

DEPARTMENT TWENTY-TWO  
JUDGE ALESIA JONES  
707-207-7322

TENTATIVE RULINGS AND PROBATE PREGRANTS FOR  
MATTERS SCHEDULED FOR  
**WEDNESDAY, OCTOBER 18, 2017**

**ANNOUNCEMENTS**

- **Probate Staff E-Mail Now Available**

Parties and attorneys with questions concerning probate notes and general probate procedures may now e-mail the court's probate staff at [probate@solano.courts.ca.gov](mailto:probate@solano.courts.ca.gov). *Do not e-mail attachments.* For security reasons, they will not be opened.

- **Probate Notes – Department 22**

Probate notes are available for Department 22 probate cases, except for conservatorships, at the following webpage:

<http://www.solano.courts.ca.gov/TentativeRulings/ProbateNotesandPregrants.html>

Probate notes will be available approximately one week prior to an individual case's hearing date, and will be updated as staff time permits.

Unless otherwise directed by the court, probate pregrants are not posted for guardianship matters or for ex parte petitions.

**PREGRANTS AND TENTATIVE RULINGS START ON  
NEXT PAGE**

## **9:00 CALENDAR**

### **IN RE THE ESTATE OF DAVID JOSEPH CARMICHAEL, DECEASED FPR045090**

First and Final Account and Report and Petition for Final Distribution, for Reimbursement of Co-Administrators' Advances, and for Allowance of Statutory and Extraordinary Compensation and Costs

Objection of Residuary Beneficiary, Robert Carmichael

#### **PREGRANT ORDER**

On September 19, 2017, the court allowed Attorney Kathleen Benjamin to file a supplemental declaration no later than September 29, 2017 and allowed Attorney Deborah Durr-Ferras to file a response no later than October 9, 2017. Attorney Benjamin filed two declarations and a supplement to a response on October 13, 2017. This date is two weeks after the court's stated deadline and does not give sufficient time for Attorney Durr-Ferras to file a response. The court therefore declines to consider the three pleadings filed October 13, 2017 by Jack Carmichael or his attorney.

After consideration of the September 18, 2017 Declaration of Kathleen Benjamin and the September 18, 2017 Response by Jack Carmichael, the court rules as follows on the First and Final Account and Report [etc.]:

1. The court approves the account and report, with the exception of the following disbursements:
  - a. January 31, 2012 expense for \$19, as this appears to be a traffic violation payment and is not a proper expense of administration.
  - b. June 14, 2012 expense for \$91.00, as this expense is unexplained.
  - c. August 1, 2012 expense for \$24.96, as this expense duplicates a prior expense.
  - d. September 10, 2012 expense to Catherine Brown for \$150, as this is not a proper expense of administration.
  - e. January 3, 2013 payment to Catherine Brown for \$1.76 in printing costs, as the reimbursement exceeded the actual cost.
  - f. April 18, 2013 transfer to Jack Carmichael's account of \$69.50, as this is unexplained.

