

**1. PP20210211 ESTATE OF DEISENROTH**

**Status of Administration**

Letters of Administration were issued on December 8, 2021. The Final Inventory and Appraisal was filed on May 3, 2022. To date, there is no final account and request for Order of final distribution in the court's file.

**TENTATIVE RULING #1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, DECEMBER 4, 2023, IN DEPARTMENT NINE. A STATUS OF ADMINISTRATION HEARING SET FOR 8:30 A.M. ON MONDAY, DECEMBER 2, 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. 23PR0039 ESTATE OF WISEBLOOD**

**Petition for Final Distribution**

Letters Testamentary were issued on March 27, 2023, granting Petitioner full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on August 8, 2023.

Notice of the hearing on the Petition was filed on October 26, 2023, and notice of the hearing on the Petition to the Department of Health Care Services, which requested special notice, was filed on November 21, 2023.

The proposed distribution is up to \$6,929.76 to Petitioner for payment of her statutory compensation as executor, and the residue of the estate in excess of \$6,929.76 is to the Department of Health Care Services after payment of attorney's fees and costs and compensation to the executor.

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 reported acts and proceedings of Petitioner be ratified, confirmed and approved;
4. Petitioner be authorized to pay statutory attorney fees in the amount of \$20,631.82, plus \$1,842.20 for costs advanced to the estate;
5. Petitioner be authorized to pay herself \$13,702.06 in statutory compensation, which is reduced from the statutory amount due to the insolvency of the estate;
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 #2: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.**

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**3. 23PR0258 ESTATE OF STEWART**

**Petition for Letters of Administration**

Decedent died intestate on April 15, 2023. Petitioner is decedent's daughter and sole heir. Petitioner has waived bond.

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

A Duties/Liabilities statement (DE 147/DE 147s) was filed on October 11, 2023.

Proof of service of Notice of the Petition was filed on October 26, 2023.

Proof of publication was filed on November 13, 2023.

**TENTATIVE RULING #3: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED. A STATUS OF ADMINISTRATION HEARING SET FOR 8:30 A.M. ON MONDAY, DECEMBER 2, 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.**

**4. PP20200196 ESTATE OF GILMET**

**Petition for Final Distribution**

Decedent died intestate on April 10, 2019. Letters of Administration were issued on April 12, 2021, with full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on June 15, 2022.

Petitioner is an heir to the estate, and the Petition attaches waivers of account executed by the other two heirs to the estate, executed on September 21, 2023.

The Petition proposes equal distribution of one-third of the estate to each of the three heirs, including Petitioner.

Proof of service of notice of the hearing on the Petition was filed on November 20, 2023.

At the hearing on November 20, 2023, the court noted that reimbursement of funds advanced by Petitioner, \$64,576 to pay property taxes, pay off debts and utility bills and of clean-up, repair and operating expenses of the property until it was sold, was not included in the prayer of the Petition, or in the proposed Order for Final Distribution. The court continued the hearing to allow Petitioner to file an amended Petition to include reference to those funds.

The amended Petition, filed on November 20, 2023, requests:

1. The administration of the estate be brought to a close;
2. All acts and proceedings of proceedings of Petitioner as administrator be confirmed and approved;
3. Petitioner be authorized to reimburse herself \$64,576.00 spent on estate expenses from the time of her appointment as Administrator;
4. Petitioner be authorized to pay herself \$13,580 as statutory compensation for her services as Administrator;
5. The personal representative be authorized to pay statutory attorney fees in the amount of \$13,580, as well as costs advanced to the estate in the amount of \$1,110;
6. Petitioner be authorized to retain \$500 to defray closing expenses, with any remainder to be distributed equally among decedent's heirs;
7. Distribution of the estate be authorized to distribute \$112,589.67 to each of decedent's three heirs;
8. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed made in equal shares to decedent's three heirs as set forth in the Petition.

**TENTATIVE RULING #4: 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.**

**5. 22PR0284 ESTATE OF KEELER**

**Status of Administration**

**TENTATIVE RULING #5: AN ORDER FOR FINAL DISTRIBUTION HAVING BEEN ENTERED ON JULY 24, 2023, THIS HEARING IS VACATED.**

**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. 23PR0259 MATTER OF JIMMY R. FOX**

**Petition for Letters of Administration**

Decedent died intestate on August 25, 2023, survived by a spouse and two adult children. Petitioner is decedent's spouse.

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

A Duties/Liabilities Statement (DE 147) was filed on October 10, 2023, but there is no DE-147s form on file with the court, as required by Local Rules of El Dorado County Superior Court, Rule 10.02.10.

There is no proof of service of Notice of the hearing on the Petition on file with the court.

