

TENTATIVE RULINGS

FOR: April 27, 2021

If you do not see a tentative ruling for a scheduled matter, then attendance at the hearing is required.

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Dept. A Zoom

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Dept. B Zoom

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PROBATE CALENDAR – Hon. Victoria Wood, Dept. A (Historic Courthouse) at 8:30 a.m.

Conservatorship of Marcus Boyd Van Camp

26-68194

REVIEW HEARING

APPEARANCE REQUIRED. The Court would like to speak with the Conservators regarding issues raised in the Investigator’s Reports.

CIVIL LAW & MOTION CALENDAR – Hon. Victoria Wood, Dept. A (Historic Courthouse) at 8:30 a.m.

Wells Fargo Bank, N.A. v. Michelle A. Ruiz

17CV000926

MOTION TO VACATE DISMISSAL AND ENTER JUDGMENT PURSUANT TO STIPULATION

TENTATIVE RULING: Plaintiff Wells Fargo Bank, N.A.’s motion to vacate dismissal under Code of Civil Procedure section 664.6 and enter judgment pursuant to stipulation is GRANTED in the amount of \$3,959.87.

PROBATE CALENDAR – Hon. Monique Langhorne, Dept. B (Historic Courthouse) at 8:30 a.m.

In the Matter of the Luke and Catherine Miholovich Trust

19PR000135

ACCOUNT AND REPORT OF TRUSTEES AND PETITION FOR ITS SETTLEMENT AND FOR FEES (See Pr.C. §§ 1060-1064, 16063)

TENTATIVE RULING: The Petition is GRANTED, including fees as prayed.

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Conservatorship of Julie Eger

20PR000011

[1] 1st YEAR REVIEW

[2] ACCOUNTING AND REPORT OF CONSERVATOR AND PETITION FOR ITS SETTLEMENT AND FOR FEES

TENTATIVE RULING: GRANT petition, including fees as prayed.

Based on the report of the court investigator, the Court determines by clear and convincing evidence that the Conservatee cannot communicate, with or without reasonable accommodation, a desire to participate in the voting process, and therefore orders the conservatee disqualified from voting pursuant to Elections Code section 2208.

After a review of the matter, the Court finds the conservator is acting in the best interest of the Conservatee. Thus, the matter is set for a biennial review hearing and an accounting in two years on April 27, 2023, at 8:30 a.m. in Dept. B. All accounting documents must be filed at least 30 days prior to the hearing. The court investigator shall prepare a biennial investigator report for the next hearing date. The clerk is directed to send notice to the parties.

EIGHTH AND FINAL ACCOUNTS AND REPORT OF TRUSTEE AND PETITION FOR THEIR SETTLEMENT; PETITION FOR INSTRUCTIONS RE DISTRIBUTION TO ANTHONY L. JETER

TENTATIVE RULING: The successor trustee, James C. Nord, moves for an order under Probate Code section 17200, subdivision (b)(4), ascertaining Anthony L. Jeter as a beneficiary of the trust and instructing the trustee under section 17200, subdivision (b)(6), to distribute an equal share of the trust to Jeter as well as to Stillman W. Jones and Seth W. Jones (collectively, the “objectors”). The objectors filed an opposition (later verified) to the proposed distribution to Jeter as Jane Saul Jones’ descendant, child, beneficiary, or heir. Jeter filed a verified objection to the opposition. The objectors filed a response.

Jeter argues the trust language is clear and unambiguous that he is a beneficiary, which the Court can interpret as a matter of law. The objectors contend an evidentiary hearing is necessary because the trust presents a latent ambiguity as Jeter was not Jane’s child or a “descendant” as defined in the trust. According to the objectors, the erroneous description of Jeter as Jane’s child creates an ambiguity, permitting the introduction of extrinsic evidence confirming Jeter was not Jane’s child or the settlors’ grandchild, Jane never adopted Jeter, subsequent conduct of Faye Batten Saul was inconsistent with the intent in 1993 to distribute any of the gift trust to anyone other than Jane’s descendant, and a previous court order confirming Faye Batten Saul’s subsequent 2006 trust’s reference to “grandson,” “grandchild,” or “grandchildren” refers only to the objectors, not Jeter. The objectors speculate George W. Saul and Faye Batten Saul were mistaken as to the true nature of Jeter’s relationship with Jane at the time of the 1993 trust, and given Faye Batten Saul’s conduct in 2006, she likely excluded Jeter from the 2006 trust once she knew the true state of the relationship.