- g. A second April 18, 2013 transfer to Jack Carmichael's account of \$69.50, as this is unexplained.
    - h. June 11, 2013 transfer to Jack Carmichael's account of \$50.00, as this is unexplained.
    - i. May 17, 2013 expense for \$40 for gas, as this is not a proper expense of estate administration.
2. The court approves statutory compensation in the amount of \$9,163.24, to be allocated equally between Jill Sevaaestasi and Jack Carmichael.
  - a. Jill Sevaaestasi's share shall be reduced by \$665 as requested by Jill Sevaaestasi to compensate the estate for the cost of a third-party accounting preparation. The balance of \$3,886.62 is approved for immediate payment to Jill Sevaaestasi.
  - b. Jack Carmichael's share shall be reduced by \$665 as requested by Jill Sevaaestasi to compensate the estate for the cost of a third-party accounting preparation, by a further \$300 to repay an unauthorized cash advance taken by Jack Carmichael, and by a further \$519.57 for improper expenses he caused to be paid by the estate. The balance of \$3097.05 is approved for immediate payment to Jack Carmichael.
3. The court approves statutory attorney compensation in the amount of \$9,163.24, to be allocated 30% to Kathleen Benjamin (\$2,748.97), 30% to Deborah Durr Ferras (\$2,748.97), 10% to Jeanne Serrano (\$916.33), and 30% to Kelly Trujillo (\$2,748.97). The share attributable to Deborah Durr Ferras shall be reduced as requested by \$400.
4. Extraordinary compensation to Jill Sevaaestasi is approved in the amount of \$1,743.
5. Extraordinary compensation to Jack Carmichael is approved in the amount of \$500.00. The balance of his request is denied.
6. Extraordinary attorney compensation to Favaro, Lavezzo, Gill, Caretti & Heppell is approved in the amount of \$10,000. Extraordinary attorney compensation to Kelly Trujillo is approved in the amount of \$858.
7. Extraordinary attorney compensation to Kathleen Benjamin is denied.
8. Reimbursement of costs to Jill Sevaaestasi in the amount of \$227.17 is approved. Reimbursement of costs to Jack Carmichael in the amount of \$1,727.78 is approved. Reimbursement of costs to Favaro, Lavezzo, Gill, Caretti & Heppell in the amount of \$5,695.24 is approved. Reimbursement of costs to Kelly Trujillo in the amount of \$942 is approved.

9. Reimbursement of costs to Kathleen Benjamin is denied.
10. The court approves the request to retain \$750 in reserve.
11. The court approves final distribution with the amounts to be adjusted to account for the court's orders above.

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**IN THE MATTER OF THE CHERYL GORTEMILLER LIVING TRUST  
FPR046489**

Petition of Jill and Shon Treanor for Removal of Court-Appointed Successor Trustee and Appointment of Persons with Higher Priority

Trustee's Karen L. Fisher's Responses and Objections to Petition of Jill and Shon Treanor for Removal of Court-Appointed Successor Trustee

PREGRANT ORDER

The court on its own motion continues the hearing to Wednesday, November 15, 2017 at 9:00 a.m. in Department 22. At least 10 days prior to the continued hearing, the petitioners shall file a supplement to the existing petition addressing the following:

The order appointing Karen Fisher as temporary trustee speaks to consolidation of the trust and estate matters for hearing and trial only. It did not consolidate the two matters for all purposes. Thus, the court's jurisdiction in this case is limited to removal of Karen Fisher as trustee of the Cheryl Gortemiller Living Trust.

The petition relies on Probate Code section 8503 for removal and on Section 8461 as giving the petitioners higher priority for appointment. These two statutes concern the administration of a decedent's estate. They do not apply to trusts.

What other grounds do the petitioners have for ending Karen Fisher's tenure as trustee?

Trustee Karen Fisher is likewise ordered to file a supplement to her response at least 10 days prior to the continued hearing that addresses the following:

Ms. Fisher was appointed as a temporary trustee pending the conclusion of litigation as to the trust's validity. That litigation has concluded in favor of the Treanors. As the Treanors are the rightful beneficiaries of the trust assets and are the named successor trustees, what benefit would inure to the trust and its beneficiaries by not permitting the Treanors to expediently re-assume the roles envisioned for them by the decedent?

**IN RE THE ESTATE OF ANGELINA ROMANO, DECEASED  
FPR047394**

Petition for Final Distribution and Approval of First and Final Report of Executrix; and for Allowance of Statutory Attorney Fees and Executrix's Compensation

PREGRANT ORDER

Counsel to appear.

On September 20, 2017, the court ordered that counsel file a more detailed declaration and submit proposed orders. No declaration is on file and no orders are lodged with the court.

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**IN THE MATTER OF THE LOUIE & MARYETTE LEE FAMILY  
DECLARATION AND INSTRUMENT OF REVOCABLE LIVING TRUST  
FPR047409**

- (1) First and Final Account of Trustees Ernest Lee and Merrill Jackson
- (2) Petition for Relief from Breach of Trust and for Attorney Fees

PREGRANT ORDER

The court on its own motion continues the hearing on both petitions to Wednesday, November 1, 2017 at 9:00 a.m. in Department 22.

