

Tentative Rulings
August 14, 2017
Department 12
1:30 & 2:30 p.m.

Please note upcoming changes in the location for the Monday afternoon probate calendar:

August 14 and 21 - Department 12

August 28 and thereafter – Department 7.

CONSERVATORSHIPS

CONS OF IRA BLALOCK

CASE NUMBER: 29105

This matter is on calendar for further proceedings regarding a Petition for Appointment of a Conservator of the Person and Estate. At the prior hearing, Counsel for the proposed Conservator submitted a Second Amended Capacity Declaration and Waivers of Notice for Stephen Blalock, Adam Blalock, and Marcia Worden. There is nothing in the file to indicate that Sarah Blalock has been given notice of today's hearing or waives notice. Other than this issue, the paperwork appears to be in order. **An appearance is necessary by the parties to discuss the status of notice to Sarah Blalock, and to address whether the Conservatee objects to the Petition and a contested hearing is necessary.**

CONS OF GERRIT BLANKENBERG

CASE NUMBER: 29045

This matter is on calendar for confirmation of filing of the Conservatorship Care Plan and the Determination of Conservatee's Appropriate Level of Care form. Both documents were filed on June 9, 2017, and are accepted by the Court. The future court date of June 11, 2018, for Annual Review is confirmed. **No appearance is necessary on today's calendar.**

CONS OF PAUL CRANSTON

CASE NUMBER: 21072

This matter is on calendar for further proceedings regarding Status of Transfer. The Court ordered this matter transferred to Tehama County on April 3, 2017. However, the matter still has not been transferred because neither a filing fee nor a Request for Fee Waiver has been submitted. Counsel has submitted a declaration indicating that the Conservatee may be moving back to Shasta County, in which case the order of transfer would need to be vacated. The matter is continued to **Monday, October 16, 2017, at 2:30 p.m. in Department 7** for Status. **No appearance is necessary on today's calendar.**

**CONS OF ROBERT LEE
CASE NUMBER: 28305**

This matter is on calendar for further proceedings regarding Confirmation of Filing of Receipts and a Petition for Discharge. The court notes that receipts have been filed, and the conservator has submitted an ex parte petition for termination and discharge. The Order has been executed, and the file will be closed. Counsel for the conservator is advised that, in the future, Judicial Council Form GC-395 is the mandatory form to be utilized for this purpose. **No appearance is necessary on today's calendar.**

**CONS OF ELIZABETH MORRIS
CASE NUMBER: 10765**

This matter is on calendar for Biennial Review. The Court has read and considered the report filed by the Court Investigator on July 6, 2017, which recommends that the Conservatorship continue. The Court **FINDS** that continued Conservatorship is in the best interest of the Conservatee. The Court **ORDERS** that the Conservatorship shall continue. The matter is set for Biennial Review on **Monday, August 19, 2019, at 2:30 p.m. in Department 7.** The Court Investigator's report shall be due at least 30 days prior to hearing.

In addition, the Court Investigator reports that she has received information that the current Conservator may no longer be able to continue her duties as Conservator. Based on this information, the Court appoints the Shasta County Public Defender's Office to represent the interests of the Conservatee, to determine whether a petition is needed to appoint a successor conservator or terminate the conservatorship. The Court **directs** the clerk to provide the Public Defender's Office with a copy of the minutes from today's hearing. A Status Hearing is scheduled for **Monday, September 11, 2017, at 2:30 p.m. in Department 7** to confirm counsel and report on the status of the Conservatorship. **No appearance is necessary on today's calendar.**

**CONS OF FRANK WILLIAMS
CASE NUMBER: 17380**

This matter is on calendar for further proceedings on a Petition to Transfer Proceedings to Tehama County. The Court previously requested the Petition be amended to identify the names and addresses of the spouse and relatives within the second degree as required by Probate Code section 2213. Petitioner has complied, and notice was indeed proper on the original Petition. No objections have been raised. The papers otherwise appear to be in order. The requested orders are **GRANTED** as prayed. Proceedings are to be transferred to Tehama County. A proposed order was submitted and will be executed by the Court. A Status Hearing is scheduled for **Monday, September 25, 2017, at 2:30 p.m. in Department 7** to confirm transfer. **No appearance is necessary on today's calendar.**