The Court agrees with Jeter and interprets the trust instrument as a matter of law. (*Estate of Cairns* (2010) 188 Cal.App.4th 937, 944.) On December 28, 1993, George W. Saul and Faye Batten Saul, as settlors, and George W. Saul, as trustee, established the 1993 Trust. (Accounting, Ex. A.) The trust created two trusts: the Jane Saul Jones 1993 Gift Trust and the Jane Saul Jones 1993 Grantor Trust. (*Id.*, Ex. A at p. 1.) Jane Saul Jones was the sole beneficiary of the grantor trust and the gift trust during her lifetime. (*Id.*, Ex. A, art. 1, ¶ A.1.) The trust sets forth that following Jane’s death, the beneficiaries of the grantor and gift trusts are “JANE’s children, whose names and dates of birth are:” Anthony Lavere Jeter (February 3, 1984), Stillman Wynne Jones (February 9, 1991), and Seth Wesley Jones (September 21, 1992). (*Id.*, Ex. A, art. 1, ¶ A.2.) The trust defines the “Trustors’ grandchildren” as “JANES’s children named in this Article FIRST and to any child or children born to or adopted by JANE after the date of this Agreement.” (*Id.*, Ex. A, art. 1, ¶ B.) The gift trust states the trustee shall distribute the balance of the gift trust following Janes death as follows: “1. If JANE leaves descendants who are then living, to JANE’s then living descendants, by right of representation.” (*Id.*, Ex. A, art. 5, § 2, ¶ B.1.) “Descendants” refers to “lineal descendants in any degree of the ancestor designated and shall include persons who were adopted during minority.” (*Id.*, Ex. A, art. 2, ¶ A.2.) Jane died on September 7, 2020. (Accounting, § I.I.)

Based on this language and the trust as a whole, the trust is clear and unambiguous that Jeter is a beneficiary as Jane's child. (Prob. Code, § 21121 ["All parts of an instrument are to be construed in relation to each other and so as, if possible, to form a consistent whole. If the meaning of any part of an instrument is ambiguous or doubtful, it may be explained by any reference to or recital of that part in another part of the instrument."].) Jeter is specifically identified and defined as both Jane's child and a trust beneficiary following Jane's death. (*Id.*, § 21122 ["The words of an instrument are to be given their ordinary and grammatical meaning unless the intention to use them in another sense is clear and their intended meaning can be ascertained."].) The trust directs the trustee to distribute the trust estate to Jane's lineal descendants by right of representation. As a beneficiary defined in the trust as Jane's child, Jeter is a lineal descendant. Under the trust's plain language, therefore, Jeter is a beneficiary entitled to a one-third share of the trust estate.

This interpretation avoids a failure of a transfer to Jeter who is identified, specifically, as Jane's child and a trust beneficiary. (Prob. Code, § 21120 ["The words of an instrument are to receive an interpretation that will give every expression some effect, rather than one that will render any of the expressions inoperative. Preference is to be given to an interpretation of an instrument that will prevent intestacy or failure of a transfer, rather than one that will result in an intestacy or failure of a transfer."].)

Jeter's two evidentiary objections are MOOT IN PART AND OVERRULED IN PART. The objection to the entirety of the opposition on the ground it is not verified is moot as the objectors filed a verification nunc pro tunc on April 22, 2021. The objection to the opposition at pages 2:19-26 and 3:1-2 is overruled.

The objector's request for judicial notice is GRANTED, but not for the truth of the matters asserted therein as to Exhibits B [petition for instructions], F [the 1988 family trust], and G [Sheriff's department file].

Jeter's joinder to the successor trustee's eighth and final account and report of the trustee is GRANTED.

The successor trustee's petition is GRANTED, including fees as prayed.

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In the Matter of the Saul Charitable Remainder Unitrust

26-64341

EIGHTH AND FINAL ACCOUNT AND REPORT OF TRUSTEE AND PETITION FOR ITS SETTLEMENT; PETITION FOR GRANTING OF POWERS TO DISTRIBUTE UNITRUST DISTRIBUTION

TENTATIVE RULING: The successor trustee's petition is GRANTED, including fees as prayed. The Court incorporates by reference its ruling in Case No. 26-60743 except for the rulings as to the evidentiary objections, request for judicial notice, and request for joinder.

Jeter's evidentiary objection to Exhibit 1 to the opposition at page 2:27-28 is OVERRULED.

Jeter's joinder to the successor trustee's eighth and final account and report of the trustee is GRANTED.

CIVIL LAW & MOTION CALENDAR – Hon. Monique Langhorne, Dept. B (Historic Courthouse) at 8:30 a.m.

Renee Morgado-Linares v. Hall Wines, LLC, et al.

19CV001575

MOTION FOR DETERMINATION OF DEFENDANT'S PRIVILEGE CLAIM

TENTATIVE RULING: Plaintiff/cross-defendant Renee Morgado-Linares' motion for determination of defendant/cross-complainant Hall Wines, LLC's privilege claim pursuant to Code of Civil Procedure section 2031.285 is continued to May 26, 2021, at 8:30 a.m. in Dept. B to coincide with defendant's related motion for a protective order. As it appears the matter may be fully briefed, despite two motions being noticed, the parties may stipulate to advance the hearing date, if necessary, or appear at the hearing to request a new hearing date.

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Travis Howell v. PHH Mortgage Corp., et al.

19CV001789

MOTION FOR TERMINATING SANCTIONS

TENTATIVE RULING: Defendants PHH Mortgage Corporation and Deutsche Bank National Trust Company's (as indenture trustee for American Home Mortgage Investment Trust 2005-1) motion to compel for terminating sanctions is GRANTED. The motion is unopposed and it does not appear less severe sanctions will produce compliance with the Court's discovery order.

The April 27, 2021 case management conference is vacated. The matter is set for a Court's Motion to Dismiss on May 28, 2021, at 8:30 a.m. in Dept. B.