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

**TENTATIVE RULING #6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, DECEMBER 4, 2023, IN DEPARTMENT NINE.**

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**7. 23PR0243 IN THE MATTER OF THE SALLY ARNOLD CARUSO TRSUT**

**Final Accounting Hearing**

The Sally Arnold Caruso Trust (“Trust”) was established in 1991. Following the settlor’s death in 2004 the estate of the settlor was maintained in trust for the benefit of her son, Richard E. Arnold, who died on October 16, 2022 without issue. Petitioner has collected all assets and paid the debts of the Trust and seeks to terminate the Trust and distribute its assets.

The Petition attaches the final account of the trustee, to which no objections have been received. The Petition requests the court to approve and settle the final account of the Trust, and to ratify, confirm and approve all acts of Petitioner as reported in the Petition.

Petitioner also requests the court’s determination of the beneficiaries of the Trust and the shares of the remaining Trust assets to which they are entitled, as set forth in Exhibit D to the Petition. Exhibit D apportions percentage shares to a list of eight surviving beneficiaries in accordance with the intention of the Trust, which was to divide shares equally among four siblings of the settlor, only one of whom survives. The other three siblings of the settlor have left issue, and in accordance with the terms of the Trust, attached to the Petition as Exhibit A, Petitioner proposes to divide those siblings’ shares as follows:

1. The 25 percent share of sibling Fortunado Casteneda (deceased) to be distributed in equal shares to three of his children expressly named in the Trust.
2. The 25 percent share of sibling Carmen Martinez (deceased) to be distributed in equal shares to her children.
3. The 25 percent share of sibling Gwen Fontaine (deceased) to be distributed in equal shares to her children.
4. The 25 percent share of sibling Elissa De Amaral to be distributed to her free of trust.

**TENTATIVE RULING #7: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.**

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**8. 23PR0186 MATTER OF ARLENE A. WRIGHT TRUST**

**Petition to Determine Trust Assets**

The Arlene A. Wright Trust (“Trust”) was executed on September 5, 2002. Petition, Exhibit A. A pour-over Will was executed on the same date as the Trust. Petition, Exhibit B. The Will provides that the decedent’s intention was to devise, “all of my property, whether real or personal, over which I have a power of testamentary disposition, to the Trustee then in office of the Trust . . . [to be] held, administered and distributed by the Trustee according to the terms and conditions of that Trust, . . .” In addition, the settlor executed a General Transfer on the same date, providing that all real property “of whatever nature and wherever situated” was conveyed to the then-serving trustee “subject to all of the terms and provisions of the Trust.” Petition, Exhibit C. The settlor died on January 16, 2023, and Petitioner became the successor trustee.

However, the settlor never formally retitled the real property referenced in the Petition in the name of the Trust during her lifetime. Accordingly, the Petition requests the court to make an Order pursuant to Probate Code § 850 confirming the referenced real property as an asset of the Trust, with title to be held in the name of “Anna M. Silva, Trustee of the Arlene A. Wright Trust.” The Petition further requests an Order establishing that the trustee has full power and authority to administer the real property in accordance with the terms and conditions of the Trust, and that the trustee is to execute any and all necessary instruments and commitments” related to this authority.

Proof of service of notice of the hearing was filed on September 7, 2023, to all surviving beneficiaries of the Trust.

Probate Code § 850 permits a trustee who has a claim to property, the title to or possession of which is held by another, to file a petition requesting that the court make an order pursuant to Probate Code § 856 authorizing and directing the person having title to or possession of real property to execute a conveyance or transfer to a person entitled thereto, or granting other appropriate relief. Probate Code § 851 requires the Petitioner to serve notice of the hearing and a copy of the Petition at least 30 days prior to the hearing to each person claiming an interest in or having title to or possession of the property. When the matter concerns a decedent estate, notice shall also be given to any heir or devisee whose interest may be affected by the Petition in accordance with Probate Code § 1200.

Probate Code § 857 provides that in the event that the court issues such an Order:

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(a) The order is prima facie evidence of the correctness of the proceedings and of the authority of the personal representative or other fiduciary or other person to make the conveyance or transfer.

(b) After entry of an order that the personal representative, other fiduciary, or other person execute a conveyance or transfer, the person entitled thereunder has the right to the possession of the property, and the right to hold the property, according to the terms of the order as if the property had been conveyed or transferred in accordance with the terms of the order.