ESTATES

EST OF KATHRYN ARCIDIACONO

CASE NUMBER: 28639

This matter is on calendar for (1) further proceedings regarding Status of Administration; and (2) hearing on an Order to Show Cause re Monetary Sanctions. The Court notes that the Status Report has now been properly noticed with proof of service on file. No objections have been raised. The Court has read and considered the Report of Status of Administration, filed June 15, 2017, which indicates that the Estate is not yet in a condition to be closed because the main asset of the estate, a single family residence, still needs to be sold. The Court accepts the Status Report's representations and finds that the Estate is currently not in a condition to be closed. The matter is set for **Monday, November 13, 2017, at 2:30 p.m. in Department 7** for Status of Administration. The Administrator is reminded that if a Petition for Final Distribution cannot be filed prior to the continued date, then the Administrator is **ORDERED** to comply with Probate Code sections 12200 and 12201, and file and serve a properly noticed Status Report for the above hearing date. Finally, the Court has reviewed Counsel's response to the Order to Show Cause re Monetary Sanctions. The Court accepts the response and will not impose sanctions at this time. The Order to Show Cause is VACATED. **No appearance is necessary on today's calendar.**

EST OF TINY COOPER

CASE NUMBER: 28457

This matter is on calendar for further proceedings on the First and Final Report of Administrator and Petition for Final Distribution on Waiver of Account; and for Allowance of Compensation for Ordinary Services of Attorney. The matter was continued to today's date to address an error in the calculation of the proposed distribution. Counsel has submitted a supplemental declaration addressing the issue and correcting the proposed distribution.

The Petition is **GRANTED** as prayed, subject to the above corrected distribution. Counsel is directed to submit a new proposed order that provides for the proper distribution. The Court sets the date of **Monday, November 13, 2017, at 2:30 p.m. in Department 7** for Status of filing of Receipts and Petition for Final Discharge. **No appearance is necessary on today's calendar.**

EST OF MARGARET COULTER

CASE NUMBER: 28520

This matter is on calendar for further proceedings regarding confirmation of filing of Receipts and a Petition for Final Discharge. Not all receipts have been filed. Counsel has submitted a Status Report indicating that additional time is needed to locate and distribute to all beneficiaries. The matter is continued to **Monday, October 30, 2017, at 2:30 p.m. in Department 7** for further proceedings regarding confirmation of filing of Receipts and a Petition for Final Discharge. If a Petition for Final Discharge cannot be filed by the continued hearing date, Petitioner is ordered to file a Status Report no later than three court days before the continued hearing advising what must be accomplished before the Petition for Final Discharge can be filed. **No appearance is necessary on today's calendar.**

**EST OF ROWENA GOODNER
CASE NUMBER: 28793**

This matter is on calendar for hearing on a Petition for Final Distribution on Waiver of Account. The matter has been properly noticed with proof of service on file. Waivers of Accounting are on file with respect to all beneficiaries. No objections have been raised. The papers appear to be in order. The Petition is **GRANTED** as prayed. A proposed order has been submitted and will be executed. The Court sets the date of **Monday, November 13, 2017, at 2:30 p.m. in Department 7** for Status of filing of Receipts and Petition for Final Discharge. **No appearance is necessary on today's calendar.**

**EST OF RONALD HOLSTEIN
CASE NUMBER: 29219**

This matter is on calendar for hearing on a Spousal Property Petition. The matter has been properly noticed, with proof of service on file. No objections have been raised. The Petition is defective as follows:

