

Probate Notes for October 14, 2014

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. Unless an appearance at the hearing is otherwise required by law, if petitioner submits a proposed order prior to the hearing and the recommendation is to grant the petition, no appearance is necessary. If you are scheduled to appear and there is no probate note issued in your case, you should appear as scheduled. If you wish to continue a matter, you must contact the civil division at (530) 406-6704, at least two (2) court days before your hearing.

Please note: The following probate matters will be heard in **Department Two at 9:00 a.m.**

**CASE: Estate of Clinton
Case No. CV PB 14-154**

The Court notes the following deficiencies: (1) a photographic copy of the will must be attached to petition and (2) proof of publication must be filed. (Prob. Code, §§ 8002, subd. (b)(1), 8120 et seq.)

**CASE: Estate of Conto
Case No. CV PB 14-149**

The Court notes the following deficiency: The *Duties and Liabilities of Personal Representative* form must be filed with the Court (Judicial Council of California Form DE-147). Additionally, petitioner is directed to submit a proposed order prior to the date of the hearing.

**CASE: In the Matter of the Drouin Family Revocable 1999 Trust
Case No. CV P2 14-157**

On the Court's own motion, the matter is **CONTINUED** to Thursday, November 6, 2014, at 9:00 a.m. in Department 2, so that the Court may more thoroughly consider the petition filed by Rebecca Peterson and Linda Land.

**CASE: In the Matter of the Finley Family Trust
Case No. CV P2 14-160**

It is recommended to deny the petition to determine that the Finley Family Trust is revocable. As the Trust was created by more than one settlor, petitioner Cecelia Finley may only revoke the portion of the trust she contributed. (Prob. Code, § 15401, subd. (b)(1).) Without a provision in the Trust that provides otherwise, the portion of the trust contributed by Nolan Finley became irrevocable upon his death on June 23, 2010. (*Ibid.*)

It is recommended to deny the petition to terminate the irrevocable Finley Family Trust ("Trust") by agreement of all beneficiaries pursuant to Probate Code sections 15403 or 15404. Petitioner fails to establish that terminating the Trust in order to provide a lump sum payment to one beneficiary, outweighs the interest in accomplishing the material purpose of the Trust. (Prob. Code, § 15403, subd. (b).) Further, petitioner fails to provide legal authority which

authorizes the Court to grant a petition to terminate a trust where one of the settlors is deceased and cannot consent. (Prob. Code, § 15404, subd. (a).)

CASE: Conservatorship of Vlack
Case No. CV PC 14-177

The Court notes the following deficiency: The petition is not verified. (Prob. Code, § 1021.)

If the above deficiency is corrected, it is recommended to grant the petition to terminate the temporary conservatorship.