

# Superior Court of California County of Yuba

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## Probate Notes for June 14, 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](mailto: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 Moss CVPB 06-142**

**Proceedings: Order to Show Cause**

**Discussion:** Per the minutes, on May 10, 2010 the Court essentially adopted the Probate Notes, which recommended issuance of an Order to Show Cause re: revocation of the letters for the failure of the Co-Administrators to devise a plan to conclude administration as previously ordered.

The Order to Show Cause was issued, filed, and served.

There have been no further filings.

**Recommendation:**

If no response is made to the Order to Show Cause is made, it is recommended that the Court issue an order in the following form:

To: Dorothy Perkins and Alvy Moss, Jr., Co-Administrators in the above-titled cause, and to each of you:

IT IS HEREBY ORDERED that your Letters of Administration are revoked. You will henceforth not hold yourself out as being personal representative. Within ten days of service of this order you will surrender to the clerk all copies of your letters.

The matter is set on the probate dismissal calendar on July 12, 2010 at 9:00 a.m. It is the Court's intention to dismiss the action at that time. If there has been compliance with the order for surrender of the letters, no appearance is required.

**Name: Conservatorship of Lauer CVPC 06-177**

**Proceedings: Third Account and Report, fees, etc.**

**Discussion:** The Conservators present their account for the period from April 1, 2009 through March 31, 2010.

The account appears to be in order. The conservatorship estate appears to be properly and frugally managed. Fiduciary compensation of \$1,250, calculated on the basis of 2 hours per month X \$50/hour seems appropriate. Mileage reimbursement of 3790 miles X \$.50= \$1,895.00 seem appropriate. Out of pocket expenses for haircuts, \$156 seems appropriate. Additional compensation of \$20 per week for laundry and \$10 per week the care of the goats of which the Conservatee was fond (the goats are now deceased), total of \$920, seems appropriate.

The proposed order is in order.

**Recommendation:** It is recommended that the report be approved and the petition granted.

**Name: Estate of Gilbert CVPB 09-62**

**Proceedings: First and Final Report, etc.**

**Discussion:** The Administrator makes her final report. The heirs waive the account. The Administrator reports that this is a no-asset estate. Administration was commenced to defend a wrongful death action against the estate. The Administrator reports that she has succeeded in settling the action and related creditors claim via the decedent's insurance and payment by his inter vivos trust and/or trust beneficiaries. No commission is requested. The petition recites that an agreement has been reached whereunder Attorneys fees are to be paid by the trust outside of probate. The fees do not seem unreasonable or inappropriate. The notice is in order.

The proposed order, however, is not in order. There is a clerical error at 1:25. Staff believes that it was intended that the word "Trust" follow the word "Gilbert." Moreover, the trust is not a party to this action, and staff's view is that the Court lacks jurisdiction over the trust and therefore cannot approve the agreement for the payment of the attorneys fees.

**Recommendation:** It is recommended that the petition be approved, but that all the words in the proposed order starting with “along” at 1:25, to and including “are” at 1:26 be interlineated.

**Name: Estate of Hurd CVPB 10-08**

**Proceedings: Continued Petition to Determine succession**

**Discussion:** At the hearing of May 10, 2010 the Court directed that joinders or disclaimers be filed by the non-Petitioner heirs. The disclaimers are now on file.

**Recommendation:** It is recommended that the petition be granted. The proposed order is in order, except that the hearing date should be changed.