

Probate Notes for March 8, 2007

Probate notes are a recommendation as to the outcome of the petition. Unlike tentative rulings, they do not automatically become adopted as the order of the court. If you wish to have your petition preapproved or would like to continue the matter to cure defects, contact the probate examiner at (530) 406-6718 between the hours of 2 p.m. and 4 p.m. Counsel are reminded to submit proposed orders which do not include any attachments.

Case: Estate of King
Case No. CV PB 06-124

No new documents have been filed since the January 4, 2007 hearing. It is recommended to deny the petition for instruction. (*Estate of Denton* (1971) 17 Cal.App.3d 1070, 1074-1075.) Petitioner failed to show: that dismissing the decedent's legal action in this instance could not be accomplished by the statutory procedure for settling claims under Probate Code section 9830 et seq.; the potential advantages and disadvantages to the estate of dismissing decedent's legal action and that all beneficiaries were apprised of the potential advantages and disadvantages of dismissing decedent's legal action prior to their consenting to said dismissal.

Case: Estate of Rominger
Case No. CV P2 07-12

It is recommended to grant the petition to administer the estate.

Case: Estate of Simons
Case No. CV PB 05-116

Counsel shall appear. The following problems are noted:

1. The losses on sales are incorrectly calculated. (Prob. Code §1062(d).) The correct amount of losses is \$20,000 (\$350,000 - \$330,000)
2. The computation of the statutory fees will need to be amended because losses on sales are incorrectly calculated (*Petition, page 3, lines 14-15*)
3. Costs of sale, settlement charges and payoffs listed on Schedule E, Losses on Sale, are properly disbursements, and details of the costs of sale must be listed on Schedule C, Disbursements. (Prob. Code §1062(b).)
4. Petitioner should be prepared to explain why payments for telephone services were necessary until March 7, 2006, one year after decedent's date of death.
5. Petitioner should be prepared to explain why a payment was made to DMV on October 20, 2005, when no automobile was inventoried in the estate.
6. Petitioner is requested to file or bring to hearing a copy of the promissory note, so the terms of the note may be reviewed. Objector states that the promissory note is not yet due.
7. Petitioner lists under Schedule B, Receipts, interest on the promissory note, indicating that the amount of \$1,554.16 was paid. However, it is confusing because petitioner lists that same amount of interest as being "due from Jeremy Simons". A schedule of Receipts must only list interest actually received, not due. If interest payments were

made, the date and amount of each payment must be listed on Schedule B. (Prob. Code §1062(a).)

8. Objector should be prepared to brief the court as to his calculation of the promissory note's 12/31/06 value being \$35,492.96. The note was inventoried at date of death at \$40,782.72.
9. Petitioner should be prepared to brief the court as to the details of his calculation of the promissory note's 12/31/06 value being \$42,336.88.

Case: Estate of Walker
Case No. CV PB 07-29

It is recommended to grant the petition to administer the estate.

Case: Matter of the Chelini Family Trust
Case No. CV P2 06-171

Counsel shall appear.