

September 16, 2024
Dept. 9
Probate Tentative Rulings

1.	PP20200066	CONSERVATORSHIP OF GRISHAM
Status Conference		

Parties to update the Court regarding mediation efforts, or whether trial needs to be set.

TENTATIVE RULING #1:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, SEPTEMBER 16, 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.	23PR0152	ESTATE OF SCAMARA
Status of Administration		

Letters with full authority were issued on September 18, 2023. A partial Inventory and Appraisal was filed on January 26, 2024, and a Reappraisal for Sale was filed on May 23, 2024. Three creditor claims have been filed.

TENTATIVE RULING #2:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, SEPTEMBER 16, 2024, IN DEPARTMENT NINE.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, SEPTEMBER 15, 2025, IN DEPARTMENT NINE.

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3.	23PR0142	ESTATE OF MILLER
Final Distribution Hearing		

Letters Testamentary were issued on November 6, 2023, granting Petitioner limited authority under the Independent Administration of Estates Act. A Final Inventory and Appraisal was filed on March 6, 2024. Waivers of Account were executed by all of the heirs entitled to distributions under the estate. The proposed distribution of the estate includes equal division between David Lee Johnson and Denise Chapin Haro.

Proof of Service of Notice of the hearing on the Petition was filed on August 7, 2024. No one has filed a request for special notice in this proceeding.

The Petition complies with Local Rule 10.07.12 by stating that all income taxes have been paid, and that no estate taxes were due.

The Petition requests:

1. That Notice of the Petition has been given as required by law;
2. That the Court approve, allow, and settle the report and petition of Petitioner as filed, without the requirement of an accounting;
3. That the Court confirm and approve all acts and proceedings of Petitioner as Executor;
4. That the Administrator be authorized to pay statutory attorney fees in the amount of \$10,048.30 plus \$2,176.46 for costs advanced to the estate;
5. That the Administrator be authorized to pay herself \$10,048.30, in statutory compensation;
6. Approval of distribution of the estate to the persons entitled to it pursuant to the Petition for Final Distribution, and any other property of the estate not now known or later discovered be distributed to the beneficiaries as set forth in the Petition;
7. Upon filing of receipts and Ex Parte Petition for Final Discharge that Petitioner may be discharged and released from all liability that may be incurred hereafter.

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).

AN ORDER FOR FINAL DISTRIBUTION HAVING BEEN ENTERED BY THE COURT ON SEPTEMBER 16, 2024, THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, SEPTEMBER 15, 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.

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4.	22PR0228	ESTATE OF MARSHALL
Review Hearing		

Letters Testamentary were issued on January 25, 2023.

By tentative ruling, appearances were required at 8:30 AM on Monday, January 29, 2024, in Department Nine. No appearance was made by any party at that hearing.

TENTATIVE RULING #4:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, SEPTEMBER 16, 2024, IN DEPARTMENT NINE. IF NO APPEARANCES ARE MADE, THE MATTER MAY BE SET FOR AN ORDER TO SHOW CAUSE HEARING TO ADDRESS SANCTIONS AGAINST THE PERSONAL REPRESENTATIVE.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, SEPTEMBER 15, 2025, IN DEPARTMENT NINE.

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5.	24PR0205	MATTER OF ROMANINI-POLLARD
Letters of Administration		

Decedent died intestate on June 30, 2024, survived by five adult sisters and one adult brother. Petitioner is a professional fiduciary nominated by one of decedent's sisters.

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

The Petition requests bond be fixed at \$152,000.00, which is the total value of the estate.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on July 29, 2024.

Proof of service of notice of the hearing on the Petition was filed on August 5, 2024.

Proof of publication was filed on August 21, 2024.

TENTATIVE RULING #5:

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, SEPTEMBER 15, 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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6.	23PR0073	MORGAN FAMILY TRUST
Petition		

On April 2, 1991, William H. Morgan (“Bill”) and Rexena W. Morgan (“Settlers”) established the William H. and Rexena W. Morgan Family Trust (“Trust”). Rexena died on April 19, 1991, and Bill died on September 6, 2021. Bill and Rexena are survived by their three adult children, Tammie, William, and Kristin, who are the remainder beneficiaries under the Trust.¹

When the Trust was executed, Bill and Rexena also executed pour-over Wills. The Trust states that after the death of the first spouse (Rexena), 50% of all community property owned by the Settlers shall be allocated to Trust A for the benefit of the surviving spouse (Bill), and the remaining 50% of the community property, along with any separate property of the deceased spouse, shall be allocated to Trust B. The benefit of Trust B is for the Settlers’ children after the second death.

On June 15, 2023, William was appointed sole Successor Trustee by the Court and on June 20, 2023, William was appointed as personal representative of Bill’s estate and was issued letters with full authority.

In August 2023, William took possession of the real property on Osborne Road. Kimberly had possession of the real property at the time of Decedent’s death and for 23 months afterwards, as well as all of the personal property, including Bill’s tools and equipment. On June 13, 2023, Kimberly stipulated to provide an inventory of all of Bill’s personal property, but no such inventory has been provided. As the parties stipulated, Kimberly is to be considered an omitted spouse and therefore is entitled to community property acquired during her marriage to Bill and 1/3 of Bill’s separate property estate. Petitioner is informed and believes that none of Bill’s personal property was acquired during his marriage to Kimberly, except items purchased with money Bill earned before his marriage to Kimberly, and therefore no community property exists for Kimberly to claim.

