



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

(1) Waiver of Account and First and Final Report of Executor (2) Petition for Allowance of Statutory Fees to Attorney and (3) Final Distribution

DOD: 11/30/2009		LINDA HANSEN and MARY MOSSETTE , Co-Executors, are Petitioners. Accounting is waived. I & A - \$489,268.58 POH - \$ 13,000.00 Executors - waive Attorney (statutory) - \$12,685.38	NEEDS/PROBLEMS/COMMENTS: Continued from 12/11/12. As of 1/9/13 the following issues remain: 1. The beneficiary of this estate is the Decedent's Intervivos Trust. The Executors are also the Co- Trustees of the Trust. Therefore, need proof of service of the Notice of Hearing on the beneficiaries of the Trust pursuant to Probate Code §1208(b) 2. Need proof of service of the Notice of Hearing along with a copy of the Petition on: a. Steven Diebert - Pursuant to the Requests for Special Notice filed on 11/7/11. 3. Need Trustee's written acceptance of the trust pursuant to Probate Code §10694(b)(4). 4. Need Declaration of Co- Trustee pursuant to Local Rule 7.12.5 5. Need Property Tax Certificate. 6. Petition states there were no creditor's claims filed. On 3/21/11 a Creditor's Claim was filed by Ponderosa Telephone in the amount of \$74.23. 7. Petition states expenses remain due and payable, as follows: • Steven Diebert - \$525.00 • Fresno County Public Guardian's Office - \$532.45 - However there prayer does not include payment for these expenses. Need clarification. 8. Petition does not list and describe in detail the property to be distributed. Local Rule 7.12.1. 9. Need Order.
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Distribution, pursuant to Decedent's Will, is to: Mary Mossette and Linda Hansen as Co-Trustees of the Daryl and Alma Brooks 1995 Trust.			
Reviewed by: KT			
Reviewed on: 1/9/13			
Updates:			
Recommendation:			
File 2 - Brooks			

Petition of Will Scott Jr. to Allocate Contingent Debt

DOD: 10/22/2011	WILL SCOTT, Jr., surviving spouse, is petitioner.		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Michelle Scott was appointed as Administrator with Will Annexed with full IAEA authority and bond set at \$165,000.00 on 2/2/2012. On 7/17/2012 Order was signed reducing the bond to \$10,000.00. Minute order states any funds held in excess to be held in a blocked account. Bond was ordered to be filed within 5 days of the order. As of 11/5/12 bond has not been filed and Letters have not issued. Michelle Scott has no power to Administrator the estate until Letters issue. Probate Code §8400.</p> <p>Note: A Settlement Conference Re: Will Contest and Petition of Will Scott, Jr. to Revoke Probate or Purported Holographic Will was continued to 1/29/13.</p> <p>1. Need Order</p>	
	Petitioner states there is one alleged debt of Petitioner and Decedent known to Petitioner that is subject to allocation, that being the contingent debt represented by a suit on a 2009 promissory note signed by the Decedent and Petitioner, being Los Angeles County Superior Court Case No. BC471669, <i>Melita Montgomery v. Will Scott, Jr. and Does 1 – 10 inclusive</i> ("the Collection Case").			
Cont. from 110712	Petitioner has denied the allegations made in the Collection Case, which is still active and pending and Petitioner is defending same at his own expense.			
<input type="checkbox"/> Aff.Sub.Wit.	The note sued upon in the Collection Case has not been paid in full, and the Collection Case seeks an award of damages in excess of \$70,000 plus interest, costs and attorney's fees.			
<input checked="" type="checkbox"/> Verified	Petitioner alleges the debt represented by the Collection Case and the note sued upon should be allocated because:			
<input type="checkbox"/> Inventory	a. The alleged debt represents a joint and several community debt of the Decedent and Petitioner, for which Decedent's estate remains jointly and severally liable.			
<input type="checkbox"/> PTC	b. The Plaintiff in the Collection Case has elected to sue only Petitioner on the alleged debt, as is her prerogative.			
<input type="checkbox"/> Not.Cred.	c. As joint obligators, Petitioner has a right of contribution against his co-obligator, Decedent's estate, to recover on-half the amount of the Judgment entered in the Collection Case in the event that the alleged debt is found to be valid.			
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				<p>Reviewed by: KT</p> <p>Reviewed on: 1/9/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 3 - Scott</p>

The allocation proposed by Petitioner is the sequestration of the sum of \$54,565.00 in cash (primarily) or other property (secondarily) held by the estate (applied first as to Decedent's share, of community property, if any, and second to Decedent's separate property, if any) from which petitioner will be paid an amount equaling one-half of any settlement entered into by Petitioner in the Collection Case or, in the event there is not settlement amount, an amount equaling one-half of any final judgment entered in the Collection Case.