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**IN RE THE ESTATE OF LORENE HARRIS, DECEASED  
FPR047860**

First and Final Account and Report, Petition for Final Distribution and for Allowance of Commissions and Fees and for Extraordinary Services

PREGRANT ORDER

The court on its own motion continues the hearing to Wednesday, November 8, 2017 at 9:00 a.m. in Department 22. Prior to the continued hearing, notice of the hearing shall be given to Inheritance Funding Company and Approved Inheritance Cash per the Request for Special Notice filed by them on September 22, 2016 and November 4, 2016 respectively. A proof of service shall be filed at least 10 days prior to the continued hearing.

**IN THE MATTER OF THE JUANITA BORNSCHEIN FAMILY TRUST  
FPR047986**

Petition to Remove Trustee and for Instructions, filed by Lewis Bornschein

Response of Phyllis R. Zimmer to Petition to Remove Trustee and for Instructions

PREGRANT ORDER

Counsel to appear for status conference.

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**IN RE THE ESTATE OF RODOLFO J. ACOSTA, DECEASED  
FPR048460**

Petition for Probate of Will and for Letters Testamentary and for Authority to Administer Under the Independent Administration of Estates Act

PREGRANT ORDER

The petition is granted as prayed. The court finds all notices have been given as required by law.

The will of Rodolfo J. Acosta dated August 14, 2009 is ordered admitted to probate.

The court appoints Corazan D. Acosta and Myrna D. Acosta as co-executors with full authority under the Independent Administration of Estates Act.

Bond is waived.

The court appoints Raymond Simonds as probate referee. The personal representative is reminded of the requirement to file the Inventory & Appraisal within four months as required by Probate Code section 8800.

The court notes that the proposed letters do not include Attorney Montefalcon Jr.'s State Bar number in the caption, nor do they identify who Attorney Montefalcon represents.

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**IN RE THE ESTATE OF NORMAN C. DYSART, DECEASED  
FPR048469**

Spousal Property Petition

PREGRANT ORDER

The court on its own motion continues the hearing on both petitions to Wednesday, November 1, 2017 at 9:00 a.m. in Department 22.

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**IN RE THE ESTATE OF JUDY R. BOWEN, DECEASED**  
**FPR048506**

Petition for Letters of Special Administration with General Powers and for Authorization to Administer Under the Independent Administration of Estates Act

PREGRANT ORDER

The court on its own motion continues the hearing to Wednesday, November 22, 2017 at 9:00 a.m. in Department 22. At least 15 days prior to the continued hearing, the petitioners shall file and serve an amended petition that resolves the following deficiencies:

1. Petition, Item 2(c): The petitioner does not specify what kind of authority is requested under the IAEA.
2. Petition, Item 2(d): Either (1), (2), or (3) must be completed.
3. Petition, Item 3(d): Item (7) must be completed.
4. Petition, Item 3(g)(3): The petitioners seek appointment as a special administrator. The box for Item 3(g)(3) should be checked and attachment (3)(g)(3) should be attached.
5. Petition, Item 3(g)(4): By checking this box, the petitioners are saying that this decedent's estate already has a court-appointed personal representative and that they are seeking to replace that person. The petitioners shall provide the county and case number for this decedent's current estate proceedings and shall provide a copy of any letters previously issued to a personal representative for this decedent's estate.
6. Petition, Item 5(a): Either (3) or (4) must be marked. Either (7) or (8) must be marked.
7. Petition, Item 5(b): Either (was) or (was not) must be marked.
8. Petition, Item 8: Nakia M. Grant is not listed. There are no addresses provided for Guam Bowen, Eureka Daye, and Retina Bowen.
9. There is no signed Duties and Liabilities of Personal Representative form (Judicial Council form DE-147) on file.
10. There are no proposed Letters or Orders on file.

The court orders that republication of the amended petition is not required.

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**IN THE MATTER OF THE LOYOLA TRUST  
FPR048520**

Petition to Confirm Trust Assets

PREGRANT ORDER

In light of the late-filed supplement filed October 16, 2017, the petition is granted as prayed.

