

**DEPARTMENT FOUR
JUDGE E. BRADLEY NELSON
707-207-7304**

**CIVIL TENTATIVE RULINGS AND
PROBATE PREGRANTS FOR
MATTERS SCHEDULED FOR
FRIDAY, MAY 13, 2022**

**EFFECTIVE APRIL 8, 2019
UNTIL FURTHER NOTICE**

- **Probate Staff E-Mail**

Due to temporary staffing reductions, the Probate Staff E-Mailbox will be unmonitored until further notice. Emails sent to the Probate Staff E-Mail address will not be read and no response will be sent.

- **Probate Notes – Department 4**

Due to temporary staffing reductions, until further notice, Probate Notes will no longer be posted on the Court's website.

- **Probate Pregrants and Civil Tentative Rulings – Department 4**

The Probate Pregrant and Civil Tentative Ruling procedure remains unchanged. Pregrants and Tentative Rulings will be posted for Department 4 the day before the hearing after 2:00 p.m.

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

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

The parties may join Department 4's court calendar remotely utilizing the following information:

Join ZoomGov Meeting

<https://www.zoomgov.com/j/1609995701?pwd=blhOcDc2eFEzWmxSQkQ1UVlySS9Hdz09>

Meeting ID: 160 999 5701

Passcode: 071995

8:30 CALENDAR

IN RE THE MATTER OF THE SUMMERS FAMILY IRREVOCABLE TRUST

Case No. FPR050628

Petition

Status Conference

PREGRANT ORDER

Department 4's courtroom is open to the public. Appearances may be in person, but they need not be unless the court orders otherwise. Counsel, any party, or any interested person may make an initial appearance remotely, via Zoom, without making a formal request pursuant to Rule 3.672 of the California Rules of Court, and continue such remote appearances for non-evidentiary hearings unless the court otherwise orders. The Court's recurring Zoom meeting ID and Passcode are listed above and on the court's website www.solano.courts.ca.gov. If you are enabling a video Zoom appearance, make sure you can't be seen or heard eating, drinking or engaging in other behavior that would not be permitted in the courtroom. Observe all the protocols you would observe if appearing before the judge in open court or via Court Call. For further information about remote appearances please refer to the court's website under Civil Division Remote Appearances for Dept. 4.

In this matter, Charles and Mary Louise Summers, the now-deceased grantors, created the Summers Family Trust in June 2000. Charles and Mary had no joint children. Charles had 2 children from his prior marriages, Mark and Karen; Mary had 1 child from her prior marriage, Deborah.

The original trust provided that upon the death of the first grantor/trustee, the survivor could either hold the entire trust as the Survivor's Trust (which remained revocable) or could disclaim some of the assets which would then be put into an irrevocable Disclaimer Trust.

It is not stated in any of the pleadings, but it appears that Mary, as the Survivor, did not choose to disclaim and, therefore held the entire Trust estate in the revocable Survivor's Trust.

In August 2009, Mary then amended the Survivor's Trust to create a 'house trust' for the benefit of Deborah. This provided that the house located at 418 San Mateo Street, Fairfield, CA could be used and lived in by Deborah for a period of no more than 2 years. This period could end sooner if Deborah failed to pay property taxes, insurance premiums, and make adequate repairs to the residence. Upon the termination of the "House Trust", the residence would be distributed in equal shares to the surviving children of the Trustor. Neither Mark nor Karen were children of the Trustor. If any of the children were deceased at the time of distribution, their share would be distributed to their descendants.

In December 2013, Mary entered into a new irrevocable trust agreement (the "Summers Family Irrevocable Trust Agreement") which replaced the previous amended Survivor's Trust. It was apparently necessary for the decedent to do this in order to qualify for Medi-Cal. None of the assets, income, etc. of the trust were available to Mary. Deborah was the initial beneficiary of the trust and also the trustee. Mary also named S. Scott Reynolds as the Trust Protector. The Trust Protector was given the authority to amend the terms of the trust except that Mary could not be appointed as a trustee or allowed to choose a successor trustee nor could any amendment(s) benefit the Protector or any of the Protector's family. The trust specifically provides that the Protector has no fiduciary duty to any beneficiary.

