

January 6, 2025
Dept. 9
Probate Tentative Rulings

1.	PP20070084	CONSERVATORSHIP OF HAYNIE
Petition to Fix Residence		

TENTATIVE RULING #1:

HEARING MOVED TO THE CONSERVATORSHIP CALENDAR. APPEARANCES ARE REQUIRED AT 10:00 A.M. ON MONDAY, JANUARY 6, 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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2.	22PR0052	ESTATE OF SHANNON
Status		

A partial Inventory and Appraisal was filed on November 1, 2023. The sole asset of the estate is an unrealized claim in pending litigation in the case of Estate of Brett Shannon, et al v. Apple Mountain, LP (PC20210396). The plaintiffs in that case are in the process of amending the Complaint and a hearing on that motion was scheduled for January 26, 2024.

TENTATIVE RULING #2:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 6, 2025, IN DEPARTMENT NINE.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 5, 2026, 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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3.	24PR0005	ESTATE OF BELL
Final Distribution		

Letters of Administration were issued on March 18, 2024, granting Petitioner full authority under the Independent Administration of Estates Act. A Final Inventory and Appraisal was filed on October 4, 2024. Waivers of Account were executed by all the heirs entitled to distributions under the estate.

Proof of Service of Notice of the hearing on the Petition was filed on December 12, 2024. No one has filed a request for special notice in this proceeding.

The proposed distribution of the estate includes equal distribution between Brent Bell and Bruce Bell.

The Petition requests:

1. The administration of the estate be brought to a close;
2. The First and Final Report filed with the Petition be approved;
3. Approval of distribution of the estate to the persons entitled to it pursuant to the Petition for Final Distribution;
4. All acts, transactions, sales and investments of the personal representative be ratified, confirmed and approved;
5. The waivers of account be allowed and approved;
6. That waiver of statutory compensation to the personal representative be approved;
7. The Administrator be authorized to pay statutory attorney fees in the amount of \$8,657.288;
8. 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 #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 JANUARY 6, 2025, THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, JANUARY 5, 2026, 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.	21PR0017	ESTATE OF DAYTON-AXLINE
Status		

Following hearing on the Petition for Final Distribution, an Order for Final Distribution was entered on May 15, 2023. To date, there are no receipts for distribution and no Ex Parte Petition for Final Discharge (Judicial Council Form DE-295) in the court's file.

There were no appearances at the January 8, 2024, hearing.

TENTATIVE RULING #4:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 6, 2025, IN DEPARTMENT NINE.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 5, 2026, 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.	22PR0056	ESTATE OF DAVINO
Status		

Letters of Administration were issued on April 27, 2022. An Inventory and Appraisal was filed on March 13, 2023.

TENTATIVE RULING #5:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 6, 2025, IN DEPARTMENT NINE.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 5, 2026, 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.	22PR0297	ESTATE OF BERRY
Status		

Letters of Administration were issued on February 1, 2023.

There is no Inventory and Appraisal on file with the court. Pursuant to Probate Code § 8800, an Inventory and Appraisal shall be filed within four months after Letters are first issued.

TENTATIVE RULING #6:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 6, 2025, IN DEPARTMENT NINE OR CASE WILL 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, JANUARY 5, 2026, 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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7.	21PR0026	ESTATE OF MCKENNA
Status		

An Order for Final Distribution was entered on January 30, 2023. There were no appearances at the March 11, 2024, hearing.

TENTATIVE RULING #7:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 6, 2025, IN DEPARTMENT NINE.

AN ORDER FOR FINAL DISTRIBUTION HAVING BEEN ENTERED BY THE COURT ON JANUARY 30, 2023, THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, JANUARY 5, 2026, 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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8.	22PR0006	ESTATE OF WEIZEN
Status		

An Order for Final Distribution was granted on October 2, 2023. To date, no receipts of distribution or Ex Parte Petition for Final Discharge have been filed.

TENTATIVE RULING #8:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 6, 2025, IN DEPARTMENT NINE.

