

1. 22PR0201 ESTATE OF PLANT

Status of Administration

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 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.

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Remarkably, no proof of service of the Petition for Final Distribution is on file with the court. Although this was brought to the attention of the parties at the prior hearing on March 4, 2024, no proof of service has been filed since that hearing.

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.
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.

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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.

Cunningham submitted an additional Declaration, dated March 11, 2024, re-stating her objection to the Administrator's account and Petition for Final Distribution, and providing an extensive list of specific objections to omissions from the Administrator's account and Petition, requesting that the court deny the Petition and disapprove the accounting, and that the Administrator be required to account for missing personal property, missing cash, unaccounted for real property and unjustified expenses against the estate. The objection further requests that, pursuant to the "no contest" clause in decedent's Will that disinherits anyone who "claims an intestate share" of the estate contrary to the terms of the Will, that the Administrator be disinherited for attempting to take property to which he was not entitled under the terms of the Will.

Patricia Lee Neuburger, daughter of Yvonne Unruh, also filed a Declaration, dated February 4, 2024, which raises the following issues:

1. An objection to a shipping charge of \$571.67 incurred by Arnetta Champlain to ship items that were initially identified as missing from decedent's home and were returned when she specifically asked that they be returned to her.
2. \$9,800 in cash that Neuburger was aware decedent had put in his safe.
3. Other personal property items too numerous to list that are missing from the estate.

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

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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.

TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, APRIL 15, 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. 24PR0038 ESTATE OF MORZOV

Petition for Letters of Administration

Decedent died intestate on December 1, 2023, survived by two adult children. 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 Petitioner, but there is no bond waiver on file for Petitioner's other child, Amanda Morzov.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on February 9, 2024.

Proof of Service of Notice of the hearing on the Petition was filed on March 8, 2024.

Proof of publication was filed on March 18, 2024.

TENTATIVE RULING #2: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, APRIL 15, 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. 22PR0112 ESTATE OF WILLIAMS

Trial Confirmation

TENTATIVE RULING #3: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, APRIL 15, 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. 22PR0184 ESTATE OF AKABA

Status of Administration

TENTATIVE RULING #4: AN ORDER FOR FINAL DISTRIBUTION HAVING BEEN FILED WITH THE COURT, THE MATTER IS DROPPED FROM CALENDAR. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, APRIL 14, 2025, IN DEPARTMENT NINE, BY WHICH TIME THE COURT EXPECTS RECEIPTS AND AN EX PARTE PETITION FOR FINAL DISCHARGE (JUDICIAL COUNCIL FORM DE-295) TO BE FILED 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.

5. 22PR0222 ESTATE OF FENNESSY

Final Account and Petition for Final Distribution

Letters of Administration were issued on February 2, 2023, granting Petitioner full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on June 13, 2023.

Proof of Service of Notice of the hearing on the Petition was filed on January 31, 2024.

The proposed distribution of the estate is to the Trustee of the 1994 Fennessy Family Trust, and then to Petitioner pursuant to the terms of that Trust. This distribution is the result of a Settlement Agreement (Case No. PP20190244) between decedent's three children, two of whom have assigned their interest in the estate to Petitioner. (See Petition, Exhibit A).

Petitioner, as sole beneficiary, has waived an accounting. The Petition requests:

1. A finding that notice of the Petition and notice to creditors have been given as required by law;
2. A finding that Petitioner has performed all the duties required of his as executor of decedent's estate, and all reported acts, transactions, sales and investments of Petitioner are approved;
3. The Petition be settled, allowed and approved;
4. The Administrator be authorized to pay statutory attorney fees in the amount of \$7,817.19;
5. That waiver of statutory compensation to the personal representative be approved;
 1. Approval of distribution of the estate to Petitioner as Trustee of the 1994 Fennessy Family Trust, pursuant to the Petition for Final Distribution;
 2. 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 #5: ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, APRIL 14, 2025, IN DEPARTMENT NINE, BY WHICH TIME THE COURT EXPECTS RECEIPTS AND AN EX PARTE PETITION FOR FINAL DISCHARGE (JUDICIAL COUNCIL FORM DE-295) TO BE FILED 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.

6. 24PR0030 ESTATE OF SHIPMAN

Letters Testamentary

Decedent died intestate on October 26, 2023, survived by an adult child and two adult siblings. Petitioner is decedent's son.

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

The Petition requests bond be set at \$460,000.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on February 5, 2024

Proof of Service of Notice of the hearing on the Petition was filed on March 5, 2024.

