

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

1.	24PR0108	ESTATE OF ANNE MCKENNA
Succession to Real Property		

See related cases – No. 3 and 4

According to the Petition, Decedent died on August 19, 2019, in the state of Washington but owned real property in El Dorado County. Anne’s parents, Donald E. Mckenna and Elizabeth E. Mckenna are also deceased. Anne was the beneficiary of the trust of her parents, along with her brother Donald E. Mckenna, Jr., who is also deceased. According to the supplement to Petition, attachment 14, there are no living issue or other next of kin aside from Petitioner, who is Donald and Elizabeth’s nephew/Anne’s cousin.

Decedent died intestate, leaving behind personal property only. The Inventory and Appraisal of the property shows a value of \$90,869.60 and was conducted by the Probate Referee as required by Probate Code § 8902.

The interest claimed by Petitioner in each specific piece of personal property is 100%. All prior deficiencies in the Petition have been cured.

**TENTATIVE RULING #1:**

**ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043)**

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

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

<b>2.</b>	<b>22PR0276</b>	<b>ESTATE OF COTE</b>
<b>Status of Administration</b>		

Order Appointing Administrator was filed March 5, 2024. Letters have not issued.

There is no Inventory and Appraisal on file with the court.

There is no Petition for Final Distribution on file with the court.

**TENTATIVE RULING #2:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 22, 2024, IN DEPARTMENT NINE.**

**A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JULY 23, 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.**

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

<b>3.</b>	<b>24PR0109</b>	<b>ESTATE OF DONALD MCKENNA</b>
<b>Succession to Property</b>		

Decedent died on September 24, 2004, in Placerville, CA. He died testate, survived by his spouse and child, who have since died as well.

The gross value of decedent's interest in real and personal property in California, excluding the property described in Probate Code §13050 did not exceed \$166,250. The Inventory and Appraisal filed with the Petition indicates a value of \$47,487.97. Attachment 11 and the Inventory and Appraisal list the personal property.

The interest claimed by Petitioner in each specific piece of personal property is 100%. He is the only known next of kin. The prior deficiencies in the Petition have been cured.

**TENTATIVE RULING #3:**

**ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).**

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

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

<b>4.</b>	<b>24PR0107</b>	<b>ESTATE OF ELIZABETH MCKENNA</b>
<b>Succession to Property</b>		

Decedent died on December 15, 2015, in Placerville, CA. She died testate, survived by children, who have since died.

The gross value of decedent's interest in real and personal property in California, excluding the property described in Probate Code §13050 did not exceed \$166,250.

Attachment 11 and the Inventory and Appraisal list the personal property, with a value of \$69,695.77. The interest claimed by Petitioner in each specific piece of personal property is 100%. He is the only known next of kin. The prior deficiencies in the Petition have been cured.

**TENTATIVE RULING #4:**

**ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).**

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

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

5.	23PR0084	ESTATE OF SMITH
Status of Administration		

Letters Testamentary were issued on July 24, 2023. An Inventory and Appraisal was filed on August 28, 2023.

There is no Petition for Final Distribution on file with the court.

Counsel submitted a Report of Sale and Petition for Order Confirming Sale of Real Property for the property at 4699 Monte Mar Drive in El Dorado Hills. The appraised value was \$645,000 and the offer made was \$650,000. Escrow closed on October 17, 2023. After payment of fees, costs, and mortgage, the estate received \$44,358.22. The Will does provide the personal representative with authority to sell real property.

**TENTATIVE RULING #5:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 22, 2024, IN DEPARTMENT NINE.**

**A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JULY 23, 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.**

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

6.	22PR0099	ESTATE OF MCNULTY
Petition for Sanctions		

Petitioner requests \$22,043.76 in sanctions against the Special Administrator (C. Schroeder), and \$5,840 as attorney's fees, for a total of \$28,077.48.

At the hearing on May 22, 2023, the court directed C. Schroeder to cooperate with Petitioner regarding the Inventory and Appraisal. At the hearing on September 11, 2023, counsel for Petitioner addressed C. Schroeder's noncooperation with the Administrator.

