

August 26, 2024
Dept. 9
Probate Tentative Rulings

1.	22PR0201	ESTATE OF PLANT
Trial Confirmation		

See related Case No. 5, Estate of Unruh

TENTATIVE RULING #1:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 26, 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.

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2.	23PR0116	ESTATE OF MARQUEZ
Status of Administration		

TENTATIVE RULING #2:

AN ORDER FOR FINAL DISCHARGE HAVING BEEN ENTERED BY THE COURT ON AUGUST 15, 2024, THE MATTER IS DROPPED FROM CALENDAR.

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3.	24PR0190	ESTATE OF BENNY
Letters		

Decedent died intestate on July 6, 2024, survived by one adult sibling, who is the 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 August 14, 2024.

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

Proof of publication was filed on August 16, 2024.

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).

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, AUGUST 25, 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.

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4.	24PR0186	ESTATE OF JOHNSON
Letters		

Decedent died testate on February 19, 2024, survived by an adult sibling, two minor children and his ex-wife. Petitioner is decedent's brother.

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

Petitioner is named as Executors in the Will and consents to act. Other named executors will not act because of declination; however, there is no declination attached by the ex-wife or the ex-mother-in-law.

The Will was lodged with the court on July 2, 2024, and is admitted to probate.

The Will waives bond.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on July 2, 2024.

Proof of service of notice of the hearing on the Petition was filed on July 8, 2024.

Proof of publication was filed on August 6, 2024.

TENTATIVE RULING #4:

ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED, CONTIGENT UPON COURT RECEIPT OF THE TWO DECLINATIONS. 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, AUGUST 25, 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.

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5.	22PR0202	ESTATE OF UNRUH
Trial Confirmation		

TENTATIVE RULING #5:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 26, 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.

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6.	24PR0176	MATTER OF BAIN
Appointing Trustee		

The Bain Family Trust was established on March 31, 1989. After the first settlor's death (in 1995), the Trust was divided into two sub-trusts. The remaining settlor died in 2000. The settlors' son John Christopher Bain was named as the successor trustee and no alternate was provided. The beneficiaries are settlors' children – John Christopher Bain, Cheryl Jean Bain, and Deborah Ann Bain.

During the administration of the Trust, John Christopher Bain and his wife died. They were both survived by their son, Michael Bain, who is the successor in interest to the estate of John Christopher Bain. Under the terms of the Trust, Article IV, Section D. 3., wherein a vacancy should occur, then by a majority of the adult beneficiaries entitled to receive income or principal of the Trust they shall have the right to appoint a Trustee. Michael Bain nominated Deborah Ann Bain and she accepted. She has been acting as trustee but requests court confirmation.

The Court may make an Order appointing a Trustee. Probate Code § 17200(a), (b)(10) states: "(a) Except as provided in Section 15800, a trustee or beneficiary of a trust may petition the court under this chapter concerning the internal affairs of the trust... (b) Proceedings concerning the internal affairs of a trust include, but are not limited to, proceeding for any of the following purposes: ... (10) Appointing or removing a trustee."

Notice was filed on August 14, 2024.

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).

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7.	23PR0147	MATTER OF NOBLE
Status of Administration		

An Order for Final Distribution was filed on May 13, 2024.

There are no Receipts of Distribution on file with the court.

There is no ex parte Petition for Final Discharge (Judicial Council Form DE-295) on file with the court.

TENTATIVE RULING #7:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 26, 2024, IN DEPARTMENT NINE.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, AUGUST 25, 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.

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8.	24PR0173	MATTER OF VISMAN
Letters		

Decedent died testate on January 25, 2024, survived by his wife and adult daughter. Petitioner is decedent's wife. The Petition requests full authority under the Independent Administration of Estates Act. Petitioner was named as Executors in the Will. The Will was lodged with the court on June 20, 2024, and is admitted to probate. The Will waives bond.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on June 20, 2024.

Proof of service of notice of the hearing on the Petition was filed on August 9, 2024.

Proof of publication was filed on July 22, 2024.

TENTATIVE RULING #8:

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, AUGUST 25, 2025, IN DEPARTMENT NINE.

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

9.	24PR0184	MATTER OF SWEENEY
Petition to Confirm Trust Assets and Modify Trust		

Confirm Trust Assets

In 1985, Peter and Helen Sweeney purchased a piece of real property (“property”) together as joint tenants. In 1989, they created the Peter & Helen Sweeney Family Trust (“Trust”). Schedule A to the Trust lists the property as a Trust asset. The day that the Trust was executed, they also signed a Grant Deed transferring the property to the Trust. However, in 1992, they refinanced the loan, which transferred title back into their names as joint tenants. When the refinance was completed, they transferred the property to themselves as community property and then to themselves as trustees of the Peter C. Sweeney Family Trust. However, that is not the name of the Trust and the trust that was named does not exist. There was another refinance in 2004 and the incorrect Trust name was used, because the prior deed was referenced. Helen died in 2023.