Under the terms of the irrevocable trust, Mary could not receive any monies, income or principal from the trust, but she retained the right to use the house. Only Deborah could receive income and/or principal from the trust during Mary's lifetime. Upon Mary's death, all tangible personal property (except \$10,000.00) would be distributed in equal shares to Deborah and Mark. Karen would receive \$10,000 at the later event of Mary's death or the termination of the house trust. If Deborah survived Mary, the house would be retained in a "House Trust" for Deborah's exclusive use for no more than 2 years (or unless Deborah died or failed to pay taxes, insurance, or make ordinary repairs). Upon the termination of the House Trust, the house would be sold and the proceeds divided equally between Deborah and Mark. If either of them predeceased Mary, that person's share would be distributed to the survivor.

Mary died on June 29, 2018.

Mark died in March 2019 before the two year termination of the House Trust.

After Mark's death, Deborah's former counsel S. Scott Reynolds (who was also the Protector) and Kathleen Bock Stewart, the attorney for Susan Edwards (Mark's longtime significant other), corresponded about drafting errors in the language of the Trust regarding the House Trust and the distributions. Deborah retained new counsel to handle the issue of the drafting errors.

S. Scott Reynolds as Trust Protector prepared an amendment to the Trust which removed one scrivener's error, corrected the spelling of Mark's last name, and amended the language of what would happen upon the termination of the House Trust. The amendment specified that if either Mark or Deborah predeceased distribution, their share

would go to the survivor, not to his or her estate. The amendment was executed on February 25, 2020.

A year later in February 2021, Susan brought a petition seeking to invalidate the 2/25/2020 trust amendment executed by S. Scott Reynolds. Sue is challenging this amendment as Mark died in 2019 before the House Trust terminated, which meant that his share would be distributed to Deborah and not to Mark's descendants. Mark had no children, so he had no descendants. However, before her death he executed a will in which he named Susan as the sole beneficiary of his estate (see FPR050414).

Both Deborah and S. Scott Reynolds objected to Susan's petition on the basis that S. Scott Reynolds had the authority to amend the trust and that the amendment did comply with Mary's intent as shown by the original Trust and its First Amendment. The First Amendment to the Trust did specify that if any of Mary's children or stepchildren died before the distribution of the House Trust, that person's share would go to their descendants. If that person had no descendants, their share would augment the other children's shares.

There were multiple court dates between February 2021 and March 2022 with no agreements between the parties.

Deborah filed her own Petition to confirm the powers of the Trust Protector on March 16, 2022. She asked the court to issue an order confirming that the exercise of his powers by the Trust Protector and the amendments made by the Trust Protector are valid.

The parties at the hearing on April 15, 2022 asked the court to rule on Deborah's petition based on the pleadings already filed without setting an evidentiary hearing.

The court has reviewed all of the pleadings and the various trust instruments. The court intends to rule as follows:

The First Amendment to the original Trust regarding the House Trust provided that "If any of the children were deceased at the time of distribution, their share would be distributed to their descendants." Mark had no descendants. If the original Trust as amended was in place when Mary and then Mark died, his share would have gone to Deborah and Karen and not to Mark's estate.

Mark Summers did not file a petition when the 2013 Irrevocable Trust was created to object to the provisions that Deborah would be the sole beneficiary of that Trust or that a Trust Protector had the authority to amend the Trust. He did not object to his sister Karen Ogle being nearly disinherited by the Irrevocable Trust. If he had brought a petition at that time, the court would have had the opportunity to obtain Mary's testimony as to her intentions.

The wording of the Summers Family Irrevocable Trust Agreement grants the Trust Protector authority to make amendments to the Trust so long as those amendments did not restore Mary as a trustee, give Mary authority over the Trust, or benefit the Trust Protector or his family members. There is no language in the Trust that states the Trust

Protector could not make amendments after Mary's death. In fact, Edwards, in her response to the current petition, agrees with at least one of the amendments which fixed a scrivener's error. Edwards cannot claim the Trust Protector has no ability to amend the trust but concur with one of those changes because she believes it benefits her.