Petitioner has only been able to prepare an interim accounting and partial inventory, due to non-compliance by Kimberly. Of the property inventoried, Petitioner contends \$445,000 is properly characterized as community property of the settlers (Bill and Rexena) and \$135,000 was acquired by Bill subsequent to his marriage to Rexena (2010 Mercedes, 2010 Ford Dually, \$70,000 houseboat). Petitioner contends the \$135,000 of property was acquired with funds Bill

¹ At the time of his death, Bill was married to Kimberly Morgan (“Kimberly”), who survived him. He did not provide for Kimberly in any testamentary instrument, and the Trustee stipulated to Kimberly’s right to distribution as an omitted spouse under Probate Code §21610.

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earned before his marriage to Kimberly or by applying proceeds from sales of property Bill owned prior to his marriage to Kimberly, and therefore are separate property.

All required notices have been provided and it is Petitioner's information and belief that all necessary tax returns have been filed. The real property was sold after Kimberly vacated, after a Notice of Default was recorded due to Kimberly's failure to pay the mortgage for 22 months. The property was sold for \$465,000, which was enough to pay all secured obligations and all costs advanced by Petitioner. The sale also covered the settlor's state tax lien, other debt, and other unpaid property expenses.

The Trust estate also includes approximately \$165,240 which will be received from the administration of Rexena's father's estate. In addition to that, Petitioner also has claim to \$96.77 in unclaimed property held by the State Controller, and \$4.27 as the balance of a U.S. Bank account.

Petitioner alleges that Kimberly has responsibility for various debts. First, Bill and Kimberly could not afford their mortgage and in 2019, agreed to a loan modification where all accrued unpaid interest was added to outstanding principal of the first mortgage loan, and they agreed to pay \$321.08 each month in satisfaction of their mortgage escrow account to cover property taxes and insurance. The Loan Modification Agreement (exhibit 3) was executed by Bill and Kimberly. Petitioner argues that the mortgage debt and escrow account balance owing to Rushmore Lending Management Services constituted community debts of Bill and Kimberly. Bill also had a community debt of \$50,000 owed to a general contractor (S.E. Harrison, Inc.) for a lawsuit settlement in 2017, while Bill and Kimberly were married.² Lastly, for the 23 months that Kimberly resided at the Osborne property, she did not pay the mortgage, property taxes, water bills, or electricity bills. The mortgage balance increased by \$25,309.10 for accrued unpaid interest due, \$5,700+ for late fees and other charges for the nonjudicial foreclosure action, \$14,840.33 for unpaid escrow/impound charges for property taxes and insurance, \$11,142.77 for unpaid water bills, and \$6,807.85 for unpaid solar electricity bills. All debts were paid in escrow upon the sale of the property.

Rexena's inheritance from her father's estate is held subject to the specific disposition of Trust B, which provides for 25% to Tammie Morgan, 37 ½% to William S. Morgan, and 37 ½% to Kristin Morgan Goree. Petitioner argues that the Osborne property should be treated as an asset of the Trust and should be deemed distributed in satisfaction of Kimberly's rights as an omitted spouse.

The Petition requests:

1. That the Trustee is entitled to compensation totaling \$9,878.00;

² The settlement was for \$50,000 but after making initial payments, Bill defaulted, and the remaining debt was \$42,000.

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2. That counsel for Petition be entitled to compensation, in accordance with his supplemental declaration;
3. That the entire balance of funds held by Trustee be distributed in accordance with ¶14 on page 11 of the Petition;
4. That distribution of the real property at 2850 Osborne Road, Cameron Park, be confirmed to Kimberly Morgan, the settlor's surviving spouse; and,
5. That Kimberly Morgan be ordered to inventory and account for all of Bill Morgan's assets in her possession and control at his death.

The Court did not receive a supplemental declaration by counsel regarding attorney's fees.

TENTATIVE RULING #6:

APPEARANCES REQUIRED ON MONDAY, SEPTEMBER 16, 2024, AT 8:30 AM IN DEPARTMENT NINE REGARDING ATTORNEY'S FEES. PETITION IS OTHERWISE IN ORDER TO BE GRANTED, ABSENT OBJECTION.

ANY PERSON WHO HAS AN OBJECTION MAY MAKE IT ANY TIME, EVEN ORALLY AT THE HEARING (PROBATE CODE § 1043).

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7.	PP20210130	MATTER OF SADDLE ROAD TRUST
Status Conference		

According to the Tentative Ruling dated January 12, 2022, declarations of unsuccessful due diligence attempts to personally serve the respondent trustee/beneficiary were filed on July 21, 2021. At the hearing on November 3, 2021, the court granted Petitioner's oral motion to serve the respondent by publication.

This matter was continued from January 9, 2023, and again from March 27, 2023. At the hearing of June 5, 2023, counsel for Petitioner appeared and was ordered by the court to submit an application and Order for publication, and the hearing date was continued.

At the hearing held on September 11, 2023, counsel for the Petitioner discussed amending the Petition to a civil complaint and the court scheduled this Review Hearing.

At the hearing on June 3, 2024, counsel requested a 60-day continuance. On June 14, 2024, a proof of service was filed, showing that personal service upon Christopher Garden was effectuated.

TENTATIVE RULING #7:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, SEPTEMBER 16, 2024, IN DEPARTMENT NINE.

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