At the hearing of October 2, 2023, the court issued an Order requiring C. Schroeder to comply with Requested Order Nos. 1, 2, 3, and 7. The court deferred a decision on Requested Order Nos. 4, 5, and 6. At the hearing of October 16, 2023, counsel for Petitioner confirmed compliance with some but not all of the court Orders. C. Schroeder complied with 1(b), 1(c), 3 and 7 of the October 2, 2023, Orders.

The Order to Show Cause was continued to November 27, 2023.

At the hearing of November 27, 2023, the court ordered C. Schroeder to:

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

The hearing to determine compliance was continued to January 29, 2024. At that hearing, the court determined that C. Schroeder had provided the Tax ID to counsel but failed to comply with the court Order to meet with Attorney Yang, which added significant work to the Personal Representative and Attorney Yang. C. Schroeder was instructed by the court to submit an accounting by March 11, 2024. C. Schroeder failed to submit an accounting by March 11, 2024, and to date has not submitted an accounting, in direct violation of the Court's order.

An audit of transactions completed the Administrator revealed that C. Schroeder changed ownership of two estate cars into her name and withdrew \$11,060 from the estate. The Petition alleges that C. Schroeder incurred \$1,312.77 in improper expenses. Additionally, C. Schroeder appears to have incurred \$1,350.85 in out-of-pocket expenses that should be credited to her. According to the Administrator the balance owed to the estate is \$11,021.88. Declaration of Teresa Lynn Bolduc, dated May 8, 2024.

Based on Probate Code § 859, Petitioner requests sanctions amounting to twice the value of the property unlawfully taken by C. Schroeder, or \$22,043.76. Petitioner also requests costs of \$193.00 and attorney's fees of \$5,840.

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

Schroeder's response was due to be filed and served no later than July 9. No response was filed.

**TENTATIVE RULING #6:**

**ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).**

**A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JULY 23, 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.**

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

<b>7.</b>	<b>PP20170176</b>	<b>ESTATE OF FIELDS</b>
<b>OSC</b>		

**TENTATIVE RULING #7:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 22, 2024, IN DEPARTMENT NINE.**

**A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JULY 23, 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.**



July 22, 2024  
Dept. 9  
Probate Tentative Rulings

<b>8.</b>	<b>24PR0024</b>	<b>MATTER OF MORGAN FAMILY TRUST</b>
<b>Petition Hearing</b>		

This Petition filed by James Morgan, the son of decedent, alleges that Richard and Deborah Morgan, the decedent's other two children committed elder abuse when they caused their father (decedent) to sign deeds to two real properties transferring his interest in the properties out of the Morgan Family Trust, dated July 22, 1992 ("Trust") and granting them to Richard and Deborah individually.

The Petition alleges that the decedent lacked capacity and resided in hospice at the time of the transfers.

Petitioner does not have a copy of the Trust, which was initially executed by decedent and his spouse and held title to decedent's fifty percent interest in a commercial building located at 2878 Cold Springs Road, Placerville, California (grant deed dated August 20, 1992), and one hundred percent interest in the residential property located at 3740 Butterfly Lane, Placerville, California grant deed dated March 13, 2012). Decedent's spouse died on July 17, 2022. A Certification/Declaration of Trust is attached to the Petition as Exhibit B.

Decedent transferred title to these properties out of the trust on October 24, 2023, in a series of documents, starting with an Affidavit of Death of Trustee attesting to the death of his spouse as co-trustee of the Trust, then transferring each property to himself as surviving trustee, and finally transferring title to himself and Respondents co-owners. In the case of the Butterfly Lane property, title was transferred to himself and Deborah Morgan and joint tenants, and in the case of the Cold Springs Road property, title was transferred to himself and Richard Morgan as tenants in common. Decedent died less than a week after the documents were executed and recorded.