AN ORDER FOR FINAL DISTRIBUTION HAVING BEEN ENTERED BY THE COURT ON OCTOBER 2, 2023, THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, JANUARY 6, 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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9.	PP20180192	ESTATE OF GUMINA
Final Distribution		

Letters of Administration were issued on October 6, 2023, granting Petitioner full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on December 19, 2024.

Upon review of the file, the court finds that there is no Proof of Service of Notice of the hearing on the Petition. No one has filed a request for special notice in this proceeding.

There is a creditor claim filed by the Estate of Heather Gumina, for the entire estate proceeds. The proposed distribution of the estate includes transfer of the real property (Lassen County, No. 019-190-13-11) to Kimberly Harris, and after compensation, all cash to be transferred to the Estate of Heather Rai Gumina.

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 herself \$10,265.91 in statutory compensation;
5. The Administrator be authorized to pay statutory attorney fees in the amount of \$10,265.91, plus \$870.00 for costs advanced to the estate;
6. 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 #9:

ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED CONDITIONAL ON THE FILING OF A VALID PROOF OF SERVICE INDICATING SERVICE OF ALL PARTIES ENTITLED TO NOTICE. 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 JANUARY 6, 2025, THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, JANUARY 5, 2026, 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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10.	22PR0300	ESTATE OF CAMPAGNA
Status		

An Order for Final Distribution was granted on January 8, 2024, and an Order for Final Discharge was entered on February 2, 2024.

TENTATIVE RULING #10:

AN ORDER FOR FINAL DISCHARGE HAVING BEEN ENTERED BY THE COURT FEBRUARY 2, 2024, THE MATTER IS DROPPED FROM CALENDAR.

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11.	23PR0079	ESTATE OF DANIELSON
OSC		

Letters Testamentary were issued on September 11, 2023.

There is no Inventory and Appraisal on file with the court. Pursuant to Probate Code § 8800, an Inventory and Appraisal shall be filed with the Court within four months from the issuance of Letters.

There were no appearances at the October 7, 2024 hearing and the Court indicated that sanctions may be imposed if there are no appearances at the January 6, 2025 status hearing.

TENTATIVE RULING #11:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 6, 2025, IN DEPARTMENT NINE OR SANCTIONS AGAINST THE PERSONAL REPRESENTATIVE WILL BE ORDERED.

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 5, 2026, 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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12.	24PR0317	ESTATE OF BROUSSEAU
Spousal Property Petition		

Petitioner is the surviving spouse of decedent, who died testate on September 27, 2024, survived by Petitioner and two adult children. Decedent’s Will was lodged with the court on November 15, 2024. The Will grants decedent’s residual estate to Petitioner and appoints Petitioner executor of the estate. No petition to administer the estate has been filed.

Probate Code § 100(a) provides that “[u]pon the death of a person who is married or in a registered domestic partnership, one-half of the community property belongs to the surviving spouse and the other one-half belongs to the decedent.”

Probate Code § 13500 provides that “when a spouse dies . . . testate and by his or her will devises all or a part of his or her property to the surviving spouse, the property passes to the survivor . . . , and no administration is necessary.”

Probate Code 13650 authorizes a surviving spouse to file a petition requesting an order that administration of all or part of an estate is not necessary because all or part of the estate is property passing to the surviving spouse.

The Petition in this case identifies residential real property. (Exhibit 7a)

Notice of the hearing on the Petition was properly served and proof of service was filed with the court on December 2, 2024.

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)

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13.	22PR0277	ESTATE OF MORGAN
Status		

See related matter, 23PR0073 Morgan Family Trust, (No. 15).

TENTATIVE RULING #13:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 6, 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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14.	24PR0297	AUCH FAMILY TRUST
Confirm Trust Assets		

Steven John Auch and Terry See Auch, Settlor, established the Steven & Terry Auch Family Trust (“Trust”). Both Settlor are deceased. Petitioners, Heather Anne Auch and Perry John Auch, are the children of Settlor and successor Trustees of the Trust. Through this Petition, Petitioners seek an order confirming certain financial assets held at USAA Federal Savings Bank are assets of the Trust.

