

## 6-7-2024 Probate Tentative Rulings

### **1. PR0000188 In the Matter of Todd Alan Goodin**

The petition by conservatee counsel for attorney's fees is granted as prayed, chargeable to the conservatee's estate. Counsel for conservatee is relieved. No appearances are required.

### **2. PR0000232 In the Matter of Estate of Scott Nebenzahl**

Appearances are required by petitioner Welborn and creditor Duffer. The court has received supplemental briefing from the creditor including declarations from petitioner and counsel for petitioner and creditor.

By no later than 28 June 2024, petitioner and creditor shall provide the court with additional declarations that address the following questions: (1) with respect to every document served by mail on the surviving spouse, was that item returned to the sender as undeliverable for any reason? (2) how recently has any attempt been made to verify the current whereabouts of the surviving spouse including whether she still resides at Frosty Lane?

The court will issue an order to show cause to the surviving spouse to file an inventory and appraisal or explain why the information should not be provided pursuant to Probate Code section 11442 as it appears that apportionment of the debt of the decedent is potentially required pursuant to Probate Code section 11444(b) and that allocation would be affected by characterization and value of separate property owned by the surviving spouse and community property not administered in the estate. Petitioner and creditor shall prepare an appropriate draft order.

On the current record, the court remains concerned that the surviving spouse does not have actual or constructive notice of the petition for final distribution including the significant request for allocation of debt. As such, petitioner and creditor are directed to personally serve copies of all relevant documents in connection with the hearing on the surviving spouse including, without limitation, the petitions, order to show cause, all briefing and a new notice of hearing.

The hearing on the petition for final distribution including allocation of debt to the surviving spouse is continued until 6 September 2024 to provide the parties with adequate time to comply.

### **3. PR0000407 Conservatorship of Mattie Sommers**

The petition by conservatee counsel for attorney's fees is granted as prayed, chargeable to the county. Counsel for conservatee is relieved. No appearances are required.

**4. PR0000455 In the Matter of Wade Amesbury**

Appearance required to report on status of settlement and for entry of orders as appropriate.

**5. PR0000532 In the Matter of Jacob Allen Bieker**

The hearing regarding petition to administer the estate is continued to August 9, 2024, at 9:00 a.m. in Dept. 6. The petition appears generally in order, however, there is no notice and proof of service of the hearing on the persons listed in item 8 of the petition. There is also no proof of publication. Petitioner shall file form <https://selfhelp.courts.ca.gov/jcc-form/DE-120> to show that those listed persons were served at least 15 days before the continued hearing date. If the deficiencies are addressed, the court is inclined to grant the petition at the next hearing.

**6. PR0000533 In the Matter of Jeffrey B Barton**

The petition to confirm trust and to appoint trustee is granted as prayed. No appearances are required.

**7. PR0000537 In the Matter of The Barbara Jean Sweat Living Trust**

The petition to determine ownership of trust property and to direct transfer of the same is granted as prayed. No appearances are required.

**8. PR0000546 In the Matter of Ellsworth H. Getchell**

The petition to administer the estate is granted as prayed.

**9. PR0000053 In the Matter of Mildred A Kitchen**

Appearances are required for a remote hearing with Judge Picquet regarding status of mediation and settlement.

**10. PR0000349 In the Matter of Mark Allen Foss**

The petition for an order confirming sale of real property is granted as prayed. The will directed that the property to be sold and the sale of the property complies with Probate Code section 10309. On the court's own motion, the buyer's agent's commission of 2% is confirmed pursuant to Probate Code section 10313(b). No appearances are required.

**11. PR0000519 In the Matter of David L. Swetman**

The spousal property petition is continued to 7-12-24 at 9:00 a.m. in Dept. 6.

A spousal property petition allows for the decedent's one-half share of the community property to pass to the surviving spouse without estate administration. *See Prob. Code 13650, et seq.*

At bar, the petition first requests that a check made out "Estate of David Swetman" pass to decedent's spouse. The explanation in the amended petition reveals that this check is an inheritance received by the decedent, which is the separate property of the decedent, not community property. As such, this cannot be transferred via a spousal property petition.

The other piece of property at issue is real estate. There is presently insufficient information provided to determine whether this is community property which can be transferred by this procedure. In addition, the petition contains other deficiencies: Item 3 is left blank. Item 4(c) is not filled out. There is no box checked in item 7(a). Item 8 is not filled out. There is no notice of hearing with proof of service.

Petitioner shall remedy all of these items prior to the continued hearing.