

January 13, 2025
Dept. 9
Probate Tentative Rulings

1.	PP20190142	CONSERVATORSHIP OF SMITH
Biennial Review		

It appears that this matter was incorrectly set on the 8:30 AM calendar. Due to the Public Defender's involvement, the matter will be heard at 10:00 AM on the Conservatorship calendar.

TENTATIVE RULING #1:

APPEARANCES ARE REQUIRED AT 10:00 A.M. ON MONDAY, JANUARY 13, 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.	24PR0286	ESTATE OF MAXCY
Petition for Letters of Administration		

Decedent died intestate on September 16, 2024, survived by an adult daughter. Petitioner is decedent's daughter.

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

Waivers of bond has been filed with the Court by the heirs, and according to the Petition, the sole heir is Petitioner.

A Duties/Liabilities statement (DE 147/DE 147s) was filed on October 25, 2024.

Pursuant to Probate Code § 1201, proof of service of notice of the hearing is not required because Petitioner is the only beneficiary of the estate.

Proof of publication was filed on November 27, 2024.

TENTATIVE RULING #2:

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, JANUARY 12, 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.	24PR0319	ESTATE OF KLAMMT
Petition to Determine Succession to Real Property		

Decedent died on August 11, 2021, as a resident of Mammoth Lakes, California. He died intestate. 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.

Decedent is survived by two adult sons, Christopher and Andrew.

Attachment 11 contains the legal description and APN of the real property, as well as a description of one bank account. It also contains a description of the personal property in California passing to each petitioner, decedent's interest in the property and if the petitioner's claim to the property is based on succession under Probate Code §6401 and 6402, facts that show the character of the property as community, separate, or quasi-community property.

The interest claimed by each petitioner in each specific piece of real property is: 100%. There is an Agreement, Waiver, and Disclaimer filed with the Petition whereby Christopher disclaimed his right to the real property in exchange for payment of \$7,500. There is no indication as to whether Petitioner is claiming 100% interest in the personal property or whether it is to be split equally between Christopher and Andrew.

TENTATIVE RULING #3:

APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 13, 2025, IN DEPARTMENT NINE.

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4.	24PR0318	ESTATE OF MCFADDEN
Petition for Letters of Administration		

Decedent died intestate on October 3, 2024, survived by one adult brother. Petitioner is decedent's brother.

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

The Petition states that the heirs have waived bond, but there are no waivers on file with the court. However, according to the Petition, the sole heir is the Petitioner.

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

Pursuant to Probate Code § 1201, proof of service of notice of the hearing is not required because Petitioner is the only beneficiary of the estate.

Proof of publication was filed on December 20, 2024.

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)

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 12, 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.	PP20210098	ESTATE OF HENNICK
Final Distribution, etc.		

Letters of Administration were issued on July 7, 2021, granting Petitioner full authority under the Independent Administration of Estates Act.

A Final Inventory and Appraisal was filed on January 28, 2022.

Proof of Service of Notice of the hearing on the Petition was filed on January 3, 2025. The California Franchise Tax Board has filed a request for special notice.

The proposed distribution of the estate includes two equal shares to be distributed to (1) Colton Hennick and (2) the Trustee of the Arthur E. and Elizabeth J. Piper Trust of 2/15/1993.

The Petition does not comply with Local Rule 10.07.12. Per Local Rule 10.07.12 Petitions for final distribution must include a report of the following:

1. That no *federal* or California estate taxes are payable or that they have been paid;
2. That income taxes and all other taxes (e.g. supplemental real property taxes or personal property taxes, if any, have been paid or otherwise provided for.

If estate taxes are payable or paid: 1) the petition shall set forth whether said taxes were prorated pursuant to Probate Code section 20100, et seq., or the provisions of the will; and 2) the petition must reflect whether or not there are non-probate assets includable in the gross estate for estate tax purposes.

The Petition requests:

1. The administration of the estate be brought to a close;
2. All acts, and proceedings of the Administrator be confirmed and approved;
3. The Administrator be authorized to pay statutory attorney fees in the amount of \$9,084.80;
4. The Administrator be authorized to pay herself \$9,084.80 for statutory fees resulting from services rendered to the estate;
5. The Administrator be authorized to pay herself \$8,683.24 as repayment for funds advanced out of pocket to the estate;
6. Approval of distribution of the estate to the persons entitled to it pursuant to the Petition for Final Distribution;

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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;
8. The Administrator be authorized to retain \$2,500.00 in closing expenses and to pay liabilities, and to deliver the unused part to the beneficiaries of the estate without further court order after closing expenses have been paid;
9. Upon filing of receipts that Petition may apply to be discharged and released from all liability that may be incurred hereafter.