The Petition alleges Elder Abuse under Welfare & Institutions Code § 15610.30. The Petition seeks:

1. A finding of the court that decedent lacked the capacity to execute the deeds;
2. A finding of the court that decedent was unduly influenced by Respondents to sign the transfer documents;
3. Return of the property to the estate by rescission of the two deeds and an equitable or constructive lien on the Trust property;
4. Instructions from the court pursuant to Probate Code § 17200 appointing a trustee, confirming the beneficiaries and the assets of the Trust, including a finding that Respondents are deemed to have predeceased the decedent and are no longer beneficiaries of the Trust; and,
5. An award of general, special and punitive damages, attorneys' fees and costs.

Notice of the hearing on the Petition was filed on February 6, 2024.

At the April 8, 2024, hearing the parties requested a continuance to conduct discovery.

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

**TENTATIVE RULING #8:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 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.**

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

<b>9.</b>	<b>24PR0144</b>	<b>MATTER OF PLANJE LIVING TRUST</b>
<b>Petitions</b>		

There are two separate Petitions filed, and both are set for hearing on July 22, 2024. The first Petition is brought to confirm that real properties, personal property, and bank accounts are assets of the Charles Alan Planje Living Trust (“Trust”).

The Trust was executed on January 22, 2023. The Schedule A, attached to the Trust, listed all assets that decedent intended to transfer to the trust. It includes four pieces of real property, three Wells Fargo bank accounts, two Sierra Central Credit Union bank accounts, proceeds from Voya Term Life Insurance, proceeds from CalPERS retirement, proceeds from Edward Jones IRA, and all personal property. At the time the Trust was executed, decedent also executed a Pour-Over Will. With the Trust, decedent executed a Bill of Transfer and Notice of Assignment, transferring and assigning all of his rights, title, and interest in the assets described on Schedule A to the Trust. Each asset is specifically identified and listed.

Decedent died on January 4, 2024. At the time of his death, none of the real properties or accounts listed on the Schedule A and the Bill of Transfer and Notice of Assignment had been transferred into the Trust. One of the properties was listed with the address 221095 River View Drive but appears to be a Scrivener’s Error as no property with that address exists. However, decedent does own a property at 22195 River View Drive, which is occupied by tenants. Petitioner occupies one of the other properties, and the two remaining real property parcels are land only.

The Edward Jones IRA had Petitioner listed as beneficiary, and therefore is not part of these Petitions. None of the other assets seem to have beneficiary designations, which Petitioner argues shows decedent’s intention that they be part of the Trust, even though they were never formally transferred.

The Schedule A listed as an asset of the Trust, “[all] personal property, including but not limited to jewelry, household furniture and furnishings, clothes and other personal items.” It did not specifically list decedent’s eight vehicles/trailers.

Petitioner is the sole heir and beneficiary. Notice of the Petition was provided to the residents of the occupied property, as well as the property manager.

The Petition requests an order determining that Keri Coleman, as trustee of The Charles Alan Planje Living Trust dated January 22, 2023, now holds title to:

1. The following real property:
  - a. In the City of El Dorado Hills (APN: 126-433-04-100);
  - b. In the City of Cottonwood (APN: 100-140-003-000);
  - c. In the City of Cottonwood (APN: 100-280-017-000);

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

- d. In the City of Paradise (APN: 51-132-106);
2. The following personal property:
  - a. Wells Fargo Savings Account #2609;
  - b. Wells Fargo Checking Account #3614;
  - c. Wells Fargo Checking Account #7062;
  - d. Sierra Central Credit Union Savings Account #6066;
  - e. Sierra Central Credit Union Checking Account #6066;
  - f. CalPERS State Retirement Account Benefits in the name of Charles Alan Planje;
  - g. All personal property, including but not limited to jewelry, household furniture and furnishings, clothes, and other personal items;
3. The following vehicles:
  - a. 1959 Dodge 4-door Sedan, Engine/ID Number M354100706;
  - b. 1939 Plymouth Coupe, VIN 10727730;
  - c. 2005 Ford Pickup, VIN 1FTWW31P55EC10707;
  - d. 1940 Studebaker Sedan (no VIN);
  - e. 2003 Ford Utility, VIN 1FMYU93183KC06252;
  - f. 2005 PJ Trailer, VIN 4PSDE202X51069852;
  - g. 2000 Special Construction Utility Trailer, VIN 1L3300851HC025730; and,
  - h. 1972 Chevrolet Pickup, VIN CCE242Z139244.