The accounts are not titled in the name of the Trust, but they are referenced on the Trust’s asset schedule. The Trust also contains a General Assignment that grants all assets of every kind 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.

* * *

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 December 2, 2024 and filed on December 9, 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 #14:

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.

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15.	23PR0073	MORGAN FAMILY TRUST
Amended Final Account & Report		

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.

All required notices have been provided and it is Petitioner’s information and belief that all necessary tax returns have been filed besides the final fiduciary income tax return for 2024. This report now consists of the final account of administration of the Trust and William’s probate estate.

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 \$168,609.32 as Rexena’s share of her father’s estate. Because this amount is Rexena’s separate property, it is allocated to Trust B, which operates for the benefit of the Settlers’ three children. There is \$96.77 in unclaimed property held by the State Controller, and \$4.27 as the balance of a U.S. Bank account, which will be left for Kimberly Morgan to collect as William’s surviving spouse..

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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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. A finding that beneficial ownership of the Property at 2850 Osborne Road, Cameron Park, transferred to Kimberly Morgan upon the death of William Harold Morgan;
2. An Order approving the Trustee's final account.

TENTATIVE RULING #15:

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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16.	24PR0301	MIESCH v. O'BRIEN
Petition to Compel Accounting & Petition for Removal, etc.		

Wreath Miesch (“Wreath”) has two daughters – Petitioner, and Colleen O’Brien (“Respondent”). Wreath is alive but has been deemed to lack capacity by two medical doctors.

Petitioner, Regina Miesch, petitions the Court for Orders under Probate Code §§ 4521, 4541, and 4545, for Court enforcement of duties of an attorney-in-fact under a durable power of attorney (“POA”). Respondent serves as the POA.

Petitioner has requested an Accounting from the Respondent, which has not been produced. Petitioner is concerned about work being done on Wreath’s house, totaling over \$200,000, and other money allegedly being collected by the Respondent.

Petitioner requests an Order: compelling the POA submit to an accounting respecting Wreath’s property, over which POA has had control from June 5, 2020 to the present; declaring that the respondent’s authority under the POA is revoked; appointing Petitioner as POA; compelling Respondent to provide restitution to Wreath; and an award of attorney’s fees to Petitioner.

The parties entered into a prior Stipulation on May 1, 2024, which was adopted by Judge Balfour on May 2, 2024.

Wreath Miesch established the Wreath Miesch Living Trust (“Trust”) on June 12, 2023. Petitioner is a named beneficiary. On or around September 9, 2024, Respondent became the successor Trustee of the Trust based upon the incapacity of Wreath. The Trust is irrevocable.

Petitioner is seeking the removal of Respondent as Trustee, based upon repairs and remodeling made on Wreath’s Lodi home, which were allegedly performed by Respondent and her partner. Petitioner also alleges breach of Trust, based on allegations of Wreath’s treatment by Respondent. Petitioner alleges financial elder abuse on the same grounds.

Petitioner requests an Order: removing Respondent as Trustee; for an in-home evaluation of Wreath; finding that Respondent and Mike Ramos be found to have committed elder financial abuse and ordered to refund Wreath according to proof; that Wreath is entitled to an award of exemplary or punitive damages; and that Petitioner be awarded attorney’s fees and costs.

Both Petitions were served by mail on November 7, 2024 on Respondent and her counsel. However, the Notice of Petition for Removal, etc. also lists service on Mike Ramos.

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TENTATIVE RULING #16:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 6, 2025, IN DEPARTMENT NINE.

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17.	23PR0284	BISHOP TRUST
Accounting & Remaining Issues		

The parties appeared on November 4, 2024, and requested a continuance.

TENTATIVE RULING #17:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 6, 2025, IN DEPARTMENT NINE.

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