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)

AN ORDER FOR FINAL DISTRIBUTION HAVING BEEN ENTERED BY THE COURT ON JANUARY 13, 2025, THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, JANUARY 12, 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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6.	24PR0049	ESTATE OF KIDDER
Petition for Final Distribution		

Letters of Administration were issued on May 15, 2024, granting Petitioner full authority under the Independent Administration of Estates Act. A Final Inventory and Appraisal was filed on July 31, 2024. Petitioner, as successor trustee of the decedent's trust, is the sole beneficiary of the estate, and has waived an accounting.

Proof of Service of Notice of the hearing on the Petition was filed on December 19, 2024. No one has filed a request for special notice in this proceeding.

The proposed distribution of the estate includes full distribution to Petitioner, as successor trustee of the Ruth E. Kidder Revocable Living Trust of 2015.

The Petition requests:

1. The administration of the estate be brought to a close without the requirement of an accounting;
2. All acts, and proceedings of the Administrator be confirmed and approved;
3. The Administrator be authorized to pay statutory attorney fees in the amount of \$17,612.95;
4. Approval of distribution of the estate to the persons entitled to it pursuant to the Petition for Final Distribution;
5. 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 #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)

AN ORDER FOR FINAL DISTRIBUTION HAVING BEEN ENTERED BY THE COURT ON JANUARY 13, 2025, THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, JANUARY 12, 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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7.	24PR0032	ESTATE OF ALESSE
Review re Compliance		

TENTATIVE RULING #7:

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

A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 12, 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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8.	24PR0316	ESTATE OF SIMON
Petition for Letters of Administration		

Decedent died intestate on April 15, 2024, survived by an adult brother and adult niece. Petitioner is decedent's niece and is nominated by a person entitled to Letters. 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 14, 2024.

Proof of service of notice of the hearing on the Petition was filed on December 2, 2024.

Proof of publication was filed on December 6, 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, JANUARY 12, 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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9.	24PR0333	MATTER OF CLARK
Petition to Determine Trust Assets		

Petitioner is the son of decedents and currently acting trustee of The Robert M. & Betty Lenore Clark Family 2000 Revocable Trust (“Trust”). Robert died on September 4, 2022, and Betty died on October 14, 2024 (collectively “decedents”). On March 22, 2000, decedents executed an Ownership Change form with American Equity Investment Life Insurance Company, to list the Trust as the owner of an annuity policy. However, following the death of Betty, the Petitioner was informed that the beneficiary designations for the annuity were not updated, and despite the Trust owning the policy, the beneficiary was the predeceased spouse of Betty. At the time the Trust was executed, each of the decedents executed Pour-Over Wills.

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 12, 2024, and filed on December 30, 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 #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).

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.	24PR0237	ESTATE OF HARRIS JR.
Petition for Letters of Administration		

As with the previous Petition, this Petition still contains errors. Counsel filed a Petition for Letters of Administration, but then indicates that decedent died testate. This Petition is not proper and still does not comply with the requirements.

Decedent died intestate on December 23, 2023, survived by three adult sons, and a spouse. Petitioner is decedent's son. Pursuant to Probate Code § 8461, decedent's spouse has priority appointment. There is no nomination included by her, nominating the Petitioner.

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

The Petition states that bond will be fixed at \$1,082,800.00 to be furnished by an admitted surety insurer or as otherwise provided by law.

A Duties/Liabilities Statement (DE 147) was filed on November 7, 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 December 3, 2024.

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

TENTATIVE RULING #10:

PETITION DENIED WITH PREJUDICE.

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11.	22PR0037	MATTER OF MCGHIE TRUST
Petition to Confirm Title		

On April 6, 2022, an Order Confirming Title to the Trust was granted. On December 13, 2024, a Substitution of Attorney was filed, indicating the Petitioner has obtained new counsel. There is no Petition on calendar and it does not appear that there is any action for the Court to take.

TENTATIVE RULING #11:

MATTER IS DROPPED FROM CALENDAR.

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