- 1) Petitioner has not checked box 1a, although she has checked box 7a regarding property passing to the Petitioner, therefore it is unclear of Petitioner is seeking an order that decedent's interest in property passes to her and/or her interest in the property should be confirmed.
- 2) Petitioner has failed to complete item 5a(2) of the Petition by failing to identify whether the Decedent was survived by issue of a predeceased child.
- 3) The Petition does not include an Attachment 7, which states the facts upon which Petitioner bases her allegation that the property passes to her or should be confirmed to her.
- 4) The Petition does not include an attachment 7a which provides a legal description of what interest of decedent's Petitioner seeks to have determined as having passed to her.
- 5) The Petition does not include an attachment 7b which provides a legal description of what interest Petitioner has in the property that she seeks to have confirmed to her.
- 6) Petitioner has checked box 8, indicating there is a written agreement for a non pro rata division of community property. As there are no facts asserted stating what decedent's interest was in the property or why Petitioner believes the property should pass to her, it cannot be determined if Petitioner is basing any claim on this written agreement.
- 7) The attached will does not appear to be a valid holographic will, as it does not appear to be in decedent's handwriting.
- 8) The attached will appears to be witnessed by Petitioner. This is not a valid attestation, as Petitioner appears to be a devisee under this document.
- 9) The attached will does not appear to support the Petition seeking to distribute all of the decedent's property to the Petitioner, as the document states that his property is to be distributed to his wife and children.
- 10) Additionally, the Petitioner has not lodged a proposed order as required by Local Rule 15.05.

This matter is continued to **Monday, September 18, 2017 at 2:30 p.m. in Department 6** to provide time for the Petitioner to file an amended Petition that addresses the above issues. **No**

appearance is necessary on today's calendar.

EST OF MARY HULTMAN

CASE NUMBER: 29000

The parties have stipulated, and the court has executed an order continuing the hearing on the Demurrer and Motion to Strike to August 21, 2017. Today's hearings are VACATED. **No appearance is necessary on today's calendar.**

EST OF STEPHEN KERR

CASE NUMBER: 28962

This matter is on calendar for hearing on a Petition for First and Final Account and Report of Executor and Petition for its Settlement; for Allowance of Compensation to Executor and Her Attorney for Statutory Services; for Approval of Reimbursement of Advances to Executor; and for Final Distribution. The matter has been properly noticed with proof of service on file. No objections have been raised. The papers appear to be in order. The Petition is **GRANTED** as prayed. A proposed order has been submitted and will be executed. The Court sets the date of **Monday, November 13, 2017, at 2:30 p.m. in Department 7** for Status of filing of Receipts and Petition for Final Discharge. The future date of January 29, 2018 for Status of Administration is VACATED. **No appearance is necessary on today's calendar.**

EST OF BERNICE LAWRENCE

CASE NUMBER: 29245

This matter is on calendar for hearing on a Petition for Letters of Administration with limited authority under the IAEA. The matter has been properly noticed, with proof of service on file. Proof of publication has been filed. No objections have been raised. The Petition is **GRANTED**. A proposed order was submitted and will be executed by the Court. The matter is set for **Monday, December 18, 2017, at 2:30 p.m. in Department 7** for confirmation of filing of the Inventory and Appraisal. The matter is set for **Monday, August 13, 2018, at 2:30 p.m. in Department 7** for Status of Administration. The Personal Representative is required to comply with Probate Code Sections 12200 et seq. **No appearance is necessary on today's calendar.**

EST OF CHARLES MASSA

CASE NUMBER: 29244

This matter is on calendar for hearing on a Petition for Letters of Administration, with authority under the IAEA. The matter has been properly noticed, with proof of service on file. Proof of publication has been filed. No objections have been raised. All beneficiaries have waived the bond requirement. The Petition is **GRANTED**. A proposed order was submitted and will be executed by the Court. The matter is set for **Monday, December 18, 2017, at 2:30 p.m. in Department 7** for confirmation of filing of the Inventory and Appraisal. The matter is set for **Monday, August 13, 2018, at 2:30 p.m. in Department 7** for Status of Administration. The Personal Representative is required to comply with Probate Code Sections 12200 et seq. **No appearance is necessary on today's calendar.**

EST OF ELLEN MATHESON
CASE NUMBER: 28777

This matter is on calendar for confirmation of filing of receipts and Petition for Discharge. Two of three required receipts have been filed. No Petition for Discharge has been filed. This matter is continued to **Monday, October 16, 2017, at 2:30 p.m. in Department 7.** If a Petition for Discharge cannot be filed prior to the next hearing, the Court **ORDERS** a Status Report be filed no later than three court days before the next hearing to apprise the Court of what must be accomplished before the Petition for Discharge can be filed. Failure to do so may result in the issuance of an Order to Show Cause Re Monetary Sanctions of \$250.00 for failure to comply with the Court Order. **No appearance is necessary on today's calendar.**

