

Superior Court of California County of Yuba

Probate Notes for June 7, 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.

Name: Estate of Maniord CVPB 09-103

Proceedings: Petition for Distribution, etc. on Waiver of Account

Discussion: The Administrator makes her final petition. The petition is in order in all respects. The statutory attorneys fees are properly calculated at \$15,965.43. The petition is silent as to the commission. The notice is in order.

Recommendation: It is recommended that the Court seeks clarification as to whether the commission is waived. The petition is otherwise in order and may be granted.

Name: Estate of Pressley CVPB 10-36

Proceedings: Continued Petition for Probate.

Discussion: The Probate Notes for May 10 were as follows:

Name: Estate of Pressley CVPB 10-36

Proceedings: Petition for Probate.

Discussion: The nominated Executor petitions for her letters. The will waives the bond. The petition is in order in all respects. The executed Duties & Liabilities is in the file. The notice is in order. The Proof of Publication is not in the file.

Recommendation: If Proof of Publication is provided, the petition may be approved. The proposed order and executed letters are in the file, and are in order.

Ruther Pressley, daughter of the decedent, appeared at the hearing to make an objection to the petition. Per the minutes, the Court ordered that the objection(s) be reduced to writing and filed no later than June 1, 2010.

The objector complied, though the objections have no proof of service. The written objection invokes the ground of undue influence. However, in Staff's view, the conclusory and unverified objections are insufficient to prevent grant of the instant petition. Moreover, the objections seek appointment of the Objector as Special Administrator. However, all petitions for administration of decedents' estates must be made on the mandatory Judicial Council forms.

The Proof of Publication has now been filed.

Recommendation: It is recommended that the objections be overruled without prejudice to the filing of a later petition to revoke probate. The purported competing petition for Letters of Special Administration should be denied.

Name: Estate of Brown CVPB 10-40

Proceedings: Petition for Probate

Discussion: Surviving spouse/ nominated executor petitions for her letters. The will waives the bond. The petition is in order in all respects. The notice is in order. The executed Duties & Liabilities is in the file. The Proof of Publication is not in the file. There is no proposed order or executed letters.

Recommendation: If the Proof of Publication is provided, the petition may be granted.