Proof of publication was filed on March 5, 2024.

The Petition requests that a copy of decedent's Will that is handwritten and dated but not witnessed, be admitted to probate, see Petition, Attachment 3f(3). The Petition states that the original Will was lost, but the copy attached to the Petition was found in decedent's possessions after his death and is believed to represent decedent's intentions with respect to the disposition of his estate.

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

Probate Code § 6111(a) allows for probate of a holographic Will, even if not witnessed, "if the signature and the material provisions are in the handwriting of the testator." There is nothing in the Petition that attests that the proffered holographic Will is in the handwriting of the decedent.

TENTATIVE RULING #6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, APRIL 15, 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.

7. PP20190232 ESTATE OF REX WIGHT

Status of Administration

See related Case: Estate of Sherry Wight (PP20190231), Item 10 below.

TENTATIVE RULING #7: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, APRIL 15, 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.

8. PP20200196 ESTATE OF GILMET

Status of Administration

TENTATIVE RULING #8: AN ORDER FOR FINAL DISTRIBUTION HAVING BEEN ENTERED ON DECEMBER 4, 2023, THIS MATTER IS DROPPED FROM CALENDAR. A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, APRIL 14, 2025, IN DEPARTMENT NINE, BY WHICH TIME THE COURT EXPECTS RECEIPTS AND AN EX PARTE PETITION FOR FINAL DISCHARGE (JUDICIAL COUNCIL FORM DE-295) TO BE FILED 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.

9. **24PR0032 ESTATE OF ALESSE**

Petition for Instructions - Trust

TENTATIVE RULING #9: THIS MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, APRIL 22, 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.

10. PP20190231 ESTATE OF SHERRY WIGHT

Petition for Final Distribution on Waiver of Account

See related case: Estate of Rex Wight (PP20190232)-Item 7, above.

TENTATIVE RULING #10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, APRIL 15, 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.

11. 22PR0095 ESTATE OF BARRINGER

Status of Administration

TENTATIVE RULING #11: AN ORDER FOR FINAL DISCHARGE HAVING BEEN ENTERED ON JUNE 7, 2023, THIS MATTER IS DROPPED 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.

12. PP20200121 ESTATE OF KNOLL

Status of Administration

Letters of Administration were issued on December 17, 2020.

The Final Inventory and Appraisal was filed on June 14, 2021.

No Petition for Final Distribution has been filed with the court.

TENTATIVE RULING #12: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, APRIL 15, 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.

13. 22PR0202 ESTATE OF UNRUH

Status of Administration

See Related Case No. Estate of Plant (22PR0201) Item #1 above

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.

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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 (\$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. 03-04-24 Dept. 9 Probate Tentative Rulings 19

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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.

On April 4, 2024, Ronald Unruh, son of the decedent, filed a Declaration stating that he and his sister, Patricia Neuburger were never contacted by anyone from the Plant family after Arnold Plant, Sr. life's estate in the real property in which decedent held an interest was extinguished by his death. They were informed of the death by a neighbor at a time in which he believes Arnetta Champlain was living in the property without paying rent. Ronald Unruh believes Arnold Plant, III should be removed as administrator and that he and his counsel have not acted in good faith.

On March 18, 2024, Patricia Neuburger, daughter of the decedent, filed a Declaration stating that she and her brother respected Arnold Plant, Sr.'s request to leave their mother's personal possessions in the home in which Arnold Plant Sr. was living, and that those items would be available to them after his death. She states that she was not informed of Arnold Plant, Sr.'s death until she found out he had died through a neighbor, who informed her that there were a lot of people going in and out of the house and that Arnold Plant, III and Arnetta Champlain were conducting yard sales at the property. She states that when she was able to get

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to the house to recover her mother's property many items were missing. When she asked about some specific items they were shipped to her and she was charged \$571.65 for shipping costs, which could have been avoided if they had not been removed from the house in the first place. She states that the house was furnished with expensive and beautiful furniture. She states that there are additional specific items that she has requested be returned, which request has never been acknowledged. She is also aware of \$9,800 in cash that is unaccounted for.

TENTATIVE RULING #13: APPEARANCES ARE REQUIRED AT 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, APRIL 14, 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.

14. 24PR0011 IN THE MATTER OF HASSANE HAFFOUDA

Petition to Establish Date and Place of Marriage

Petitioner has filed Judicial Council Forms BMD-002 (Petition to Establish Fact, Date and Place of Marriage) and BMD-002A (Declaration in Support of Petition to Establish Fact, Date and Place of Marriage) seeking an Order from the court determining the date and place of Petitioner's marriage to Manal Sadek Kadham in Saida, Lebanon, on November 19, 1994. A proposed Order is attached to the Declaration for the court's signature.