Petitioner estimates the total contingent debt represented by the Collection Case to be \$109,130.00, based on an estimated October 2013, trial date in the Collection Case and note and allegations of the Complaint in the Collection Case.

Wherefore, Petitioner prays:

1. That the Court order the Personal Representative/Administrator to sequester the sum of \$54,565.00 in cash, (primarily) or other property (secondarily) held by the estate (applied first as to Decedent's share, of community property, if any, and second to Decedent's separate property, if any) from which petitioner will be paid an amount equaling one-half of any settlement entered into by Petitioner in the Los Angeles Superior Court Case No. BC471669, Melita Montgomery V. Will Scott, Jr. and DOES 1 to 10 inclusive or, in the event there is not settlement amount, an amount equaling one-half of any final judgment entered in the Los Angeles Superior Court Case No. BC471669, Melita Montgomery V. Will Scott, Jr. and DOES 1 to 10 inclusive, with the remainder, if any, to be distributed pursuant to further order of the Court;
2. That Petitioner be awarded his costs of suit.

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C. 1820, 1821, 2680-2682)

Age: 19	<p>DEBRA PASLEY, mother, is Petitioner, and requests appointment as Conservator of the Person and Estate with Medical Consent Powers and those powers under Probate Code § 2590 and 1873 or 1901, and as Conservator of the Estate without Bond.</p> <p>Estimated Value of the Estate: \$0.00</p> <p>Voting rights affected.</p> <p>Petitioner states that Morgan has been diagnosed with Dandy-Walker syndrome and has the mental capacity of an 11-12 year old child. She is easily influenced and has trouble with balance and vision. Petitioner states that conservatorship is necessary because Morgan requires guidance and supervision and likely will require it for the duration of her life.</p> <p>Court Investigator Julie Negrete filed a report on 11/08/12.</p> <p>Note: If the Petition is granted, status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Friday, 02/08/13 at 9:00a.m. in Dept. 303 for the filing of the Bond; • Friday, 05/10/13 at 9:00a.m. in Dept. 303 for the Inventory & Appraisal; and • Friday, 03/07/14 at 9:00a.m. in Dept. 303 for filing of the first account. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Court Investigator advised rights on 11/05/12.</p> <p>Voting rights affected, need minute order.</p> <ol style="list-style-type: none"> 1. Need Capacity Declaration supporting request for Medical Consent powers. 2. Need Citation and proof of personal service of the Citation with a copy of the Petition on the proposed conservatee. 3. The Petition is marked at items 1(d) & (e) requesting powers under Probate Code § 2590 and outlined in PrC § 2591 as well as those powers under PrC § 1873 & § 1901. The Petition does not specify which powers are requested and why they are needed. Pursuant to Local Rule 7.15.2 - it is the policy of the court to grant conservator only those independent powers necessary in each case to administer the estate. <u>A request for all powers described in Probate Code § 2591 will not be granted by the court.</u> Each independent power requested must be justified by, and narrowly tailored to the specific circumstances of that case. Any powers so granted must be specified in the order and in the Letters of Guardianship or Conservatorship. 4. The Petition states that the proposed conservatee's estate is \$0.00; however, Petitioner indicated to the Court Investigator that the proposed conservatee owns property and has other investments. Need further information regarding the value of the estate. Further, Petitioner requests appointment as conservator of the estate without bond. Effective 1/1/2008, pursuant to CRC 7.207, except as otherwise provided by statute, every conservator or guardian of the estate appointed after 12/31/2007, must furnish a bond, including a reasonable amount for the cost of recovery to collect the bond under Probate Code 2320(c)(4). 5. Need Order & Letters.
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<p>Reviewed by: JF</p> <p>Reviewed on: 01/09/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4 - Pasley</p>		