The commonly cited case law in this circumstance is Est. of Heggstad, 16 Cal. App. 4th 943, 947–48 (1993). That opinion holds that:

[t]o create an express trust there must be a competent trustor, trust intent, trust property, trust purpose, and a beneficiary. (Prob. Code, §§ 15201-15205; *Walton v. City of Red Bluff* (1991) 2 Cal.App.4th 117, 124 [3 Cal.Rptr.2d 275].) The settlor can manifest his intention to create a trust in his property either by: (a) declaring himself trustee of the property or (b) transferring the property to another as trustee for some other person, by deed or other inter vivos transfer or by will. (11 Witkin, Summary Cal. Law (9th ed. 1990) Trusts, § 26, p. 911; see also *Getty v. Getty* (1972) 28 Cal.App.3d 996, 1003 [105 Cal.Rptr. 259] [“An *inter vivos* trust can be created either by agreement or by a unilateral declaration of the person who assumes to act as trustee.” (Italics in original.)].)

These two methods for creating a trust are codified in section 15200: “(a) A declaration by the owner of property that the owner holds the property as trustee,” and “(b) A transfer of property by the owner during the owner's lifetime to another person as trustee.” (§ 15200; see also Rest.2d Trusts, § 17.)

Est. of Heggstad, 16 Cal. App. 4th 943, 947–48 (1993).

In this case there are several written manifestations of the settlor’s intent, signed by the settlor. These include the devise of real property to the Trust by means of the Will, as well as the General Transfer executed on the same day.

There is no objection to the Petition on file with the court.

**TENTATIVE RULING #8: ABSENT OBJECTION, THE PETITION IS GRANTED AS REQUESTED.**

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**9. 23PR0026 HADDON A. FRANKLIN & JOANNE F. FRANKLIN 1995 REVOCABLE TRUST**

**Petition to Compel Accounting**

The settlors established the Haddon A. Franklin and Joanne F. Franklin Trust (the “Trust”) in 1995. After Haddon Franklin died, Joanne Franklin designated Leanne Franklin, one of the two principal beneficiaries, as co-trustee on December 8, 2022. This appointment was disputed as unauthorized by the terms of the Trust by Petitioner, the other principal beneficiary of the Trust after Joanne Franklin’s death. Following negotiations between the parties, Leanne Franklin filed a Petition with the court to modify the Trust to allow a majority of the adult beneficiaries to appoint a neutral third party as trustee. This Petition was granted by the court following hearing on April 17, 2023, and the current trustee was appointed.

The current Petition addresses the activities of Leanne Franklin during the time that she served as trustee. The Petition requests an account for the period from her appointment as trustee on December 8, 2022, up through the date of the appointment of the successor trustee.

Estate assets that are referenced in the Petition include:

1. Five cash accounts that Petitioner believes were in the name of the Trust and that were consolidated by Leanne Franklin
2. Valuable personal property that was located in the decedent’s home, which was apparently disbursed without notice to the Petitioner;
3. A safe deposit box at El Dorado Savings, the keys to which were among the personal property missing from decedent’s home.

Counsel for Petitioner sent a demand letter to Leanne Franklin on May 10, 2023, which is attached to the Petition as Exhibit D. When no accounting was provided, Petitioner filed this Petition on August 23, 2023.

The Petition alleges violations of Probate Code §§ 16060 (duty to keep beneficiaries informed), 16061 (duty to provide information on request of beneficiary), 16062 (duty to provide account upon change of trustee).

The Petition is made pursuant to Probate Code § 17200, which allows a beneficiary to petition the court to compel an account and to compel a redress of a breach of trust by any available remedy, as well as Probate Code § 18100, which provides for the tracing of trust property that has been wrongfully disposed of and recover the property or its proceeds. The Petition further request attorney’s fees in bringing the Petition and for damages for breach of trust according to proof.

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At the hearing on October 2, 2023, the court continued the matter to October 16, 2023, to allow Respondent Leanne Franklin to file an accounting. At the October 16, 2023, hearing the court set a deadline for objections to the accounting. On November 17, 2023, Petitioner executed and filed a Declaration of Jeffrey S. Tachiki, outlining the communications between the parties. According to Petitioner's Declaration, Respondent did not provide a completed accounting to Petitioner until November 8, 2023. This accounting has not been filed with the court.

Petitioner's Declaration requests the court 1) to order Respondent to file the accounting with the court, and 2) to extend the deadline for Petitioner to file objections to the accounting 35 days after it is filed, which was the same number of days that was originally granted when the court previously anticipated the accounting to be completed.

**TENTATIVE RULING #9: RESPONDENT IS ORDERED TO FILE AN ACCOUNTING WITH THE COURT NO LATER THAN FRIDAY, DECEMBER 8, 2023. PETITIONER MAY FILE ANY OBJECTIONS TO THE ACCOUNTING NO LATER THAN FRIDAY, JANUARY 12, 2024. THIS MATTER IS CONTINUED TO 8:35 A.M. ON MONDAY, JANUARY 22, 2024, IN DEPARTMENT NINE.**

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