The Declaration also attaches:

1. A translation and the original of a marriage certificate in Arabic;
2. A Notice of Entry of Judgment in the matter of Petitioner's divorce, dated July 13, 1994 in the Superior Court of the County of Sacramento;
3. A notarized application to amend a marriage record in the County of Sacramento; and
4. Photocopies of Petitioner's and Petitioner's spouse's identification.

There is no objection to the Petition in the court's file.

TENTATIVE RULING #14: 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.

**15. 23PR0154 IN THE MATTER OF THE DEL VECCHINO FAMILY REVOCABLE TRUST
Petition for Removal of Co-Trustee**

Decedent died on June 7, 2023, and was survived by four adult children, including Petitioner and Respondent, who were named co-trustees of the Del Vecchio Family Revocable Trust ("Trust"), executed on December 19, 2006, and restated as of April 24, 2023. The Trust states that trustees may only be removed for cause upon petition of a beneficiary to the court. Trust, Section 3.03.

The verified Petition requests the court for an Order removing Respondent Kristen Marsh as successor co-trustee. In the alternative, Petitioner requests appointment of a professional fiduciary to act as co-trustee with Petitioner.

At the hearing held on this Petition on September 11, 2023, the Petition for an accounting was denied, and the hearing on the Petition for removal of a co-trustee was continued and the parties were ordered to meet and confer.

A Status Report was filed with the court on December 7, 2023, indicating that the parties were not able to agree on the retention of a neutral attorney, the parties were not able to resolve an issue related to the establishment of a trust for the purpose of regularly placing flowers on the grave of the settlor's wife.

A Status Report was filed with the court on April 8, 2024, which details events surrounding the sale of the Trust's real property. It demonstrates that the parties have not been able to achieve the level of cooperation necessary to open a joint bank account for the deposit of the proceeds of the sale of the real property owned by the Trust, and that the relationship and communications between the co-trustees have deteriorated to the point that they are unable to communicate except through opposing counsel and are unable to move the administration of the Trust forward.

Probate Code § 15642 provides, pertinent part:

(a) A trustee may be removed . . . , by the court on its own motion,

(b) The grounds for removal of a trustee by the court include the following:

* * *

(3) Where hostility or lack of cooperation among cotrustees impairs the administration of the trust.

* * *

Given that there has been no discernible progress in resolving this conflict in the nine months since the Petition was filed, if the parties continue to find themselves unable to resolve

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this dispute the court will, on its own motion, find that the hostility among the co-trustees is impairing the administration of the Trust and, in order to protect the beneficiaries' interests against the waste of Trust assets through protracted litigation, appoint a professional fiduciary as sole successor trustee in lieu of the current co-trustees.

TENTATIVE RULING #15: THIS MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, MAY 20, 2024. BY MAY 13, 2024, THE COURT ORDERS THE PARTIES TO FILE ONE OF THE FOLLOWING DOCUMENTS WITH THE COURT:

- 1. A SETTLEMENT AGREEMENT AND REQUEST FOR DISMISSAL OF THE PETITION; OR**
- 2. AN STIPULATION TO THE APPOINTMENT OF A DESIGNATED PROFESSIONAL FIDUCIARY SELECTED BY MUTUAL AGREEMENT OF THE PARTIES; OR**
- 3. A NOMINATION BY EACH PARTY OF AT LEAST TWO PROFESSIONAL FIDUCIARIES, FROM WHICH LIST THE COURT WILL SELECT A PROFESSIONAL FIDUCIARY WHO WILL BE APPOINTED BY THE COURT TO ADMINISTER THE TRUST.**

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. 23PR0096 IN THE MATTER OF BURTON ZABIN & HENRIETTE ZABIN REVOCABLE TRUST
Petition to Confirm Trust Assets

An Order Confirming Trust Assets was entered on January 31, 2024, as to Morgan Stanley account # 101-122276-075. The matter was continued to April 15, 2024, in order to determine title to the remaining assets that are the subject of the Petition.

TENTATIVE RULING #16: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, APRIL 15, 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. PP20210006 IN THE MATTER OF WILLIAM AND GRACE HOOD TRUST

Hearing on Status of Sale of Real Property

On March 3, 2021, the court granted a petition to appoint a successor trustee, set bond in the amount of \$550,000 to be posted within ten days, or to deposit the proceeds from the sale of the house into a blocked account, and set a review hearing regarding the sale of the house.