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:

(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

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

of the order as if the property had been conveyed or transferred in accordance with the terms of the order.

Proof of service filed on June 12, 2024, indicates notice of the Petition was mailed on June 12, 2024.

The second Petition is brought to confirm that the proceeds of a life insurance policy are assets of the Trust. The Schedule A of the Trust as well as the Bill of Transfer and Notice of Assignment list the proceeds of the Voya Life Insurance policy as assets of the Trust. Petitioner believed that she was the sole beneficiary listed on all of decedent's accounts, policies and assets; however, Voya indicated that someone else is listed as the beneficiary but cannot provide that information without a subpoena. Petitioner seeks to open this case so that she may subpoena records from Voya to ascertain the beneficiary of the policy.

The Petition requests an order that Keri Coleman, as trustee of The Charles Alan Planje Living Trust dated January 22, 2023, holds title to the proceeds from Charles A. Planje's Voya Term Life Insurance policy ending in 3126.

**TENTATIVE RULING #9:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 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.**

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

<b>10.</b>	<b>24PR0142</b>	<b>MATTER OF RASMUSSEN</b>
<b>Approval of Compromise of Claim</b>		

This is a Petition to compromise a minor's claim. The Petition states the 4-year-old minor sustained burns resulting from a hot plate coming in contact with his back in 2023. Petitioner requests the court authorize a compromise of the minor's claim against defendant/respondent in the gross amount of \$74,000.

The Petition states the minor incurred \$6,583.16 in medical expenses that have been paid or will be paid by petitioner. Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6) requires the original or a photocopy of each bill which, if paid, shall disclose the date of payment, the amount paid, and the name of the payer. Bills for UCD Medical Center and Shriners' Hospital are attached. The Petition indicates that the invoices have not been paid. There is no invoice for the charge from Cameron Park Fire.

The Petition states that the minor has fully recovered and there are no permanent injuries. A doctor's report concerning the minor's condition and prognosis of recovery is attached but there is no current report of the minor's present condition, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(3).

The minor's attorney requests attorney's fees in the amount of \$18,396.19, which represents roughly 25% of the gross settlement amount. The court uses a reasonable fee standard when approving and allowing the amount of attorney's fees payable from money or property paid or to be paid for the benefit of a minor or a person with a disability. (Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(8); California Rules of Court, Rule 7.955(a)(1).) The Petition does include a Declaration by the attorney as required by California Rules of Court, Rule 7.955(c).

The minor's attorney also requests reimbursement for costs in the amount of \$603.81. There are no copies of bills substantiating the claimed costs attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

With respect to the \$55,000.00 due to the minor, the Petition requests that they be invested in a single-premium deferred annuity, subject to withdrawal only on authorization of the court. See Structure Attachment to Petition which includes the name of the annuity provider, but not the address of the depository, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A(7).

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

The minor's presence at the hearing will be required in order for the court to approve the Petition. Local Rules of the El Dorado County Superior Court, Rule 7.10.12.D.

Probate Code § 3602 provides that if there is no guardianship in place, the funds should be deposited in accordance with § 3610 et seq. Under those circumstances, Probate Code § 3611 provides the following options:

- 1) appoint a guardian to whom the funds may be delivered (§ 3611(a));
- 2) that the funds be deposited into an insured account in a financial institution, or in a single-premium deferred annuity subject to withdrawal with court authorization with any remaining balance or other property be held under conditions that the court determines to be in the best interests of the minor (§ 3611(b));
- 3) payment into a special needs trust (§ 3611(c));
- 4) payment directly to a parent (§ 3611(e));
- 5) payment into an account subject to the Uniform Transfers to Minors Act (§ 3611(f));
- 6) payment into a trust (§ 3611(g)); or
- 7) payment to the County Treasurer (§ 3611(h)).

The Petition complies with Probate Code §3602.

