

January 27, 2025  
Dept. 9  
Probate Tentative Rulings

1.	23PR0081	ESTATE OF LUCY
<b>Petition to Discover Estate Assets and Invalidate Illegal Transfers; Status of Administration</b>		

Petitioner Brian Lucy (“Petitioner”) filed an initial Petition on August 15, 2024, to which Objector Brian Lemley (“Objector”) responded to on September 30, 2024. Both parties were in pro per. Petitioner then obtained counsel and filed an Amended Petition (“Petition”) on December 6, 2024, to which there has been no response filed.

Betty Lou Lucy died on March 14, 2023, survived by three adult children, one of whom is Petitioner. Objector had a romantic relationship with decedent starting around 2003. Petitioner states that the relationship only lasted a few years but that Objector and decedent maintained contact and that Objector occasionally resided with decedent. (Declaration Brian Lucy ¶¶7-8).

Petitioner is decedent’s personal representative and was issued Letters Testamentary on October 30, 2023. The Petition states that in 2019, a deed transferring real property from decedent to herself and Objector as Joint Tenants was executed. (Exhibit C). Two weeks after decedent’s passing, Objector filed an Affidavit of Death of Co-Tenant and removed decedent from the title. (Exhibit D).

The Petition alleges undue influence by Objector in the execution of the deed. Petitioner prays for the Court to take several actions.

**TENTATIVE RULING #1:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 27, 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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<b>2.</b>	<b>23PR0313</b>	<b>ESTATE OF HARPER</b>
<b>Status</b>		

**TENTATIVE RULING #2:**

**AN ORDER FOR FINAL DISTRIBUTION HAVING BEEN ENTERED BY THE COURT ON OCTOBER 22, 2024, THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, OCTOBER 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.**

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<b>3.</b>	<b>21PR0004</b>	<b>ESTATE OF COX</b>
<b>Status</b>		

**TENTATIVE RULING #3:**

**AN ORDER FOR FINAL DISTRIBUTION HAVING BEEN ENTERED BY THE COURT ON NOVEMBER 18, 2024, THE MATTER IS CONTINUED TO 8:30 A.M. ON MONDAY, NOVEMBER 17, 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.**

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4.	23PR0304	ESTATE OF RATY
Status		

Letters of Administration were issued on January 29, 2024.

A final Inventory and Appraisal was filed on June 10, 2024.

There is no Petition for Final Distribution on file with the court.

The Department of Health Care Services filed a request for special notice.

**TENTATIVE RULING #4:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 27, 2025, IN DEPARTMENT NINE.**

**A STATUS OF ADMINISTRATION HEARING IS SET FOR 8:30 A.M. ON MONDAY, JANUARY 26, 2026, IN DEPARTMENT NINE.**

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<b>5.</b>	<b>23PR0041</b>	<b>ESTATE OF ROBBINS</b>
<b>Status</b>		

**TENTATIVE RULING #5:**

**AN ORDER FOR FINAL DISCHARGE HAVING BEEN ENTERED BY THE COURT ON MAY 10, 2024, THE MATTER IS DROPPED FROM CALENDAR.**

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6.	24PR0330	MATTER OF MONTEERRUBIO
Petition for Instructions		

Jessie Perez (“settlor” or “decedent”) passed away on November 28, 2022, as a resident of El Dorado County. Petitioner is the currently acting trustee of the Jessie Perez Family Residence Irrevocable Trust, dated May 19, 2014 (“Trust”). The principal place of administration of the Trust is also El Dorado County, making jurisdiction proper under Probate Code § 117005(a).

At the time of her death, decedent was survived by three adult children: Adelaide, Yolanda, and Anthony. She was predeceased by one child (Rachel) and one stepchild (Isabel). Isabel is survived by two adult children.

The Trust states that upon decedent’s death, the Trustee shall divide the Trust estate among the class comprised of Isabel and Adelaide.... (Article 4, paragraph (a)). While the Court agrees that the language that follows causes some confusion, the Court finds that the settlor intended distribution to be split between Isabel and Adelaide so long as they survived the settlor. However, the difficulty lies in what should happen with Isabel’s share. While subparagraph (a) seems to indicate that the distribution to Isabel and Adelaide shall be by right of representation, subparagraph (d) seems to indicate that Isabel’s share should actually be divided amongst the Trustor’s surviving children.

The distribution to Adelaide and her issue is to be outright. (Article 4, paragraph (c)). The distribution to Isabel shall be held in trust. (Article 4, paragraph (d)). However, since Isabel predeceased the settlor, her share shall be distributed outright to the “class comprised of Trustors surviving children or their issue....” (Article 4, paragraph (d)(1)).

Petitioner requests that the Court make a determination as follows:

- (1) The Trust assets shall be vested in Isabel Perez Luna and Adelaide Jean Monterrubio, in equal shares, as to a 100% interest in the Trust estate, and in the event one or both of them predeceased the Trustor, that deceased beneficiary's share shall be distributed to their issue, by right of representation; and
- (2) The "issue" of Isabel Perez Luna and Adelaide Jean Monterrubio shall only receive a share of the Trust estate in the event Isabel and/or Adelaide predeceased the Trustor, and do not possess any additional vested interest(s) in the Trust estate prior to the occurrence of the contingent event referenced in (a) above. Here, Isabel Perez Luna predeceased the Trustor and is survived by issue, Cristen Hrabek and Monique Holquin. Thus, Adelaide Sean Monterrubio shall receive a one-half (1/2) interest in the Trust estate, and Isabel Perez Luna's one-half (1/2) interest shall be vested in Cristen Hrabek

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and Monique Holquin, in equal shares (to wit, each a one-fourth (1/4<sup>th</sup>) interest of the whole).