Bond was posted on April 8, 2021. On July 7, 2021, the hearing was continued to September 22, 2021. On September 22, 2021, trustee's counsel filed a declaration explaining that following the resolution of title issues associated with the real property, the Caldor fire prevented access to the property for some time, but eventually the realtor was able to return in order to get photographs in order to list the property at a price of \$795,000.

On February 2, 2022, the court granted the trustees petition confirming that the property was an asset of the trust, and that the court's order was required in order to proceed with a sale.

As of the date of a review hearing set on March 9, 2022, the court had not received further word about the sale of the house, and the hearing was continued to June 8, 2022. No party appeared at the June 8, 2022, hearing, and the matter was continued to November 9, 2022. On November 9, 2022, no party appeared for the hearing and the matter was continued to April 10, 2023. No party appeared at the April 10, 2023, hearing and the matter was continued to October 16, 2023. There were no appearances at that hearing, and the court continued the matter to April 15, 2024.

TENTATIVE RULING #17: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, APRIL 15, 2024, IN DEPARTMENT NINE. A STATUS HEARING IS SET FOR 8:30 A.M. ON MONDAY, APRIL 14, 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.

18. 23PR0284 HERBERT R. BISHOP AND JEANNETTE M. BISHOP TRUST

**Petition for Removal of Trustee and to Compel Accounting
Objection**

Petitioner filed a Petition for Removal of Trustee, to Compel Accounting and for Damages for Breach of Duty on November 8, 2024. Whether Petitioner is a beneficiary with standing to demand an accounting depends on interpretation of the Trust.

At the hearing on the Petition held on January 22, 2024, the court continued the matter to allow time for the filing of any objection to the Petition.

The Herbert R. Bishop and Jeanette M. Bishop Trust of 1995 (“Trust”) was established by two settlors, Herbert R. Bishop and Jeanette M. Bishop. The Trust is attached to the Petition as Exhibit A. Article VI.A of the Trust provides that “[o]n the deceased spouse’s death, the Trustee shall divide the trust estate, . . . into two (2) separate trusts, the survivor’s trust and the exemption trust.” The survivor’s trust estate was to be made up of the surviving spouse’s separate property and the surviving spouse’s interest in the community estate. Trust, Article VI.C. The exemption trust was to receive any remaining assets of the original Trust. Trust, Article VI.E. At the time the Trust was created, the settlors had three living children, who were all named as beneficiaries of the Trust, including Petitioner’s mother, Linda Bishop Lewis. Trust, Article XII.A. Hebert R. Bishop died on November 5, 2007. Dave Bishop is the named as successor trustee after the settlors.

Jeanette Bishop, the surviving settlor, created the Survivor’s Trust Created Pursuant to the Herb R. and Jeanette M. Bishop Trust of 1995 (“Survivor’s Trust”) on December 20, 2018, eleven years after Hebert R. Bishop’s death. The Survivor’s Trust is attached to the Petition as Exhibit B. Jeannette Bishop was designated as the settlor of the Survivor’s Trust, and her daughter Lisa Akins was designated as the trustee. Section 1.6 of the Survivor’s Trust identifies two living children of the settlor: Lisa Akins and Dave Bishop, while Section 1.7 identifies Linda Bishop Lewis, Petitioner’s mother, as a deceased child. Upon the death of the settlor, Section 5.3 provides for distribution of the Survivor’s Trust estate to the surviving children of the settlor, or if none survive to the legal heirs of the settlor, expressly excluding and disinheriting Petitioner who “shall be deemed to have predeceased the settlor.” Survivor’s Trust, Section 7.6.

A second trust was also created on the same day, December 20, 2018, titled the “Bishop Family Trust”, which is attached to the Petition as Exhibit C. Jeannette Bishop was not the settlor of the Bishop Family Trust. Instead, the declaration of trust is made by Lisa Akins and Dave Bishop. Nowhere does the Bishop Family Trust reference the Herbert R. Bishop and Jeanette M. Bishop Trust of 1995 or refer to an “exemption trust”. Lisa Akins is named “primary” trustee, and Dave Bishop is named successor trustee. Bishop Family Trust, Article 1(B)-(C). The

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assets of the Bishop Family Trust are to be held in trust during the lifetime of Jeanette Bishop, and then distributed in equal shares to Lisa Akins and Dave Bishop. Bishop Family Trust, Article 2(B). Petitioner is identified as having been intentionally omitted. Bishop Family Trust, Article 2(D). During her lifetime, Jeanette Bishop had the power to amend or revoke the Bishop Family Trust. Bishop Family Trust, Article 3(B)-(C). Schedule A of the Bishop Family Trust where assets were to be listed, was blank.