**TENTATIVE RULING #10:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 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.**

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

11.	23PR0259	MATTER OF FOX
Petition		

Decedent died intestate, survived by a spouse, adult son and adult daughter. The spouse filed the Petition for Probate and was issued Letters with full authority on March 21, 2024. There were no objections to the Petition or appointment of Ms. Nelson as Administrator.

Decedent's daughter brings this Petition regarding actions of the Administrator. The Petition was filed May 13, 2024, but there is no proof of service or notice of hearing. Petitioner claims she has resided at the home owned by decedent on Russell Road in Auburn for the past 18 years and has never been required to pay rent.

Petitioner states that the Administrator imposed rent of \$2,000 per month, starting April 1<sup>st</sup> with only four days' notice, and has stated an intention to evict Petitioner if she does not pay rent. Petitioner states that she has not had any communication from the Administrator nor Administrator's counsel, which has caused her uncertainty and distress. Petitioner claims that the Administrator made an unannounced visit to the property on March 28, 2024, and took photographs of the property, which Petitioner claims constitute trespass and invasion of privacy. Petitioner claims the Administrator's actions have caused emotional distress to herself and her brother.

Petitioner seeks: a stay on rent; court review of Administrator's actions; court instruction that Administrator cease unannounced visits and alleged trespass, and threats of eviction; court order that Administrator establish open and transparent communication regarding any changes, decisions, or actions concerning the estate; and that the court "ensure that appropriate emotional and mental support" is provided at Petitioner. The Court lacks authority to grant many of these requests.

Pursuant to Probate Code §6401, if Russell Road was held as community property, then the Administrator is entitled to decedent's 1/2 of the community property; if it was held as separate property, then Administrator and each of the children and entitled to 1/3 of the property. No copy of the deed has been provided to the court.

**TENTATIVE RULING #11: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 22, 2024, IN DEPARTMENT NINE.**

**A STATUS OF ADMINISTRATION HEARING IS ALREADY SET FOR 8:30 A.M. ON MONDAY, MARCH 10, 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.**



July 22, 2024  
Dept. 9  
Probate Tentative Rulings

<b>12.</b>	<b>24PR0145</b>	<b>MANOLY REVOCABLE TRUST (incorrectly titled matter of Jones in ECourt)</b>
<b>Petition</b>		

Petitioner, as trustee of The Shirley A. Manoly Revocable Trust (“Trust”), brings this Petition confirming real property and various accounts as trust assets. Decedent established the Trust on June 6, 2021, as Settlor, but at all times Petitioner has been Trustee. Decedent she died on November 15, 2023, in El Dorado County. Decedent also had a Pour-Over Will, giving the residue of her estate to the Trust.

The Petition alleges that Decedent established the Trust with the intent to dispose of her property upon her death. This Petition involves: real property at 464 Oak Valley Loop, Winchester, Oregon; Edward Jones account 06086; KS State Bank account 50372; Northwest Community Credit Union account 5694; Charles Schwab account 3994; and Synchrony Bank account 7626, which is a 60-month IRA CD. The real property and accounts named above are the only assets listed on Exhibit A of the Trust, indicating Decedent’s intention that they belong to 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:

(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.

\* \* \*

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

Notice of the hearing and a copy of the Petition were mailed at least 30 days prior to the hearing, to each person claiming an interest in or having title to or possession of the property, as well as any heir or devisee whose interest may be affected by the Petition. The notice and Petition were mailed on June 21, 2024 and filed on June 21, 2024.

Pursuant to Probate Code §850 and *Estate of Heqqstad* (1993) 16 Cal.App. 4th 943, 947-950, the Court finds sufficient evidence that decedent intended the above-mentioned assets be part of the Trust.

**TENTATIVE RULING #12:**

**ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).**

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

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

<b>13.</b>	<b>24PR0150</b>	<b>MATTER OF WILSON</b>
<b>Letters of Administration</b>		

Decedent died intestate on April 6, 2024, survived by one adult daughter, who is Petitioner.

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

Waiver of bond has been filed with the court by the heirs.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on May 23, 2024.

Proof of service of notice of the hearing on the Petition was filed on June 7, 2024.

