)

TENTATIVE RULING #3: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 4, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 3, 2025, IN DEPARTMENT NINE.

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4. 22PR0002 ESTATE OF BEEBER

Status of Administration

At the hearing on this matter held on April 3, 2023, the court approved the Petition for Final Distribution and Final Account filed by the Administrator, and ordered that counsel submit the mandatory ex parte petition for final discharge for the court's approval.

Nothing new has been filed since the April 3, 2023, Order.

TENTATIVE RULING #4: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 4, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 3, 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.

5. 22PR0203 ESTATE OF FERGES

Final Distribution on Waiver of Account

Letters of Administration were issued on November 30, 2022, granting Petitioner full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on July 27, 2023.

A Waiver of Account and waiver of notice was executed by decedent's son, decedent's only intestate heir other than Petitioner, who is decedent's spouse.

Waivers of notice were also filed by decedent's other surviving relatives, who are not entitled to any intestate share. Accordingly, no Proof of Service of Notice of the hearing required. Probate Code §§ 1201, 1204.

The proposed distribution of the estate provides that Petitioner as decedent's spouse would inherit a life estate in the real property and that the fee interest would pass to decedent's child. However, the Petition states that the real property was community property, and as such, the decedent's one-half interest would pass by law to Petitioner. Probate Code § 6401.

Likewise, the proposed distribution of a tractor and a Ford Ranger to decedent's son is not the outcome that would result from application of the laws of intestate succession—such community property would pass directly to the surviving spouse. Probate Code § 6401. Petitioner is free to gift any of decedent's property to her son, but by the laws of intestate succession decedent's property passes directly to his surviving spouse.

The Petition requests:

1. The administration of the estate be brought to a close without the requirement of an accounting;
2. All acts and proceedings of the Administrator 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 made to the beneficiaries as set forth in the Petition.

The above-listed three items are appropriately included in the requested Order. However, Petitioner's requests that the Administrator be authorized to retain \$1,000 in closing expenses and to pay liabilities, is unnecessary because the cash in the estate passes directly to Petitioner and there are no other beneficiaries who will be receiving distributions.

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Following approval of this Order, Petitioner is required to file an ex parte petition for final discharge to close this matter for the court's approval.

TENTATIVE RULING #5: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 4, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 3, 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.

6. 21PR0051 ESTATE OF HARVEY

Final Distribution

Letters of Administration were issued on March 7, 2022, granting Petitioner full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on May 20, 2022.

Proof of Service of Notice of the hearing on the Petition was filed on January 2, 2023.

The proposed distribution of the estate is to Petitioner, who is the sole surviving beneficiary of decedent. Petitioner has waived an accounting and has waived statutory fees.

The Petition requests:

1. The administration of the estate be brought to a close without the requirement of an accounting;
2. All acts, transactions and proceedings of the Administrator be confirmed and approved;
3. The Administrator be authorized to pay statutory attorney fees in the amount of \$10,243.11, plus \$1,813.34 for costs advanced to the estate, and additionally, any costs advanced to the estate related to the closing of estate administration that may be hereafter incurred;
4. Approval of distribution of the estate to the persons entitled to it pursuant to the Petition for Final Distribution;
5. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed to Petitioner.

TENTATIVE RULING #6: ABSENT OBJECTION THE MOTION IS GRANTED AS REQUESTED. THE HEARING SET FOR MARCH 25, 2024, IS VACATED. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 3, 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. PP20200222 ESTATE OF GORDON

Status of Administration

At the hearing on this matter held on March 6, 2023, the court approved the Petition for Final Distribution and Account filed by the Administrator, and ordered that counsel submit the mandatory ex parte petition for final discharge for the court's approval.

TENTATIVE RULING #7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 4, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 3, 2025, IN DEPARTMENT NINE, BY WHICH TIME THE COURT EXPECTS THAT A RECEIPT OF DISTRIBUTION WILL HAVE BEEN FILED AND AN EX PARTE PETITION FOR FINAL DISCHARGE SUBMITTED TO THE COURT.

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. PP20190068 ESTATE OF HERBERT SHEARER

Status of Administration

Review Hearing - Inventory & Appraisal

See Related Case No. PP20170036 ESTATE OF MARIE SHEARER (#10)

On January 30, 2023, the matter was continued at Petitioner's request to allow time for filing of a final account and Petition for Final Distribution. At the Review Hearing held on March 6, 2023, the Petitioner requested a continuance, and the hearing date was continued to March 4, 2024.

Nothing new has been filed since the prior hearing.