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**IN RE THE ESTATE OF CHAUNELLE NADINE MANUEL, DECEASED  
FPR048547**

Petition for Letters of Administration and Authorization to Administer Under the Independent Administration of Estates Act

PREGRANT ORDER

The petition is granted as prayed. The court finds all notices have been given as required by law.

The court appoints Kenneth Manuel as administrator with full authority under the Independent Administration of Estates Act.

Bond is waived.

The court appoints Raymond Simonds as probate referee. The personal representative is reminded of the requirement to file the Inventory & Appraisal within four months as required by Probate Code section 8800.

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**IN RE THE ESTATE OF RICHARD LEE BLOOMFIELD, DECEASED  
FPR048551**

Petition for Letters of Administration; and Authorization to Administer Under the Independent Administration of Estates Act

PREGRANT ORDER

The petition is granted as prayed. The court finds all notices have been given as required by law.

The court appoints Thomas Smith as administrator with full authority under the Independent Administration of Estates Act.



Bond is set at \$418,000. Letters shall not issue until bond is posted with the clerk. The petitioner is to apply sua sponte for an increase in bond in the event the aggregate value of the estate's assets exceeds \$418,000.

The court appoints Raymond Simonds as probate referee. The personal representative is reminded of the requirement to file the Inventory & Appraisal within four months as required by Probate Code section 8800.

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**IN RE THE ESTATE OF DONALD THOMAS BURNETT, DECEASED  
FPR048555**

Petition for Probate of Will and for Letters Testamentary and for Authorization to Administer Under the Independent Administration of Estates Act

PREGRANT ORDER

The court on its own motion continues the hearing to Wednesday, November 22, 2017 at 9:00 a.m. in Department 22.

At least 15 days prior to the continued hearing, the petitioners shall file and serve an amended petition which addresses the following deficiencies:

1. The petition includes certified copies of documents from Comal County, Texas. There are apparently 10 pages of certified documents. However, pages 9 and 10 are missing. These shall be provided.
2. An original certified copy of the Comal County order admitting the will to probate shall be provided. The copy attached to the petition is a photocopy of the certified version.
3. The petition indicates that the decedent was a resident of Solano County at the time of his death. However, the petitioners have already obtained letters in Texas based on a petition where they aver the "Decedent's principal estate was situated in Comal County." It is unclear whether the petitioners seek letters in Solano County based on ancillary probate and the Texas court's admission of the will to probate. If so, on what grounds may California approve an ancillary probate for a California resident?
4. Petition, Item 3(d): Items (3), (5), (6), and (7) must be completed.
5. Petition, Item 3(h): The proposed personal representatives must provide their own permanent addresses. It is not sufficient to list their addresses as being in care of an attorney.
6. Petition, Item 5(a): Either (7) or (8) must be marked.

The petitioners are further ordered to take all appropriate steps to resolve the following deficiencies:

1. Although the petition indicates publication would be effected in the Vacaville Reporter, the affidavit of publication shows notice was published in the Vallejo Times-Herald, a newspaper of general circulation for the city of Vallejo and Benicia. According to the Petition, the decedent was a resident of and died in Vacaville. Publication in the Vallejo Times-Herald is not compliant with Probate Code section 8121, subdivision (b).
2. Notice has not been given to beneficiaries Natalie Ripaldi or Margaret Aragon. If the petitioners cannot locate either beneficiary, the procedures to waive notice to those persons must be followed.

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**IN THE MATTER OF THE KATHLEEN J. RAGAN-LOMAN 2010 TRUST  
FPR048556**

Petition for Instructions Re: Confirmation of Appointment of Trustee; Transfer of Real Property into Trust, and to Confirm Acts of Trustee

PREGRANT ORDER

The petition is granted as prayed.

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**IN THE MATTER OF THE BYPASS SUBTRUST OF FRANK J. ANDREWS SR.,  
REVOCABLE TRUST  
FPR048580**

Petition to Recover Improper Distributions

PREGRANT ORDER

Counsel to appear.

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