Jeanette Bishop died on November 3, 2022.

On March 20, 2023, Petitioner requested an accounting of the “exemption trust”, one of the two trusts that was supposed to have been created upon the death of the first settlor of the original trust. Petition, Exhibit D. According to her counsel’s letter, Petitioner still holds the status of Trust beneficiary as an heir of her mother, Linda Bishop Lewis, who was still living and was named as one of the children of the settlors and as a beneficiary of the Herbert R. Bishop and Jeanette M. Bishop Trust of 1995. Trust, Article XII.A. The same section that named Petitioner’s mother as a beneficiary further states that if “any of the Settlor’s children predecease the death of the surviving spouse, then and in that event said predeceasing child’s share shall be distributed to his or her issue [*i.e.* Petitioner]”.

Petitioner’s counsel argued that Petitioner was still a beneficiary of the “exemption trust” because Article XIII, Paragraph H of the original Trust provides that “[o]n the deceased spouse’s death, the surviving spouse may amend, revoke or terminate the survivor’s trust, but the exemption trust may not be amended, revoked or terminated.”

The May 10, 2023, response to Petitioner’s request for an accounting by counsel for Lisa Akins as successor trustee of the Survivor’s Trust (Petition, Exhibit F), states that no “exemption trust” exists, and that Lisa Akins did not become a trustee of the Survivor’s Trust until after Jeanette Bishop died in 2022.¹ Accordingly, Lisa Akins was never subject to the obligation to create the “exemption trust” after Herbert Bishop’s death in 2007 pursuant to the terms of the original 1995 Trust. Akin’s counsel goes on to note that pursuant to community property laws, all of Herbert Bishop’s community property interest would have passed to Jeannette Bishop and thus into the Survivor’s Trust (Trust, Article VI(C): “The survivor's trust shall consist of the surviving spouse's separate property, if any and *the surviving spouse's interest in the Settlor's community estate*”), so that unless Herbert Bishop had separate property there would be no assets remaining with which to fund the “exemption trust.”

¹ This is incorrect. Article 1.1 of the Survivors Trust says that Jeanette Bishop is the settlor and Lisa Akins is the trustee as of the date of its creation in 2018.

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Petitioner's counsel responded on June 26, 2023 (Petition, Exhibit E) that it would be necessary to account for the value of the 1995 Trust estate in 2007 in order to determine whether there were any assets that should have been used to fund an "exemption trust."

Second, Petitioner's counsel cited Article XI.A and XI.B and Article XII.A of the Survivor's Trust, which state:

Article XI

A. On the surviving spouse's death, the Trustees shall distribute any remaining balance of the survivor's trust, including principal and accrued or undistributed income, to one or more persons and entities, including the surviving spouse's own estate, and on any terms and conditions, either outright or in trust, and in any proportion **that the surviving spouse shall appoint by Will or Codicil specifically referring to and exercising this power of appointment.**

B. On the surviving spouse's death, if and to the extent that the surviving spouse shall not have effectively disposed of all property of the trust estate of the survivor's trust through a valid and effective exercise of a power of appointment, **all of the remaining assets of these trusts shall be distributed to the then-acting Trustees of the exemption trust to be added to and form a part of the assets of the exemption trust and to be thereafter held, administered and distributed as part of the exemption trust.**

Article XII

A. On the surviving spouse's death, the balance of the exemption together with that portion of the survivor's trust added to it, **shall be distributed in equal shares to the Settlor's children, LINDA BISHOP LEWIS, DAVE BISHOP and LISA PURVES. In the event that any of the Settlor's children predecease the death of the surviving spouse, then and in that event, said predeceasing child's share shall be distributed to his or her issue.** In the event said predeceasing child does not leave issue surviving him or her, then said predeceased child's share shall be distributed equally between the surviving children of the Settlor's.

Given that language, Petitioner argues, the only way that a distribution can be made from the Survivor's Trust is by Will or valid power of appointment, and if not distributed in that manner upon the expiration of the Survivor's Trust, the Survivor's Trust assets are required to be distributed to the trustees of and administered according to the terms of the "exemption trust". With no evidence of distribution by Will or power of appointment, Petitioner argues, all assets held by the Survivor's Trust were required to have been distributed to the "exemption trust", of which Petitioner would have been a beneficiary.

