

Probate Notes for March 16, 2016

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 Yolo Superior Court is now located at 1000 Main Street, in Woodland. The following probate matters will be heard in **Department Eleven at 9:00 a.m.**

**CASE: In the Matter of the Melvin A. Durst and Ninette Durst Family Trust
 Case No. CV P2 16-10**

It is recommended to grant, in part, the unopposed petition filed by Deborah Durst, James Durst, and Deeanne Durst (“petitioners”). Jonathan R. Durst (“respondent”), trustee of the Melvin A. Durst and Ninette Durst Family Revocable Trust dated February 27, 2001 (“Trust”), is directed to provide all requested Trust records to petitioners, **by no later than April 27, 2016**. (Prob. Code, § 16061.) Respondent is also directed to prepare, serve, and file an accounting which covers the time period of December 17, 2008 through April 1, 2016, **by no later than April 27, 2016**. (Prob. Code, §§ 16062, 16063.) Petitioners may file a response and/or objections, if any, **by no later than May 11, 2016**. A hearing for review and approval of the accounting is set for May 25, 2016.

It is recommended to deny without prejudice petitioners’ request for an order removing respondent as trustee. Petitioners fail to provide sufficient evidence to support a finding that respondent has committed a breach of trust or that respondent’s compensation as trustee has been excessive. (Prob. Code, § 15642; *Jones v. Stubbs* (1955) 136 Cal.App.2d 490.)

It is recommended to deny petitioners’ request that their attorney’s fees be paid by the Trust. (Prob. Code, § 15642, subd. (c).)