The court in Levin v. Winston-Levin (2019) 39 Cal. App. 5th 1025, 1043 reviewed two contested amendments to a trust. The court upheld the trial court's voiding of the 2012 amendment, but not the 2008 amendment, as the 2012 amendment did not fulfill the trustor's intentions. The court held:

Ultimately, a court's role in interpreting a trust is to effect the intention of the trustor. (*Citizens Business Bank v. Carrano* (2010) 189 Cal.App.4th 1200, 1205.) In light of Robert's estate planning history, the trial court drew a reasonable inference that the 2012 amendment, without the provisions benefiting Debra, would not represent Robert's intended disposition.

In this case, at least one of Mary's amendments to a prior Trust specified that, upon the termination of the House Trust, the proceeds should only be distributed to those of her children or stepchildren who survived distribution and if that person did not survive, that person's share should go to the other heirs if the non-surviving heir had no descendants. Black's Law Dictionary (11th ed. 2019) defines descendant as "Someone who follows in the bloodline of an ancestor, either lineally or collaterally. Examples are children and grandchildren." Mark had no descendants as he had no children or grandchildren.

Article 6.D.6 states "The Protector shall interpret the terms of this Trust Agreement at the request of any fiduciary. Such interpretation shall be construed in a manner that is consistent with the Grantor's purposes in creating this Trust." Mary created the 2013 Trust and named Deborah as the sole Trust beneficiary. Only Deborah was to receive income and principal from the Trust during Mary's lifetime. Clearly, Mary intended to benefit Deborah primarily and not either Mark or Karen. From the language of the prior trust and its first amendment, it can be inferred that Mary's intentions were that the proceeds of the House Trust should only be distributed to Deborah, Mark, or Karen, and not to their estates if they had no descendants. The Irrevocable Trust removed Karen from receiving any of the House Trust proceeds. The history of the Trust estate reflects Mary's intent to primarily benefit Deborah over Mark and the Protector's February 25, 2020, Amendment did just that. Consequently, it was a rational and reasonable attempt by the Protector to carry out the Trustor's intent.

Pursuant to the principles articulated in Levin v. Winston-Levin (2019) 39 Cal. App. 5th 1025, 1043, the court grants the March 16, 2022 petition filed by Deborah A. Wood. Further, the court denies the February 4, 2021 petition filed by Susan E. Edwards.

IN RE THE ESTATE OF LEWIS S. SILVERSTEIN, DECEASED
Case No. FPR050703

Petition for Final Distribution

PREGRANT ORDER

Department 4's courtroom is open to the public. Appearances may be in person, but they need not be unless the court orders otherwise. Counsel, any party, or any interested person may make an initial appearance remotely, via Zoom, without making a formal request pursuant to Rule 3.672 of the California Rules of Court, and continue such remote appearances for non-evidentiary hearings unless the court otherwise orders. The Court's recurring Zoom meeting ID and Passcode are listed above and on the court's website www.solano.courts.ca.gov . If you are enabling a video Zoom appearance, make sure you can't be seen or heard eating, drinking or engaging in other behavior that would not be permitted in the courtroom. Observe all the protocols you would observe if appearing before the judge in open court or via Court Call. For further information about remote appearances please refer to the court's website under Civil Division Remote Appearances for Dept. 4.

This matter was previously continued from March 11, 2022 to allow the petitioner to address issues with the petition. The court has reviewed the documents filed April 11, 2022 and April 28, 2022 which resolved the outstanding issues.

The court finds all notices have been given as required by law. The petition as supplemented is granted as prayed, except that release of liability and discharge shall be ordered only upon the filing of the *Ex Parte Petition for Final Discharge and Order* once assets are distributed pursuant to Probate Code § 11753.

IN RE THE ESTATE OF MONTE GARY MOLINA, DECEASED
Case No. FPR051256

Petition re Spousal Property

PREGRANT ORDER

Department 4's courtroom is open to the public. Appearances may be in person, but they need not be unless the court orders otherwise. Counsel, any party, or any interested person may make an initial appearance remotely, via Zoom, without making a formal request pursuant to Rule 3.672 of the California Rules of Court, and continue such remote appearances for non-evidentiary hearings unless the court otherwise orders. The Court's recurring Zoom meeting ID and Passcode are listed above and on the court's website www.solano.courts.ca.gov . If you are enabling a video Zoom appearance, make sure you can't be seen or heard eating, drinking or engaging in other behavior that would not be permitted in the courtroom. Observe all the protocols you would observe if appearing before the judge in open court or via Court Call. For further

information about remote appearances please refer to the court's website under Civil Division Remote Appearances for Dept. 4.

