

December 23, 2024
Dept. 9
Probate Tentative Rulings

1.	24PR0088	ESTATE OF CARTER
Final Distribution Hearing		

Letters of Administration were issued on June 10, 2024, granting Petitioner full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on November 5, 2024.

The Notice was mailed on November 25, 2024, and Proof of Service of Notice of the hearing on the Petition was filed on December 16, 2024. No one has filed a request for special notice in this proceeding.

The proposed distribution of the estate includes full distribution to Cynthia Carter.

The Petition requests:

1. The administration of the estate be brought to a close;
2. The First and Final Account be settled, allowed and approved;
3. All acts and proceedings of the Administrator be confirmed and approved;
4. The Administrator be authorized to pay statutory attorney fees in the amount of \$13,049.68, plus \$2,166.00 for costs advanced to the estate;
5. The Administrator be authorized to pay herself \$13,049.68 in statutory compensation;
6. The Franchise Tax Board is barred from asserting a claim as no creditor claim was filed and the invoice served to the Administrator was not timely;
7. Distribution of the estate in Petitioner's hands and any other property of the estate not now known or later discovered be distributed to the beneficiaries as set forth in the Petition.

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)

AN ORDER FOR FINAL DISTRIBUTION HAVING BEEN ENTERED BY THE COURT ON DECEMBER 23, 2024, THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, DECEMBER 22, 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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2.	24PR0206	ESTATE OF MAKIN
Letters of Administration		

Decedent died intestate on December 13, 2023, survived by three adult next of kin. Their specific relationship is unknown because it was not stated on the Petition. Petitioner is decedent's granddaughter – Petitioner's mother/decedent's daughter predeceased the decedent.

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

No option regarding bond was marked on the Petition. The estimated (net) value of the estate is \$118,600. Unless bond waivers (DE-111(A-3e)) are signed and filed for all beneficiaries, Petitioner will be required to obtain a 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.

Proof of publication was filed on December 6, 2024.

TENTATIVE RULING #2:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, DECEMBER 23, 2024, IN DEPARTMENT NINE.

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3.	24PR0304	ESTATE OF BAILEY
Letters of Administration		

Decedent died intestate on October 10, 2024, survived by his father, one adult child, and one minor child. Petitioner is decedent's father.

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

Waivers of bond have been filed with the court by the adult child, and the custodial parent of the minor child.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on November 12, 2024.

Proof of service of notice of the hearing on the Petition was filed on November 15, 2024.

Proof of publication was filed on November 27, 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, DECEMBER 22, 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.	24PR0291	ESTATE OF FIDDLER
Letters of Administration		

Decedent died intestate on October 10, 2024, survived by his mother and father. Petitioner, Sharon Moorhead, is decedent's mother. The Petition was filed on October 31, 2024.

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

Bond to be fixed at \$520,000.00 and furnished by an admitted surety insurer or as otherwise provided by law.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on October 31, 2024.

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

Proof of publication was filed on November 27, 2024.

Decedent's father, Roger Fiddler ("Objector") filed an Objection to the appointment of Petitioner. He states he has "serious concerns and doubts about [Petitioner's] sincerity and her ability to be fair and impartial to all heirs...." There is no evidence that Petitioner is not competent or appropriate to serve as Administrator. Since Decedent died intestate, only survived by his parents, they are the only heirs. Petitioner has agreed to post bond, and by nature, the Court oversees the probate proceedings.

A competing Petition was filed on November 12, 2024, by Kristin Miguel (professional fiduciary), who was nominated to serve as administrator by decedent's father. That Petition requests full authority under the Independent Administration of Estates Act with bond to be fixed at \$330,000.00 and furnished by an admitted surety insurer or as otherwise provided by law. A Duties/Liabilities statement (DE 147/DE 147s) was filed on November 12, 2024.

TENTATIVE RULING #4:

SHARON MOORHEAD'S PETITION FOR APPOINTMENT AS ADMINISTRATOR OF THE ESTATE IS GRANTED. 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, DECEMBER 22, 2025, IN DEPARTMENT NINE.

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5.	24PR0313	MATTER OF SCOBEL
Letters of Administration		

Decedent died intestate on May 3, 2021, survived by his wife and two adult daughters. Petitioner is decedent's daughter. Decedent's wife appoints Petitioner to serve as Administrator.

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

Waivers of bond have been filed with the court by the heirs.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on November 18, 2024.

Proof of service of notice of the hearing on the Petition was filed on November 19, 2024.

Proof of publication was filed on December 19, 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, DECEMBER 22, 2025, IN DEPARTMENT NINE.

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6.	24PR0300	MATTER OF SCHAFFER
Petition to Determine Succession to Real Property		

Robert E. Schaffer created and executed the Schaffer Revocable Trust (“Trust”) on May 19, 1993. Decedent was married to the Petitioner at the time of his death, and Petitioner is a beneficiary of the Trust. On July 18, 2012, Decedent and Petitioner purchased real property on Chalet Way as community property joint owners. Decedent continued to amend his Trust several more times. One such change provided that the property at Chalet Way would be distributed to as a Trust asset to Petitioner upon Decedent’s death. Throughout the amendments, this distribution did not change, but the street name was incorrectly spelled as Chalot Way. At the time of Decedent’s death, the property had not been transferred into the Trust. Based on the inclusion of the property in the Trust amendments, as well as Decedent’s pour-over Will, the Court finds that Decedent intended that the property on Chalet Way be a Trust asset.