Under Probate Code §850(a)(3), a Trustee may file a Petition when the Trustee has a claim to real or personal property, title to or possession of which, is held by another. Probate Code §850(a)(3) codifies the holding in *Estate of Heggstad* (1993) 16 Cal. App. 4th 943, 950, in which the Court held that a separate deed transferring real property from a Trustor to himself as trustee was not necessary to create a valid trust, when a schedule attached to the written Declaration of Trust identified the real property.

It is clear in this case that the trustees intended that their Trust own the property, but that an incorrect (and non-existent) trust name was used. Petition is granted.

Modify Trust

As stated above, the Trust was created by Peter and Helen in 1985. There were never any amendments, restatements, or revocations. The Trust states that upon the first settlor’s death, the estate shall be divided between the Marital Trust and the Family Trust. Thereafter, upon the second settlor’s death, the remaining assets of both trusts are to be combined and distributed to the settlors’ daughter.¹

Petitioner argues there are several drafting errors in the Trust, which differentiate it from the standard “AB Trust.” Further, the federal estate tax exemption increased from \$600,000 (1989) to \$12,920,000 (2023) so the division of the estate to avoid estate taxes is not necessary.

¹ Peter and Helen have one daughter together (Christine), and Peter has a daughter (Cherice) from a separate relationship. Cherice is not currently named as a beneficiary of the Trust.

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The Petitioner is Peter, the surviving settlor, and he requests modifications to the Trust language to better serve the Trust purpose – which is to provide for him during his lifetime and then his beneficiaries.

Probate Code §17200 allows the Court to determine questions of construction of a trust, grant powers to the trustee, and approve the modification or termination of the trust, among other things. Probate Code §15409(a) allows the Court to modify the terms of the Trust “if, owing to circumstances not known to the trustor and not anticipated by the trustor, the continuation of the trust under its terms would defeat or substantially impair the accomplishment of the purposes of the trust.”

Division of the estate between two sub trusts would frustrate the Trust’s purpose.
Petition is granted.

TENTATIVE RULING #9:

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

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10.	24PR0185	BERTI FAMILY TRUST
Modification of Trust		

Robert and Cheryle Berti established the Berti Family Trust (“Trust”) on February 26, 1993. Cheryle died on January 16, 2019. Robert and Cheryle have four adult children.

According to the terms of the Trust, upon Cheryle’s death, Robert Berti (spouse), Leah Berti (child) and Donald Maurischat (child) shall serve as co-trustees over Cheryle’s share of the Trust estate.

Probate Code §17200 allows the Court to determine questions of construction of a trust, grant powers to the trustee, and approve the modification or termination of the trust, among other things. Probate Code §15409(a) allows the Court to modify the terms of the Trust “if, owing to circumstances not known to the trustor and not anticipated by the trustor, the continuation of the trust under its terms would defeat or substantially impair the accomplishment of the purposes of the trust.”

Upon the death of the first settlor, the Trust requires that two trusts be created – the Family Trust and the Survivor’s Trust. The intent of the Trust was to provide for the settlors and to avoid or mitigate any estate taxes. When the Trust was created, the exemption amount was \$600,000 but by the time of Cheryle’s death in 2019 it was \$11,400,000. Based on the higher exemption amount, it is unnecessary to divide the Trust estate. Additionally, the remaindermen beneficiaries of the Family Trust are the children and grandchildren, who are also the remainder beneficiaries of the Trust.

TENTATIVE RULING #10:

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).

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11.	24PR0182	ESTATE OF LINLEY
Letters		

Decedent died testate on June 21, 2024, survived by two adult children. Petitioner is decedent's adult son.

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

Petitioner was named as Executor in the Will.

The Will was lodged with the court on June 28, 2024, and is admitted to probate.

The Will waives bond.

There is no Duties/Liabilities statement (DE 147/DE 147s) on file with the court, as required by Probate Code § 8404.

There is no proof of service of notice of the Petition on file with the court, as required by Probate Code § 8110.

There is no proof of publication on file with the court, as required by Probate Code §§ 8120, 8121.

TENTATIVE RULING #11:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 26, 2024, IN DEPARTMENT NINE.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, AUGUST 25, 2025, IN DEPARTMENT NINE.

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12.	23PR0138	ESTATE OF DAVIDSON
Status of Administration		

Letters of Administration were issued on June 28, 2023.

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 #12:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, AUGUST 26, 2024, IN DEPARTMENT NINE.

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