Proof of publication was filed on June 25, 2024.

**TENTATIVE RULING #13:**

**ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).**

**A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JULY 23, 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.**

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

<b>14.</b>	<b>24PR0149</b>	<b>MATTER OF THULANDER</b>
<b>Letters Testamentary</b>		

Decedent died testate on March 11, 2020, survived by three adult children. Petitioner is decedent's adult child.

The Petition requests full authority under the Independent Administration of Estates Act. Petitioner opens Probate in order to have IAEA authority so that she can file a personal injury wrongful death claim, and act on behalf of the estate in any potential settlement. There are no other assets involved.

Decedent's spouse is named as Executor in the Will, but she is now deceased. Petitioner is named as a successor. The Will was lodged with the court on June 4, 2024, and is admitted to probate. The Will waives bond.

A Duties/Liabilities Statement (DE 147) was filed on June 4, 2024, 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.

Proof of service of notice of the hearing on the Petition was filed on June 26, 2024.

Proof of publication was filed on July 8, 2024.

**TENTATIVE RULING #14:**

**ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED UPON RECEIPT OF PETITIONER'S DE-147S FORM. ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).**

**A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JULY 23, 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.**

<b>15.</b>	<b>23PR0145</b>	<b>MATTER OF ZAROW TRUST</b>
<b>Objection Hearing/Status of Mediation</b>		

Decedent, settlor of the Zarow Trust (“Trust”), dated October 17, 1985, and restated on April 4, 2017 (Petition, Exhibit A), died on May 18, 2021. Petitioner Angela Christensen was appointed co-trustee on June 27, 2018, which is the date that the settlor executed a First Amendment to the Trust. Petition, Exhibit B. While the Trust is not subject to continuing court supervision, Petitioner requests court approval of the final account and distribution proposed by the Petition. There are eight Trust beneficiaries, including Petitioner, who are the surviving children of the settlor.

Exhibits D, E and F to the Petition are the accounts of the administration of the Trust for the years 2021, 2022 and 2023, respectively.

Notice of the hearing on the Petition was filed on July 14, 2023.

The proposed distribution of the estate includes:

1. Reimbursement to Petitioner/Trustee

Petitioner has submitted a Declaration, dated July 3, 2023 (“Christensen Declaration”), in which she details the need for her expenditure of \$51,041.83 for which she claims reimbursement from the Trust between 2019 and 2021. See Christensen Declaration, Exhibit A. A catalogue of travel and the reasons required for travel and other expenses is detailed in Christensen Declaration, Exhibit B. Payment of attorney’s fees for legal services to the estate are also included in these amounts. Essentially, Petitioner served as her mother’s caregiver since 2019 and managed the estate assets after her mother’s death in 2021, all of which required frequent travel between her home in El Dorado County to her mother’s home in Southern California. Petitioner has already reimbursed herself partially from the Trust in the amount of \$31,667.00 and requests the court’s authorization to reimburse herself the additional \$19,403.48.

2. Payment of Trustee

Petitioner seeks the court’s approval of a payment to her of \$22,500 on November 5, 2021, an amount that is not included in the reimbursement calculation above. This amount is authorized by the Trust ¶ 4.03:

In lieu of Trustee compensation, the Trustee shall distribute the sum of Twenty-Two Thousand Five Hundred Dollars (\$22,500) to the person who shall then be serving as the Trustee of this Trust.

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

The Trust (Petition Exhibits A and B) provides for payment of “as much of the principal of the trust property as is necessary in the Trustee’s discretion for the Trustor’s proper health, support, maintenance comfort and welfare.” Article 3, ¶3.01. 3.

3. Disbursement to Heirs

The Petition proposes dividing the remainder of the estate, after deductions for reimbursement detailed above, equally between the eight children of the settlor, which amounts to a payment of \$36,899.75 to each surviving child, including Petitioner. The Petition requests the court for:

1. Settlement and allowance of the First and Final Account and Report and approval and confirmation of the acts of Petitioner as Trustee
2. Approval and confirmation of all reported acts and transactions of Petitioner as Trustee
3. Authorization for Petitioner to pay herself the sum of \$19,403.48 and for reimbursement of additional expenses
4. Authorization for Petition to distribute \$35,899.75 to each of the eight beneficiaries.