9. Based on this Lease, Petitioner alleges that the Seabecks were owners of a 1/5th interest in the improvements.
10. On 05/29/84, one of the original Lessors, Kenneth C. Mears, transferred his interest in the improvements to Gordon E. Haas and Beverly Haas. Shortly thereafter, the Haases transferred that 1/5th interest to the remaining Lessors. Pursuant to that transfer, the Seabeck's acquired an additional 1/20 interest in the improvements, increasing their ownership interest to a 1/4 interest.
11. Despite owning a 1/4 interest in the improvements, the Grant Deed purporting to transfer the Seabeck's interest to the Trust only refers to a 1/20 interest.
12. Petitioner alleges that the attorney who prepared the Grant Deed transferring the Seabecks' interest to the Trust was unaware that the Seabeck's already owned a 1/5 interest in the improvements prior to the transfer from the Haases because the only documentation that Petitioner is aware of that supports the prior 1/5th interest is the commercial lease, which was not recorded and therefore would not have appeared on any title search.
13. As a result of the original error only transferring a 1/20 interest in the improvements to the Selma property, all subsequent deeds transferring the property to the Seabeck QTIP Trust, the Seabeck Bypass Trust, and the Seabeck Survivor's Trust incorrectly referenced the property transferred as an undivided 1/20 interest in the Selma Property.
14. In *Estate of Heggstad*, 16 Cal.App.4th 943, 947, the California Appellate Court articulated a doctrine that "a declaration by the settlor that he holds the property in trust for another, alone is sufficient" to create a trust for real property. In such a case, the Court will treat the property as being held by the trust, even though the real property was never transferred to the trust.
15. In this case, the Seabeck's referenced and specifically described the Selma property in the Trust in Schedule A which clearly demonstrates an intention that the property be held in trust, as well as an intention to convey the property through the means of the trust instrument. Further, the Funding Memorandum or Trust executed by James P. Seabeck on 02/24/09 intended to formalize the funding of the Survivor's and Decedent's shares of the Trust following the death of Novia Seabeck and lists the Selma property as an asset of the Trust.
16. Following the rationale of *Estate of Heggstad*, Petitioner contends that the reference to and legal description of the property in the body of the Schedule of Trust Assets constitutes sufficient evidence to show the Seabecks' intent to transfer the Selma property to their Trust. Petitioner requests that the Court honor the Seabecks' intention by ordering that the property is part of the trust *corpus*, to be distributed pursuant to the terms of the Trust.
17. Petitioner further alleges that the Court's confirmation that the Selma property is a Trust asset will not alter the ultimate disposition of the assets because, if the property were not determined to be held in Trust, James P. Seabeck's pour-over Will would distribute the property to the Trust. Therefore, no good purpose would be served by requiring a probate of the property.

Petitioner prays for an Order:

1. The Court find and confirm that, at the time of his death, all of Trustor James P. Seabeck's rights, title and property interest in real property located in Selma, CA be confirmed as an asset of the SEABECK FAMILY TRUST.

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 11/06/12		<p>DOREEN ELLIS, cousin/named Executor without bond, is Petitioner.</p> <p>Full IAEA – OK</p> <p>Will dated 07/07/11</p> <p>Residence: Fresno Publication: The Business Journal</p> <p>Estimated Value of the Estate: Personal property - \$230,000.00 Real property - 300,000.00 Annual income - 7,900.00 Total - \$537,900.00</p> <p>Probate Referee: STEVEN DIEBERT</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Status hearings will be set at follows:</p> <ul style="list-style-type: none"> • Friday, 06/21/2013 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal; and • Friday, 03/21/2014 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>
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		<p>Reviewed by: JF</p> <p>Reviewed on: 01/09/13</p> <p>Updates:</p> <p>Recommendation: SUBMITTED</p> <p>File 6 - Burgess</p>	

Status Hearing and Hearing Re: Possible Removal of the Executor for Failure to Proceed Timely with the Estate

DOD: 1/8/2009	<p>JAMES L. ELDER was appointed Executor with Full IAEA without bond and Letters issued on 3-3-09.</p> <p>Final Inventory and Appraisal filed 2-22-11 reflects a total estate value of \$205,337.78, including \$66,337.78 cash and real property in Fresno and Tulare Counties.</p> <p>MANUEL N. VIERRA, former attorney for Executor James L. Elder petitioned the court to be relieved as counsel. On 12/11/12 the court granted attorney Vierra's request and set this status hearing for the possible removal of the executor for failure to proceed timely with the estate.</p> <p>Executor James Elder was present in court at the hearing on 12/11/12 that set this status hearing.</p> <p>Note: Decedent's will dated 12-10-08 devises specific personal property items to various charities and/or organizations, and devises the residue of the estate to the Fresno State University Foundation.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need current written status report pursuant to Local Rule 7.5.</p>
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		<p>Reviewed by: KT</p> <p>Reviewed on: 1/9/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 7 - Jaquay</p>