Petitioner notes that Dave Bishop, as trustee of the original 1995 Trust, sold real property in September 2018 and the proceeds of that sale would have been Trust assets.

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An Objection was filed on March 7, 2024, by Lisa Akins, stating that because there was no separate property of Herbert Bishop at the time of his death, there was no requirement to create or fund the exemption trust. Because Petitioner is not a beneficiary of any of the other trusts Petitioner has no standing to demand an accounting and is owed no fiduciary duty. Objector notes that Article XIX, ¶G of the original 1995 Trust provides that “[n]o successor Trustee shall be liable for any act, omission, or default of a predecessor Trustee.” Accordingly, Objector argues, Lisa Akins is not liable for any failures of Jeanette Bishop to provide an accounting to Petitioner.

A Reply to the Objection was filed on March 22, 2024, stating that there was an obligation to create the exemption trust upon the death of Herbert Bishop created by Article IV, ¶A of the original 1995 Trust and that she is entitled to an accounting to determine whether there were any qualifying assets to fund the exemption trust.

TENTATIVE RULING #18: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, APRIL 15, 2024, IN DEPARTMENT NINE.

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19. 24PR0003 THE RAYNAL FAMILY TRUST

Petition for Instructions and Modification of Trust

The settlors Michael and Carin Raynal created the Raynal Family Trust ("Trust") on February 23, 2004. Michael Raynal died on October 11, 2023. Petitioner is the surviving settlor and current trustee of the Trust. The beneficiaries of the Trust are Petitioner and the two adult children of the settlor.

The Trust provides that upon the death of the first settlor the estate is to be divided into three shares: 1) a Decedent's Trust consisting of the deceased settlor's assets (irrevocable), 2) a Survivor's Trust consisting of the surviving settlor's assets (revocable), and 3) a Marital Deduction Share funded by assets sufficient to eliminate federal estate taxes upon the death of the deceased settlor. Because of changes to federal tax law since the inception of the Trust, it is not necessary to fund the Marital Deduction Share in order to avoid federal estate taxes.

A Petition was filed on January 16, 2024, requesting the court to modify the Trust by terminating the Decedent's Trust/Nonmarital Share created pursuant to the current terms of the Trust because the federal tax conditions that created the incentive to create the a Marital Deduction Share no longer exist and without those tax benefits the a Marital Deduction Share operates to defeat the settlor's intention in creating the Trust.

Probate Code § 15403 provides, in part:

(a) Except as provided in subdivision (b), if all beneficiaries of an irrevocable trust consent, they may petition the court for modification or termination of the trust.

(b) If the continuance of the trust is necessary to carry out a material purpose of the trust, the trust cannot be modified or terminated unless the court, in its discretion, determines that the reason for doing so under the circumstances outweighs the interest in accomplishing a material purpose of the trust. If the trust is subject to a valid restraint on the transfer of a beneficiary's interest as provided in Chapter 2 (commencing with Section 15300), the trust may not be terminated unless the court determines there is good cause to do so.

All beneficiaries have given their consent to the modification requested by the Petition. See Petition, Exhibit 2.

Probate Code § 15409(a) provides:

On petition by a trustee or beneficiary, the court may modify the administrative or dispositive provisions of the trust or terminate the trust if, owing to circumstances not known to the settlor and not anticipated by the settlor, the continuation of the trust

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under its terms would defeat or substantially impair the accomplishment of the purposes of the trust. In this case, if necessary to carry out the purposes of the trust, the court may order the trustee to do acts that are not authorized or are forbidden by the trust instrument.

In this case, the federal estate tax exemption amount changed from \$1,500,000 to \$13,610,000 after the Trust was executed, and for this reason, there is no longer any reason to fund the Marital Deduction Share of the Trust, and doing so would substantially impair the purpose of the Trust to preserve assets for the beneficiaries by incurring expenses for administration of the subtrust.

Probate Code Section 15411 allows the court to combine two or more trusts that are substantially similar for good cause shown “if the court determines that administration as a single trust will not defeat or substantially impair the accomplishment of the trust purposes or the interests of the beneficiaries.” The court so finds, based on the representations in the Petition and the written consents to the proposed modification that has been executed by the beneficiaries.

Proof of service of notice of the Petition was filed on January 17, 2024.

TENTATIVE RULING #19: ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED.

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