This matter was previously continued from March 18, 2022 to allow the petitioner to address issues with the petition. The court has reviewed the Declaration filed April 25, 2022 which resolved the outstanding issues.

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

IN RE THE MINOR'S COMPROMISE OF E'MIYA STEVENS
Case No. FPR051258

Petition for Minor's Compromise

PREGRANT ORDER

Department 4's courtroom is open to the public. Appearances may be in person, but they need not be unless the court orders otherwise. Counsel, any party, or any interested person may make an initial appearance remotely, via Zoom, without making a formal request pursuant to Rule 3.672 of the California Rules of Court, and continue such remote appearances for non-evidentiary hearings unless the court otherwise orders. The Court's recurring Zoom meeting ID and Passcode are listed above and on the court's website www.solano.courts.ca.gov. If you are enabling a video Zoom appearance, make sure you can't be seen or heard eating, drinking or engaging in other behavior that would not be permitted in the courtroom. Observe all the protocols you would observe if appearing before the judge in open court or via Court Call. For further information about remote appearances please refer to the court's website under Civil Division Remote Appearances for Dept. 4.

This matter was previously continued from March 21, 2022 to allow the petitioner to address issues with the petition. Nothing has been filed since the last hearing. The court on its own motion continues this hearing to July 1, 2022, at 8:30 a.m. in Department 4. Pending the re-set hearing, the petitioner shall resolve the following issues as they relate to the petition:

1. The relationship of the petitioner to the minor must be clarified. The medical records state that the petitioner is the minor's grandmother.
2. Item 12.b(5) is not completed.
3. Item 18.c is not completed.
4. Attachments 18.d and 18.e are missing.
5. Attachment 19.b(2) is missing.

6. There is no explanation why a significant portion of the settlement should be distributed directly to the minor now when she turns 18 in a little more than two years.

IN RE THE ESTATE OF DARWIN L. MAYO, DECEASED

Case No. FPR051264

Petition to Administer Estate

PREGRANT ORDER

Department 4's courtroom is open to the public. Appearances may be in person, but they need not be unless the court orders otherwise. Counsel, any party, or any interested person may make an initial appearance remotely, via Zoom, without making a formal request pursuant to Rule 3.672 of the California Rules of Court, and continue such remote appearances for non-evidentiary hearings unless the court otherwise orders. The Court's recurring Zoom meeting ID and Passcode are listed above and on the court's website www.solano.courts.ca.gov. If you are enabling a video Zoom appearance, make sure you can't be seen or heard eating, drinking or engaging in other behavior that would not be permitted in the courtroom. Observe all the protocols you would observe if appearing before the judge in open court or via Court Call. For further information about remote appearances please refer to the court's website under Civil Division Remote Appearances for Dept. 4.

This matter was previously continued from March 21, 2022 to allow the petitioner to address issues with the petition. The court has reviewed the amended Petition and Response to Probate Notes filed April 25, 2022 which resolved the outstanding issues.

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

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

Bond is waived.

The court appoints Paul Miller 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.

IN RE THE ESTATE OF ARTHUR PORTER, DECEASED
Case No. FPR051322

Petition re Spousal Property

PREGRANT ORDER

Department 4's courtroom is open to the public. Appearances may be in person, but they need not be unless the court orders otherwise. Counsel, any party, or any interested person may make an initial appearance remotely, via Zoom, without making a formal request pursuant to Rule 3.672 of the California Rules of Court, and continue such remote appearances for non-evidentiary hearings unless the court otherwise orders. The Court's recurring Zoom meeting ID and Passcode are listed above and on the court's website www.solano.courts.ca.gov . If you are enabling a video Zoom appearance, make sure you can't be seen or heard eating, drinking or engaging in other behavior that would not be permitted in the courtroom. Observe all the protocols you would observe if appearing before the judge in open court or via Court Call. For further information about remote appearances please refer to the court's website under Civil Division Remote Appearances for Dept. 4.