EST OF SANDY MILLER
CASE NUMBER: 28704

This matter is on calendar for hearing on a Petition for Issuance of Citation for Examination. The matter has been properly noticed, with proof of service on file. No objections have been raised. The paperwork appears in order. The Petition is **GRANTED**. A proposed order and citation were lodged with the Court. The citation shall issue requiring an appearance and examination on **Monday, October 2, 2017, at 2:30 p.m. in Department 7.** The citation shall be personally served on Shari Miller no later than five days before the scheduled examination. **No appearance is necessary on today's calendar.**

EST OF SHANE MILLER
CASE NUMBER: 28070

This matter is on calendar for hearing on: 1) First and Final Account and Report of Initial Administration of the Estate and Petition for Allowance of Fees to Prior Administrators of Estate, Attorney's Fees, and Delivery of Assets (hereinafter the "Petition"); and 2) Motion for Order Determining that Sandy Miller's Community Property Share of Assets is Not Subject to Cost of Administration or Estate Claims (hereinafter the "Motion"). The Petition seeks not only to settle the first account of the administrators, Alyssa Logins-Miller and Amanda Patrick but also seeks specific orders related to statutory compensation for the Estate, compensation for a previous conservatorship, reimbursement of costs etc. Sandra LaForce, the Administrator of the Estate of Sandy Miller (Shasta County Case No. 28704), has filed an opposition to the Petition and the present Motion challenging the use of assets of the Estate of Sandy Miller to pay for any of the costs and attorney's fees for the Estate of Shane Miller. LaForce also objects to the awarding of the full statutory compensation to the present Administrators and Counsel since the matter will have successor Administrators and Counsel. Finally, the Court notes that Counsel Zigler attempted to file an opposition on behalf of Taylor Miller. That opposition was returned by the clerk's office. The Court would prefer to have all oppositions on file prior to issuing a ruling and/or setting these matters for a contested hearing. Therefore this matter is continued to **Monday, September 11, 2018, at 2:30 p.m. in Department 7.** **No appearance is necessary on today's calendar.**

EST OF FRED MITCHELL
CASE NUMBER: 28776

This matter is on calendar for Status of Administration. Letters issued on August 12, 2016. No Petition for Final Distribution has been filed with the Court; nor has a properly noticed Status Report been filed as required by Probate Code Sections 12200 and 12201. This matter is continued to **Monday, September 25, 2017, at 2:30 p.m. in Department 7** for Status of Administration. If a Petition for Final Distribution cannot be filed prior to the next hearing, the Court **ORDERS** that a Status Report be filed and served in compliance with Probate Code Sections 12200 and 12201. Failure to do so may result in the issuance of an Order to Show Cause Re Monetary Sanctions of \$250.00 for failure to comply with Probate Code Sections 12200 et seq, and failure to comply with the Court Order. **No appearance is necessary on today's calendar.**

EST OF SHERRY NACHREINER
CASE NUMBER: 28773

This matter is on calendar for Status of Administration. Letters issued on August 8, 2016. No Petition for Final Distribution has been filed with the Court; nor has a properly noticed Status Report been filed as required by Probate Code sections 12200 and 12201. The Administrator did file a Status Report; however, no Notice of Hearing that complies with the requirements of Section 12201 was filed and served for today's date. Further, the Status Report's proof of service reflects that the required parties were only provided with 14 days prior to the hearing instead of the 15 days prior as required by notice required by Probate Code Sections 1220 and 12201. This matter is continued to **Monday, September 25, 2017 at 2:30 p.m. in Department 7** for Status of Administration. The Administrator is ordered to file and serve a Notice of Hearing for the continued hearing date in compliance with Probate Code Sections 1220 and 12201. **No appearance is necessary on today's calendar.**

