

Superior Court of California County of Yuba

Probate Notes for June 28, 2010

The Probate Calendar will be called at 9:00 a.m. in Department Two, the Hon. Debra L. Givens presiding.

The probate notes represent staff's recommendations to the Court, and are not tentative rulings. If the probate notes indicate that a petition should be granted, no appearance is required at the hearing. The matter will be deemed submitted on the papers. If the Court does not follow staff recommendation, appropriate instructions will be issued.

Frequently, the only defect in a probate petition is the absence of the Proof of Publication. In such instances, if the Proof of Publication is filed by 12:00 p.m. on the Friday before the hearing, the recommendation will be deemed to have been changed to a recommendation that the petition be granted.

If the moving party would like to continue the matter to cure defects showing in the probate notes, he or she may do so by sending an email to probate@yubacourts.org no later than 12:00 p.m. the Friday before the hearing. The email is to state the case name and number, and indicate a Monday date to which the continuance is requested. If such an email request is timely made, no appearance is required at the hearing, and the matter will be continued unless the probate notes indicate that the Court has directed otherwise.

In some instances Staff recommends that the Court instruct that a party file a petition, e.g., a petition for distribution, for hearing on a certain date. A date certain is recommended for tracking purposes, and is not meant to prejudice the ability to bring a petition on an earlier date. Subject to ordinary filing and service requirements, and unless specifically instructed otherwise, a party may set the matter for hearing on or before the specified date.

Name: Estate of Moser CVPB 08-52

Proceedings: Continued Probate Review

Discussion: At the prior hearing of January 25, 2010, the Court instructed the Administrator to devise a plan to conclude administration of the estate. There have been no further filings.

Recommendation: It is recommended that the matter be set for hearing on the final petition on August 16, 2010 at 9:00 a.m. in Department Two. If the petition is not filed, then it is further recommended that, at that time, the Court consider revoking the letters and dismissing the case on its own motion.

Name: Estate of Cooper CVPB 09-44

Proceedings: Probate Review

Discussion: Letters issued on June 29, 2009, and the statutory time for the administration of the estate will expire in one day. There have been no filings since letters issued.

Recommendation: It is recommended that the matter be set for hearing on the final petition on August 23, 2010, at 9:00 a.m. in Department Two.

Name: Estate of Mann CVPB 10-38

Proceeding: Petition for Letters of Administration

Discussion: Daughter petitions for her letters. The heirs waive the bond. The petition is in order in all respects. The executed Duties & Liabilities and the Proof of Publication are in the file. The notice is in order.

Recommendation: It is recommended that the petition be granted. The proposed order and executed letters are in the file, and are in order.

Name: In re Nicholson & Nicholson's Trust CVPB 10-41

Proceedings: Petition to Appoint Successor Trustee

Discussion: Granddaughter contingent beneficiary petitions for appointment as successor trustee. The petition avers that the pages of the trust instrument designating the successor trustees are missing.

On June 15, 2010, petitioner's counsel filed a declaration, not served on the persons entitled to notice, purporting to authenticate the now-found missing pages. Per the recitations in the petition, the nominated successor trustees whose identities are disclosed on the newly-found pages are now deceased

Notice of the petition is in order.

Staff thinks that the June 15 declaration is inadequate, because counsel cannot authenticate the now-found pages of the trust instrument. Because the persons entitled to notice were served with an incomplete copy of the trust, Staff thinks that the June 15, 2010 declaration should be served on all persons entitled to notice.

The notice is in order as to the original petition, and Staff would recommend that it be granted, after the missing pages are served.

Recommendation: It is recommended that the hearing be continued to June 26, 2010, at 9:00 a.m. in Department Two, with directions to the petitioner to serve the aforementioned declaration be served.