This matter was previously continued from April 11, 2022 to allow the petitioner to address issues with the petition. The court has reviewed the documents filed April 25, 2022 and April 27, 2022. The court on its own motion continues this hearing to July 1, 2022, at 8:30 a.m. in Department 4. Pending the re-set hearing, the petitioner shall resolve the following issues as they relate to the petition:

1. The decedent's will provides that his share of the community property and his separate property should pour over to the Arthur and Patricia Porter Family Trust of 1999. The petitioner shall provide a copy of the trust and any amendments. The petitioner shall also clarify why the court should bypass the specific distribution provisions of the will and determine that the property should pass directly to the petitioner.

IN RE THE ESTATE OF JOHN W. HARRIS, DECEASED
Case No. FPR051341

Petition to Administer Estate

PREGRANT ORDER

Department 4's courtroom is open to the public. Appearances may be in person, but they need not be unless the court orders otherwise. Counsel, any party, or any interested person may make an initial appearance remotely, via Zoom, without making a formal request pursuant to Rule 3.672 of the California Rules of Court, and continue such remote appearances for non-evidentiary hearings unless the court otherwise orders. The Court's recurring Zoom meeting ID and Passcode are listed above and on the court's website www.solano.courts.ca.gov . If you are enabling a video Zoom

appearance, make sure you can't be seen or heard eating, drinking or engaging in other behavior that would not be permitted in the courtroom. Observe all the protocols you would observe if appearing before the judge in open court or via Court Call. For further information about remote appearances please refer to the court's website under Civil Division Remote Appearances for Dept. 4.

Counsel may appear via Zoom, in person, or by CourtCall and address the following:

1. Counsel is reminded that if relief is sought in the body of the petition, it must also appear in the petition's caption. Here, the petition seeks full Independent Administration of Estates Act authority but the caption does not.
2. Petition, item 8: The dates of death of the decedent's brothers should be provided. (See Solano County Local Rule, rule 7.51(b).)

If the court is satisfied with the information provided, the court intends to rule as follows:

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

The will of John William Edward Harris dated January 6, 2022 is ordered admitted to probate.

The court appoints Gemma T. Huguenin as executor 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.

IN RE THE ESTATE OF THELMA AGNES BROWN, DECEASED
Case No. FPR051374

Petition to Administer Estate

PREGRANT ORDER

Department 4's courtroom is open to the public. Appearances may be in person, but they need not be unless the court orders otherwise. Counsel, any party, or any interested person may make an initial appearance remotely, via Zoom, without making a formal request pursuant to Rule 3.672 of the California Rules of Court, and continue such remote appearances for non-evidentiary hearings unless the court otherwise orders. The Court's recurring Zoom meeting ID and Passcode are listed above and on the court's website www.solano.courts.ca.gov. If you are enabling a video Zoom appearance, make sure you can't be seen or heard eating, drinking or engaging in other

behavior that would not be permitted in the courtroom. Observe all the protocols you would observe if appearing before the judge in open court or via Court Call. For further information about remote appearances please refer to the court's website under Civil Division Remote Appearances for Dept. 4.

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

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

Bond is waived.

The court appoints Paul Miller 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.

9:00 CALENDAR

COUNTS v. CHADWICK, et al.
Case No. FCS048235

Continued Hearing on Motion by Plaintiffs for Turnover Order and to Fix Amount of Stay Bond

TENTATIVE RULING

Parties are to appear.

PRICE-SIMMS HOLDINGS, LLC v. FIRLE, et al.
Case No. FCS054306

Motion by Defendant CHANTAL HAMMOND GALLEGOS to Determine Good Faith Settlement

TENTATIVE RULING

Parties are to appear.

UNIFY FIN. FED. CREDIT UNION v. WINKLER, ET AL.
Case No. FCM170342

Plaintiff's Motion for Judgment on the Pleadings

TENTATIVE RULING

Plaintiff's unopposed motion for judgment on the pleadings is granted.

Plaintiff's answer does not deny any material allegation of the complaint. (Answer, ¶ 3(b)(1).) Every material allegation not controverted by the answer is to be taken as true for purposes of the action. (Code Civ. Proc. § 431.20(a); *Hennefer v. Butcher* (1986) 182 Cal.App.3d 492, 504.)