EST OF DARLENE NEEL
CASE NUMBER: 28147

This matter is on calendar for hearing on a First and Final Account and Report of Administrator. The matter has been properly noticed, with proof of service on file. No objections have been raised. The accounting and paperwork appear in order, with the exception that the proposed distribution may not be in accordance with the laws of intestate succession. The proper distribution is ambiguous, because the requested distribution does not agree with the original Petition for Probate. The original Petition states under penalty of perjury that there were no issue of pre-deceased children. Only two children were listed. Therefore, each of the two children listed would be entitled to a 50% share of the estate. The Petition now indicates that there are two deceased children, who left issue, but does not explain whether these children pre-deceased the decedent or died after the date of decedent's death. Additional information is required, in the form of a declaration, addressing this ambiguity, and providing the Court with the dates of death for the two children who are now listed for the first time, so that the Court can determine if the proposed distribution is appropriate. The matter is continued to **Monday, September 11, 2017, at 2:30 p.m. in Department 7** to confirm filing and proof of service of the required declaration. **No appearance is necessary on today's calendar.**

EST OF MONIKA PAULSON
CASE NUMBER: 27438

This matter is on calendar for Further Proceedings re Status of the Estate. An order approving final distribution issued almost one year ago on September 22, 2016. The matter was continued to allow remaining issues to be resolved, for any remaining receipts to be filed, and for a Petition for Discharge to be filed. A Petition for Discharge has not been filed. A Status Report has not been filed. Nothing has been filed since the last hearing. **An appearance is required by the parties to provide the Court with a status of the estate administration.**

EST OF WARREN STEELE
CASE NUMBER: 28731

This matter is on calendar for Status of Administration. Letters of Administration issued August 8, 2016. A Status Conference Statement and Request for Continuance was filed by the Executor on August 4, 2017. The Status Conference Statement does not comply with Probate Code sections 12200 and 12201, as there is no proof of service showing that a Notice of Hearing has been served to persons interested in the estate with the statutory language required by Probate Code Section 12201. The Executor and counsel are ordered to comply with Probate Code sections 12200 and 12201. This matter is continued to **Monday, September 11, 2017 at 2:30 p.m. in Department 7** to allow time for the Executor to timely serve and file a proper notice of hearing on the Status of Administration. Failure to comply with Probate Code sections 12200 and 12201 may result in the issuance of an Order to Show Cause re Monetary Sanctions in the amount of \$250.00 for failure to comply with Probate Code Sections 12200 et seq, and failure to comply with the Court's order. **No appearance is necessary on today's calendar.**

EST OF BERTHA TOSCANO
CASE NUMBER: 29022

This matter is on calendar to confirm filing of the Inventory and Appraisal. Letters issued on February 27, 2017. When this matter was last on calendar, the Court continued the matter to today's date and ordered the personal representative to file a Status Report if an Inventory and Appraisal could not be filed by this date. An Inventory and Appraisal has not been filed. A Status Report has not been filed. An Order to Show Cause re Monetary Sanctions in the amount of \$250.00 shall issue to the personal representative and counsel for failure to timely file the Inventory and Appraisal, and failure to comply with the Court's order. The Clerk is directed to prepare separate Order to Show Cause. The hearing on the Order to Show Cause shall be set for **Monday, September 25, 2017 at 2:30 p.m. in Department 7**. **No appearance is necessary on today's calendar.**

EST OF DOUGLAS VANNI
CASE NUMBER: 28856

This matter is on calendar for hearing on a Petition for Final Distribution on Waiver of Accounting. The matter has been properly noticed, with proof of service on file. No objections have been raised. The paperwork appears to be in order. The Petition is **GRANTED**. A proposed order has been lodged and will be executed. This matter is set for Confirmation of

Filing of Receipts and a Petition for Discharge on **Monday, November 13, 2017, at 2:30 p.m. in Department 7**. No appearance is necessary on today's calendar.

EST OF JOHN VON ACHEN, JR.

CASE NUMBER: 29223

This matter is on calendar for hearing for Petition for Letters of Administration. The Petition is defective as follows:

1. The Petition is ambiguous on the issue of whether the Petition seeks Authorization to Administer under the IAEA. Item 2c requests full authority, but that box is not checked in the title. The court notes that full authority is requested in the body of the Petition, and the publication indicates that full authority is being sought. Therefore, the Court could overlook this defect. However, as there are other errors that will require the filing of an amended Petition, this should be addressed in the Amended Petition.
2. No estimated values are provided at Item 3d, such that the Court cannot determine the appropriate amount of a bond required under Probate Code section 8482. This may result in the Court granting limited authority, as the extent of assets is unknown.
3. Either Item 5a(3) or 5a(4) must be checked.
4. Either Item 5a(7) or 5a(8) must be checked.