TENTATIVE RULING #8: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 4, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 3, 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.

9. 21PR0010 ESTATE OF MURPHY

**Status of Administration
Review Hearing**

Letters of Administration were issued on February 9, 2022. The Final Inventory and Appraisal was filed on June 2, 2022. To date, there is no final account or request for an Order of Final Distribution on file with the court.

TENTATIVE RULING #9: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 4, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 3, 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. PP20170036 ESTATE OF MARIE SHEARER

Status of Administration

See Related Case No. PP20190068 ESTATE OF HERBERT SHEARER (#8)

On January 30, 2023, the matter was continued at Petitioner's request to allow time for filing of a final account and Petition for Final Distribution. At the Review Hearing held on March 6, 2023, the Petitioner requested a continuance, and the hearing date was continued to March 4, 2024.

Nothing new has been filed since the prior hearing.

TENTATIVE RULING #10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 4, 2024, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 3, 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.

11. 22PR0057 ESTATE OF MORRIS

Annual Review

Letters of Administration were issued on April 27, 2022. An Inventory and Appraisal was filed on March 6, 2023. There is an outstanding creditor's claim in the amount of \$28,535 that was filed on October 12, 2022.

Nothing new has been filed since the prior hearing on March 6, 2023.

TENTATIVE RULING #11: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, MARCH 4, 2024, IN DEPARTMENT NINE. AN ANNUAL REVIEW HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 3, 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. 23PR0310 ESTATE OF DIGIURCO

Petition for Letters Testamentary

A Petition to administer decedent's estate was filed on December 13, 2023.

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

Decedent died testate on February 22, 2023, survived by Petitioner, his daughter. Settlor's other child, Douglas Frank Digiurco, died on December 16, 2022.

The Will was lodged with the court as an attachment to the Petition and is admitted to probate.

The Will waives bond.

Pursuant to Probate Code § 1201, notice of the hearing is not required because Petitioner is the only beneficiary of the estate.

There is no Duties/Liabilities statement (DE 147/DE 147s) on file with the court.

There is no proof of publication on file with the court.

Petitioner's brother was named as Executor in the Will, but is deceased. Petitioner is the only surviving heir.

TENTATIVE RULING #12: THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, APRIL 22, 2024, TO ALLOW PETITIONER TIME TO FILE PROOF OF PUBLICATION AND FORMS DE-147/DE-147S WITH THE COURT.

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. 22PR0202 ESTATE OF UNRUH

Status of Administration

Petition for Final Distribution/First and Final Account

See Related Case No. 22PR0201 ESTATE OF PLANT (#2)

Decedent Yvonne Unruh and Arnold Oscar Plant were unmarried partners, and on January 15, 2011, they both executed Wills that were in substantially similar form with differing appointments and bequests. Decedent died on March 2, 2016, and was survived by Plant, who died on April 12, 2022. Although Unruh died in 2016, probate of her estate was not initiated until after Plant's death in 2022.

Decedent devised \$1,000 each to eight named individuals, and left the residue of her estate in equal shares to her biological children, Ronald Unruh and Patricia Newberger.

Ronald Unruh, decedent's son, was named executor, and Patricia Newberger, decedent's daughter was named as an executor in the alternative. However, on March 1, 2023 Letters of Administration were issued to Arnold Plant III, who is the son of decedent's partner Arnold Oscar Plant, after Ronald Unruh executed a nomination of Administrator that is attached to the Petition for Probate.

Both Unruh and her partner Plant left each other a life estate in the real property that they owned as tenants in common, as well as their respective interests in a vehicle and a motor home. In 2023 the real property was sold by the Administrator following Plant's death in 2022.

An Inventory and Appraisal was filed on April 24, 2023.

There is no Proof of Service of Notice of the hearing on the Petition on file with the court.

The proposed distribution of the estate includes bequests of one thousand dollars to each of eight individuals named in the Will, and the balance of the estate to be distributed in equal shares to decedent's two children, in accordance with the terms of the Will. The Petition states that the eight \$1,000 bequests have already been distributed but there are no receipts for these distributions on file with the court. Normally such receipts would not be required until after the Petition for Final Distribution is approved, but the Petition for Final Distribution requests reimbursement for the bequests already distributed without any documentation of the expenditure.