Objection to First and Final Account/Report of Trustee and Petition for Approval & Trustee Fees

Three trust beneficiaries, Chris Zarow, Diana Gazzolo and Mary Southern, have filed an Objection to the trustee’s Account and Petition for Settlement. The Objection lists a general objection that there is no purpose specified for each of the disbursements. The Objection lists the following specific objections:

1. Objectors request an inventory of all assets on hand from the decedent’s date of death.
2. Objectors request a copy of each bank statement, credit card statement and all cancelled checks from all trust accounts.
3. Objectors request that all reimbursement requests for caregiving of the decedent prior to decedent’s death be denied.
4. Objectors request receipts for all reimbursement requests and an explanation for each request.
5. Objectors request an explanation for the reimbursement of \$25,667.05 as detailed in Petition Exhibit D, Schedule C, page 12.
6. Objectors request a statement from PNA Life Insurance, which they believe amounted to \$5,000, and not the \$4,145.23 as stated in the accounting.

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

7. Objectors request a final closing statement for the sale of the real property.
8. Objectors request receipts for distributions made, including receipts for carpet cleaning, Target purchases and other purchases made on behalf of the Trust.
9. Objectors request a detailed description of the airline travel and restaurant purchases throughout the accounting period, including restaurant charges and those made after the decedent's death.
10. Objectors request clarification for charges for Legacy Box.
11. Objectors request clarification as to why trustee is requesting reimbursement for dates prior to the decedent's death which should have been covered by the \$22,500 payment made to the trustee.

With respect to Specific Objection #3, the court notes that the trust expressly provides that during the lifetime of the Trustor, “[i]f at any time, the Trustor has become physically or mentally incapacitated, . . . the, Trustee shall . . . apply for the Trustor’s benefit, the net income of the trust property . . . or . . . as much of the principal of the trust property as is necessary in the Trustee’s discretion for the Trustor’s proper health, support, maintenance, comfort and welfare.” Petition, Exhibit A, Trust Section 3.01. With respect to Specific Objection #11, the court notes that the \$22,500 that is to be distributed to the Trustee is “in lieu of compensation.” Petition, Exhibit A, Trust Section 4.03(A). Section 5.01(m) separately authorizes the trustee to advance funds to the Trust for any purpose, and that such advances are to be paid out of the principal or income of the Trust. Further, Probate Code § 15680 states that “if the trust instrument provides for the trustee’s compensation, the trustee is entitled to be compensated in accordance with the trust instrument.” The Probate Code distinguishes trustee compensation from reimbursement to the trustee of “expenditures that were properly incurred in the administration of the trust.” Probate Code § 15684.

This matter was heard on October 9, 2023, and was continued at the request of the parties. The matter was heard again on February 5, 2023, and was again continued after the court ordered the parties to meet and confer. At the hearing on April 29, 2024, the Court ordered the parties to mediation.

Petitioner has since filed the First Amendment to First and Final Account and Report of Trustee and Petition for Settlement and Approval Thereof and Petition for Trustees’ Fees. The Petition notes hearing dates of July 22, 2024, and August 26, 2024; however, the Court calendar does not show this matter as being heard on August 26, 2024.

The only amendment is the addition of paragraph 26, which states:

July 22, 2024  
Dept. 9  
Probate Tentative Rulings

Petitioner requests that any persons filing objections to the Petition and Accounting, without probable cause be ordered to pay the Trustee's Attorney's Fees for defending the Petition and Accounting out of the objector(s) share of the Trust Estate.

The prayer for relief was also amended, to authorize Petitioner to reduce the amount of each beneficiary's share who filed objections to the Petition and Accounting without probable cause, by a proportionate share of Trustee's Attorney's Fees in defending the same.

**TENTATIVE RULING #15:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JULY 22, 2024, IN DEPARTMENT NINE.**

**A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JULY 23, 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.**