

Probate Notes for October 16, 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: In the Matter of the Benny and Sue Cannon Family Living Trust
Case No. CV P2 12-22

On the Court's own motion, the matter is **CONTINUED** to Thursday, November 13, 2014, at 9:00 a.m. in Department 2, so that the Court may more thoroughly consider the petition filed by Lisa J. Berg.

CASE: Estate of Greenberg
Case No. CV PB 14-175

The Court notes the following deficiencies:

- (1) Proof that the notice of petition to administer the estate has been served on the required parties has not been filed with the Court. (Prob. Code, §§ 8100, 8110.)
- (2) The petition requests the bond be fixed at \$449,000. However, the estimated value of the estate is \$499,000. Petitioner fails to include Attachment 2 to explain why the bond amount is different from the maximum amount required by Probate Code section 8482. (Petition, ¶ 2d(2).)
- (3) Proof of publication must be filed prior to the hearing. (Prob. Code, § 8124; Cal. Rules of Court, rules 7.51 and 7.53.)

Additionally, petitioner is directed to submit a proposed order prior to the date of the hearing.

CASE: Estate of Stevens
Case No. CV PB 14-176

The Court notes the following deficiencies:

- (1) Proof that the notice of petition to administer the estate has been served on the required parties has not been filed with the Court. (Prob. Code, §§ 8100, 8110.)
- (2) The will dated May 6, 1992, is not self-proving. (Prob. Code, §§ 6240, 8220, subd. (b); Code Civ. Proc., § 2015.5.)
- (3) Substantial evidence has not been filed with the Court to prove the existence of the lost codicil dated October 10, 1995. According to the declaration of Hope

C. Stevens, the decedent's belongings were searched and only the original will dated May 6, 1992, was located. (Decl. of Stevens, ¶ 3.) Pursuant to Probate Code section 6124, it is presumed that the decedent destroyed the codicil with the intent to revoke it. As a photocopy of the codicil does not constitute "a duplicate original," petitioner has failed to submit substantial evidence to overcome the presumption of revocation by destruction. (Prob. Code, § 6124; *Lauermann v. Superior Court* (2005) 127 Cal.App.4th 1327, 1332-1333; *Estate of Obernolte* (1979) 91 Cal.App.3d 124.)

- (4) Proof of publication must be filed prior to the hearing. (Prob. Code, § 8124; Cal. Rules of Court, rules 7.51 and 7.53.)