The Petition requests:

1. The administration of the estate be brought to a close and the account filed with the Petition be approved;

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2. All acts, transactions and proceedings of the Administrator be ratified, confirmed and approved;
3. The Administrator be authorized to pay statutory attorney fees in the amount of \$8,623.52, plus \$240.00 for costs advanced to the estate;
4. The Administrators be authorized to pay themselves \$8,623.52 in statutory compensation, and that Administrator Arnold Plant III be authorized to reimburse himself \$2,928.76 in travel expenses (\$2,421.25 of these expenses are documented as mileage at the IRS rate for Arnetta Champlain but payment to Arnold Plant III is requested in the Petition; further, the additional \$507.51 of claimed travel expenses do not appear in the accounting);
5. The Administrator be authorized to reimburse decedent's son Ronald Unruh for \$8,000, who as Administrator of the estate prior to Petitioner's appointment, advanced eight \$1,000 bequests to the individuals named in the Will. There are no receipts for these disbursements on file with the court;
6. The Administrator be authorized to retain \$7,500 in closing expenses and to pay liabilities, and to deliver the unused part to the beneficiaries of the estate without further court order after closing expenses have been paid. However, the Petition for Final Distribution states that there are no outstanding creditor claims or expected liabilities against the estate, no taxes payable and no payments due to state agencies.
7. The Administrator be authorized to reimburse Arnetta Champlain, the daughter of Arnold Plant and co-Administrator of Arnold Plant's estate the amount of \$10,586.90 for expenses advanced to the Unruh estate, which presumably represents fifty percent of the expenditures for preparing the real property for sale and other costs; as to these expenses, the court notes the following:
 - a. These listed costs include a substantial expenditure of \$4,255.00 for "various" costs including filing fees, publication and certified letters. Filing fees for Estate of Unruh were \$948.00, and for Estate of Plant the filing fees were \$1,575, for a total of \$2,523. When those expenses are combined and split in half between the two estates it results in Unruh's estate subsidizing the Plant estate's filing fees in the amount of \$313.50. Further, "publication" and "certified letters" are the only explanation for the remaining \$1,732 of "various" expenses in the accounting. This same entry in the Plant estate Petition lists the same cost item at \$2,217.50 without explanation as to the difference in the amount listed between the two estates.
 - b. The Inventory and Appraisal for the Plant estate, but not the Unruh estate, lists an extensive gun collection valued at nearly \$5,000, but a firearms appraisal

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- (\$400), and gun storage container (\$54.35) are charged as costs shared between both estates.
- c. Unruh died in 2016, but her estate was charged with half the value of water bills, utility bills, cable internet bills, garbage bills, post office box fees and pool maintenance costs incurred six years after her death, including bills incurred by Plant before his death, as well as for and those costs during the one-year period between Plant's death and the sale of the property, which (excluding costs such as pest inspections, repairs, dump fees and other costs properly attributable to preparing the home for sale) the court calculates to exceed \$8,000. While it is not necessarily inappropriate to maintain utility services in a real property pending its liquidation, the court notes that nine months of delay in opening probate is directly attributable to the Administrator's repeated failure to serve notice of the Petition for Probate between decedent Plant's death in April 2022 and the issuance of Letters of Administration in March, 2023.
 - d. Although filing fees were included under "various" expenses as referenced above, \$57.50 filing fee is also separately listed (May 4, 2022).
 - e. Linda Molinari executed a single appraisal of the real property on April 13, 2023, and that appraisal was filed in the record of both estates. The appraisal estimated the fifty percent interest of the real property value as \$272,500, and the charge for that appraisal was \$272.50. For reasons that are not clear from the record, Linda Molinari also executed a second appraisal of the same fifty percent interest in the same real property that estimated its value as \$267,500, for which her invoice was for \$282.50. Two additional appraisals are filed in the case of the Plant estate for vehicles, guns, jewelry and other valuables belonging to the Plant estate, for which the appraisal fees total \$225, but are undercharged to the Plant estate at \$150. At the same time, while the cost of two real property appraisal fees (\$555) are listed as shared costs between the two estates, Unruh's estate, which had no additional property to appraise, is charged with an additional \$472.50 for Linda' Molinari's appraisal fees-representing a \$472,500 asset value for Unruh estate assets that do not appear in the accounting.
 - f. Both the Plant and Unruh estates owned a 50 percent interest in the same residential real estate, yet when the property sold in 2023, the Unruh estate was credited with only \$281,000 of proceeds from the sale with a higher (presumably taxable) gain, while the Plant estate was credited with \$351,000 of sale proceeds with only a \$13,500 reported gain. The accounting does not explain this differential.