For these reasons, the Petition cannot be granted. The matter is continued to **Monday, September 11, 2017 at 2:30 p.m. in Department 7** to allow Petitioner time to file an Amended Petition that cures the above defects, and to provide proof of timely service of Notice of the continued hearing date. **No appearance is necessary on today's calendar.**

EST OF BARBARA WOOD

CASE NUMBER: 29077

This matter is on calendar for confirmation of filing of the Inventory and Appraisal. A Partial Inventory and Appraisal was filed on August 3, 2017, and is accepted by the Court. A Final Inventory and Appraisal has not been filed. The matter is continued to **Monday, September 11, 2017, at 2:30 p.m. in Department 7** to confirm filing of the Final Inventory and Appraisal. If the Final Inventory and Appraisal cannot be filed prior to that date, the Court **ORDERS** the administrator to file a Status Report no later than three court days before the hearing to advise the Court as to what must be accomplished before the Final Inventory and Appraisal can be filed. **No appearance is necessary on today's calendar.**

TRUSTS

IN RE RESTATEMENT OF THE LEE FAMILY 1995 TRUST

CASE NUMBER: 28628

This matter is on calendar for further proceedings regarding Status of Accounting. A full and complete accounting of all trust assets and transactions was originally ordered by the Court on May 24, 2017. At the prior hearing, the parties indicated that the accounting would be on file no later than August 9, 2017. However, as of today's date, there is no accounting on file. **An appearance is necessary to apprise the Court of the current status of the accounting.**

IN RE THE AUSTIN WALKER SPECIAL NEEDS TRUST

CASE NUMBER: 28344

This matter is on calendar for hearing on the Second Account and Report of Trustee; and Petition for Fees. The matter has been properly noticed, with proof of service on file. No objections have been raised. The papers appear to be in order. The requested orders are **GRANTED** as prayed. A proposed order was submitted and will be executed by the Court. The original statements lodged with the Court may be returned to counsel.

The Order Approving Compromise of Minor's Claim provided that subsequent accountings shall be biennially unless earlier requested by the Trustee or other interested parties. Accordingly, the Third Account and Report of Trustee shall cover the time period beginning June 1, 2017, and ending May 31, 2019 and shall be filed no later than 90 days after the end of the accounting period. The hearing on the Third Account and Report of Trustee is set for **Monday, September 16, 2019, at 2:30 p.m. in Department 7.** **No appearance is necessary on today's calendar.**

IN RE THE DEAN & KATHERINE SWENSON TRUST

CASE NUMBER: 27357

This matter is on calendar for a Pre-Trial Conference. Contested hearing on the Third Accounting is currently scheduled for **Monday, August 21, 2017, at 9:00 a.m. in Department 12.** The Court notes that a Petition for Removal of Trustee has also been filed, with hearing scheduled for **Monday, August 21, 2017, at 2:30 p.m. in Department 12.**

An appearance is necessary address the issues for hearing on August 21, and to discuss if a further hearing will required on the Petition for Removal.

IN RE THE DOROTHY J HAVENS 1988 TRUST

CASE NUMBER: 29235

This matter is on calendar for hearing on a Petition for Appointment of Successor Trustee. The matter has been properly noticed, with proof of service on file. No objections have been raised. The papers appear to be in order. The requested orders are **GRANTED** as prayed. A proposed order was submitted and will be executed by the Court. The clerk is directed to **close** this file following execution of the final order. **No appearance is necessary on today's calendar.**

IN RE THE MARGUERITE S. HOLLAND TRUST
CASE NUMBER: 28718

This matter is on calendar for Confirmation of Hearing. A Court Trial is currently set for **Monday, September 18, 2017, at 9:00 a.m. in Department 7.** An appearance is necessary to confirm the trial date.