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.

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 Petition and Notice were mailed on November 6, 2024, and filed on November 6, 2024.

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Pursuant to Probate Code §850 and *Estate of Heggstad* (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 #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.	24PR0315	MATTER OF DIAS
Petition to Compel Accounting, etc.		

Petitioners Kristanya Dias and Jalen Bush ("Petitioners"), individually, and in their capacities as beneficiaries of the Garfield Guy Channel Revocable Living Trust of 2009, as amended and restated on January 25, 2023 ("Trust") submit their Petition to Compel Accounting and for Instructions, for Suspension and Removal of Trustee for Breach of Trust, for Surcharge and Attorney's Fees ("Petition").

Garfield Guy Channel ("Decedent") had two children: Eileen L. Channell ("Tashia") and Victoria E. Channell ("Victoria"). Upon Decedent's death on January 10, 2024, his daughter Tashia began acting as the sole Trustee. Tashia's daughter and grandson are the Petitioners. The beneficiaries of the Trust are Tashia, Victoria, and Petitioners.

Article 3.6 of the Trust states that the Trustee shall provide notice to the beneficiaries under Probate Code section 16061.7. Article 3.7 states that upon a beneficiary's request under Probate Code section 16060.5 the Trustee is to provide a copy of the entire Trust instrument, including signatures, amendments, directions, and trustee instructions. See Exhibit A, pgs. 7-8.

Article 6.2 of the Trust states: After the death of Grantor, or in the event of the incapacity of Grantor, the Trustee shall render an accounting, from time to time but no less frequently than annually, regarding the transactions of any trust created in this instrument to all current interest beneficiaries[.] Accountings shall be made by delivering a written accounting to each beneficiary entitled to current distributions. See Exhibit A, pg. 22.

A court may compel a trustee to account and provide information to a beneficiary if the trustee has failed to provide the requested information or submit the requested accounting within 60 days after the beneficiary's reasonable written request. Cal. Prob. Code § 17200(b)(7)(B), (C). Additionally, a court is empowered to instruct the trustee on their powers and duties at the request of a beneficiary. Cal. Prob. Code § 17200(b)(6).

The court has broad discretionary authority to suspend, remove, and appoint trustees. Cal. Prob. Code § 17200(b)(10); See also, *Schwartz v. Labow* (2008) 164 Cal.App.4th 417, 427. The Court in its discretion may take any other action "necessary or proper to dispose of the matters presented by the petition, including appointment of a temporary trustee to administer the trust in whole or in part." Cal. Prob. Code § 17206.

TENTATIVE RULING #7:

APPEARANCES REQUIRED ON MONDAY, DECEMBER 23, 2024, AT 8:30 AM IN DEPARTMENT NINE.

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8.	24PR0314	MATTER OF GORE
Petition to Create Custodial Account		

Michelle E. Gore (“Petitioner”) brings this Petition for Order Creating Custodial Account Under the California Uniform Transfer to Minors Act and Appointment of Custodian and Successor Custodian (“Petition”).

Petitioner is a resident of El Dorado County and the biological mother/sole guardian of M.F. Gore (“minor”). The minor lives with Petitioner in El Dorado County. Verne Lester Gore (“Decedent”) was the minor’s great-uncle, who passed away on March 11, 2023. Minor is named as a beneficiary of Decedent’s Golden 1 Credit Union account. The account was not created as a custodial account and because the beneficiary is a minor, she cannot claim the funds. No probate proceeding has been commenced.

Probate Code § 3413(b) provides that if a minor has no court appointed guardian of the estate and there is money belonging to the minor, the court may order that all or any part of the money be transferred to a custodian for the benefit of the minor under the California Uniform Transfers to Minors Act. Furthermore, Probate Code § 3413(c) provides that if the money belonging to the minor does not exceed twenty thousand dollars (\$ 20,000.00), then the court may issue an order that the money be held on any condition that the court in its discretion determines to be in the best interests of the minor.

The account at issue in this case is less than \$20,000.00. Petitioner seeks judicial approval for the creation of a custodial account at Edward Jones for the benefit of the minor, with Petitioner names as the Custodian. Petitioner seeks an order appointing Kathy L. Culver, minor’s grandmother, as the successor custodian.

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)

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9.	24PR0308	DUNLOP REVOCABLE TRUST
Petition for Appointment of Successor Trustee		

Harry J. Dunlop and Evelyn L. Dunlop created the Harry J. Dunlop and Evelyn L. Dunlop Revocable Trust (“Trust”) on December 16, 2002. The Trust also provided for a Special Needs Trust, which was funded following the death of both settlors. Petitioner is the currently acting Trustee of the Trust and assumably the Special Needs Trust and seeks appointment of Anna Ballesteros, NCG Owner, California Licensed Fiduciary, as the Successor Trustee.

Probate Code § 15660(d)

If the vacancy in the office of trustee is not filled as provided in subdivision (b) or (c), on petition of any interested person or any person named as trustee in the trust instrument, the court may, in its discretion, appoint a trustee to fill the vacancy. If the trust provides for more than one trustee, the court may, in its discretion, appoint the original number or any lesser number of trustees. In selecting a trustee, the court shall give consideration to any nomination by the beneficiaries who are 14 years of age or older.

The Trust does not name any additional successors to serve after Petitioner. All current beneficiaries and heirs-at-law have nominated Ms. Ballesteros as Successor Trustee for the Trust and the Special Needs Trust.

TENTATIVE RULING #9:

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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