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- g. The Unruh estate is charged with federal (\$13,361) and state (\$1,414) income taxes in the disbursements as well as the cost of a tax preparer (\$1,125), while the Plant estate's accounting does not show any federal or state income tax charges or tax preparer fees, although all other disbursements related to the sale of the real property are otherwise identical for both estates.
- h. Exhibit B, which lists claimed reimbursable expense by Arnetta Champlain total \$16,957 when calculated for the Plant estate, but total \$9,542.73 when calculated for the Unruh estate.
- i. The dates listed for Arnetta Champlain's travel to El Dorado County are between February and July 2023, but both estates are charged for the cost of maintaining internet service at the property between June, 2022 and April, 2023, for a total cost of \$480, not including the final bill and the payment of past due bills from the time of Plant's death in April 2022 through June 2022.

The court is not able to take action on this Petition until a proof of service is filed with the court. Probate Code § 1202 authorizes the court to require additional notice be given in addition to notice that is statutorily required. Given the intermingling of costs and assets of this estate with those of the Estate of Plant (Case No. 22PR0201) and the fact that the Administrator for both estates is the same person represented by the same counsel who holds a direct pecuniary interest in the division of costs and assets between the two estates, the court orders that the proof of service for this case include the interested parties on whom service is required for the Estate of Plant, including those who have requested special notice in that case.

In the interim, the Administrator is encouraged to review the accounting and address the deficiencies and discrepancies identified in this Tentative Ruling.

TENTATIVE RULING #13: THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, APRIL 15, 2024 IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, MARCH 3, 2025, IN DEPARTMENT NINE.

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14. PP20150185 JUNG FAMILY TRUST

**Petition for Instructions
Settlement of Account**

Following a hearing on July 31, 2019, this court approved a settlement pursuant to which the then-trustee resigned and was replaced by the successor trustee (“Petitioner”) who filed this Petition for Instructions and Settlement of Account of the Jung Family Trust (“Trust”).

At the time of the 2019 settlement, the then-trustee resided in Rescue, California in a real property that was part of the trust estate at the time the action was filed in 2015.

This Petition was filed four years later to seek instructions as to the payment of attorneys’ fees that were incurred over the extensive course of litigation to have the former trustee removed, as well as for court approval of the current trustee’s accounts.

However, El Dorado County has no continuing jurisdiction over the Jung Family Trust, which has been administered in San Luis Obispo County since 2019, according to the trustee’s residence address and the trustee’s attorney’s address as reflected in the pleadings. According to the accounting submitted with the Petition, the real property in Rescue, California is no longer a Trust asset and there are no other Trust assets, trustees or beneficiaries located in El Dorado County.

While the court may have continuing jurisdiction to enforce the settlement agreement of 2019 pursuant to Code of Civil Procedure § 664.6, the subject matter of the Petition is outside the scope of the settlement agreement.

The Petition seeks the court’s approval of the fourth and fifth accountings covering calendar years 2021-2022, but this court did not review Petitioner’s first through third accountings for calendar years 2018-2020.

The Petition seeks the court’ instruction to allow the application of Trust assets to which the former trustee relinquished claims to pay for the costs of the litigation leading up to the 2019 settlement. However, that request directly contradicts the terms of the settlement.

Paragraph 9 of the 2019 Settlement states that “[e]ach party to this agreement shall bear all costs and attorneys’ fees arising from the litigation this agreement, and the matters referred to herein.” Paragraph 10 provides that the terms of the settlement will be “binding upon and inure to the benefit of the spouses, heirs, beneficiaries, employees, agents, consultants, representatives, bookkeepers, accountants, attorneys, successors in interest, predecessors in interest, and assigns” of the parties. Paragraph 11 of the 2019 Settlement states that it represents the entire agreement of the parties. Accordingly, far from enforcing the terms of the settlement agreement, it would be a direct contradiction of the settlement terms for this court to order payment of attorney’s fees from Trust assets.

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Further, Petitioner asserts that the payment of past litigation costs is supported by Probate Code § 16442 (“The provisions in this article for liability of a trustee for breach of trust do not prevent resort to any other remedy available under the statutory or common law.”)

But this litigation, leading to the resignation of the former trustee, was resolved by settlement agreement, and without litigation of the issues. Therefore, no breach of trust has been established that could be subject to a judicial remedy. To the contrary, Paragraph 8 of the 2019 Settlement states that the resignation of the trustee was the result of a compromise among the parties and “shall never at any time or for any purpose be considered as an admission of liability or responsibility” as to the parties to the settlement.

TENTATIVE RULING #13: THE MATTER IS DISMISSED FOR LACK OF JURISDICTION.

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