Yolanda, Anthony, and the issue of Rachel are not named in the Trust, and therefore Petitioner argues that they have no interest in the relief requested and are not entitled to notice pursuant to Probate Code §§ 17200 and 17203. The Court disagrees. Rachel is named as a successor Trustee, so her personal representative or otherwise, her heirs are entitled to notice. Probate Code §17203. Additionally, since Isabel predeceased the settlor, the alternate distribution could be read as her share going to the Trustor's surviving children. Therefore, Yolanda and Anthony are also entitled to notice. While Yolanda and Anthony are not named, there are not specifically disinherited.

The Court does not dispute Petitioner Adelaide's interest in the Trust estate. However, without specific language disinheriting the settlor's other children, the Court finds that Yolanda, Anthony, and the issue of Rachel are entitled to notice. Especially considering the fact that Rachel was named as successor trustee to Adelaide.

**TENTATIVE RULING #6:**

- 1. HEARING CONTINUED TO MONDAY, MARCH 24, 2025, AT 8:30 AM IN DEPARTMENT NINE TO ALLOW FOR SERVICE ON THE ADDITIONAL INDIVIDUALS IDENTIFIED.**
- 2. THE COURT RECOMMENDS THAT A COPY OF DECEDENT'S WILL BE LODGED WITH THE COURT.**

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7.	24PR0325	MATTER OF MITCHELL
Letters of Administration		

Decedent died intestate on October 21, 2024, survived by his father. Petitioner is decedent's father.

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 November 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. However, proof of service of notice of the hearing on the Petition was filed on December 4, 2024.

Proof of publication was filed on December 30, 2024.

**TENTATIVE RULING #7:**

**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 26, 2026, IN DEPARTMENT NINE.**

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<b>8.</b>	<b>24PR0315</b>	<b>MATTER OF DIAS</b>
<b>Petition</b>		

This matter was heard on December 23, 2024, and continued to allow the parties time to meet and confer.

**TENTATIVE RULING #8:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 27, 2025, IN DEPARTMENT NINE.**

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<b>9.</b>	<b>24PR0161</b>	<b>MATTER OF BONSER REVOCABLE TRUST</b>
<b>Status</b>		

**TENTATIVE RULING #9:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 27, 2025, IN DEPARTMENT NINE.**

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<b>10.</b>	<b>24PR0329</b>	<b>MATTER OF GARDINER</b>
<b>Letters Testamentary</b>		

Decedent died testate on October 10, 2024, survived by three adult stepdaughters and their issue. Petitioner is decedent's stepdaughter. Decedent is predeceased by her spouse and her daughter, who left no issue.

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

Decedent's spouse was named as Executor in the Will, with Petitioner being the first alternate.

The Will was lodged with the court on December 9, 2024, and is admitted to probate.

The Will waives bond.

A Duties/Liabilities Statement (DE 147) was filed on December 2, 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 9, 2024.

Proof of publication was filed on December 30, 2024.

**TENTATIVE RULING #10:**

**ABSENT OBJECTION THE PETITION IS GRANTED AS REQUESTED, UPON FILING OF THE DE-147S. 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 26, 2026, IN DEPARTMENT NINE.**

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<b>11.</b>	<b>24PR0327</b>	<b>MATTER OF MORTENSEN</b>
<b>Letters of Administration</b>		

Decedent died intestate on October 23, 2024, survived by one adult daughter. Petitioner is decedent's daughter.

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 November 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. However, proof of service of notice of the hearing on the Petition was filed on December 2, 2024.

Proof of publication was filed on December 20, 2024.

**TENTATIVE RULING #11:**

**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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<b>12.</b>	<b>24PR0210</b>	<b>MATTER OF RUSING</b>
<b>Petition to Determine Succession to Real Property</b>		

Decedent died on April 7, 2023, as a resident of Arizona, but owning real property in California. Proceedings have been commenced in Arizona. He died testate and a copy of the will was attached to the Petition.

A final Inventory and Appraisal was filed on January 14, 2025. There is no indication as to whether the requirements of Revenue and Taxation Code § 480 have been satisfied by filing a change of ownership statement with the county recorded or assessor.

Probate Code § 13152(e) requires that Form DE300 also be attached to the Petition, see Petition paragraph 8(b). That form is not included with the Petition but has been attached to counsel's January 14, 2025, Declaration.

Decedent is survived by two adult children, who are the Petitioners.

Amended Attachment 11 contains the legal description and APN of the real property. Petitioners are claiming decedent's interest in the property on behalf of and as co-trustees of the trust. will gifts his entire estate to the trust.

Attachment 14 was included with counsel's October 18, 2024, Declaration.

Notice was filed on January 14, 2025.

**TENTATIVE RULING #12:**

- 1. COUNSEL TO FILE AN AMENDED PETITION WITH ALL REQUIRED FORMS AND EXHIBITS PROPERLY ATTACHED.**
- 2. UPON SAID FILING, AND 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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<b>13.</b>	<b>PP20190250</b>	<b>MATTER OF GRUBER TRUST</b>
<b>Status</b>		

**TENTATIVE RULING #13:**

**APPEARANCES ARE REQUIRED AT 8:30 A.M. ON MONDAY, JANUARY 27, 2025, IN DEPARTMENT NINE.**

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