

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

TENTATIVE RULINGS AND PROBATE PREGRANTS FOR  
MATTERS SCHEDULED FOR  
**TUESDAY, JANUARY 5, 2016**

**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  
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## **9:00 CALENDAR**

### **IN RE THE ESTATE OF RAUL A. MORALES, DECEASED FPR046708**

First and Final Report of Administrator on Waiver of Account and Petition for Final Distribution; for Allowance of Compensation to Administrator and Attorneys for Ordinary Services

#### **PREGRANT ORDER**

The court on its own motion continues the hearing to February 2, 2016 at 9:00 a.m. in Department 22. Pending the continued hearing, the petitioner shall do the following:

(1) At least fifteen days prior to the continued hearing, the petitioner shall file and serve an amended petition addressing the following issues and deficiencies:

(a) Petition, Para. 32:

1. The estate consists of cash and a vehicle. The proposed plan of distribution shall specify how the vehicle and cash will be distributed among the heirs.

2. The court notes that Maria Moffitt died during the pendency of the proceedings. The petition proposes to distribute her share to her surviving spouse, Anthony Moffitt.

Because Maria Moffitt died after the decedent, the provisions of Probate Code section 11802 control. That statute requires that the estate be distributed to the deceased heir's estate (§11802(a)) or to the deceased heir's successor in interest if that person proceeds under Division 8 (commencing with Section 13000) of the California Probate Code (§11802(c)).

Here, there is no evidence that Anthony Moffitt is the court-appointed personal representative of Maria Moffitt's estate, nor is there evidence that Anthony Moffitt has proceeded under Division 8 of the California Probate Code. Unless such evidence is provided, the court cannot approve a distribution to Anthony Moffitt directly. It is insufficient to simply allege that Anthony Moffitt is Maria Moffitt's heir under Arizona law.

(b) Petition, Para. 34: CourtCall fees are not ordinarily reimbursable as an ordinary expense of administration. These shall be removed.

(c) Petition, Para. 35:

1. The fee computation appears incorrect. See calculation on next page.
2. James Lamping was the petitioner's attorney of record from August 21, 2014 through March 20, 2015. The petition does not address the apportionment of statutory attorney fees per Probate Code section 10814.

(2) *Inventory and Appraisal*: Assets listed on Attachment 1 are ordinarily appraised by the personal representative. Here, Attachment 1 includes a vehicle. Vehicles are appraised by the probate referee and should be on Attachment 2. A corrected *Inventory and Appraisal* shall be filed prior to the hearing.

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**IN RE THE MATTER OF BREANNA LEONCE V. TARGET CORPORATION  
FPR046894**

Petition to Approve Compromise of Disputed Claim for Minor, Person with Disability

PREGRANT ORDER

Petitioner to appear (CourtCall is NOT approved) and shall provide the following to the court at the hearing:

- (1) The Medi-Cal demand letter or letter agreement per Item 13(b)(4) of the petition.
- (2) The petition proposes that payment of the settlement balance be paid to the petitioner upon the terms and under the conditions specified in Probate Code section 3401-3402, and further proposes that the funds be used to acquire a vehicle.

Those statutes require that when a minor does not have a guardian of the estate, "money or other property belonging to the minor may be paid or delivered to a parent of the minor entitled to the custody of the minor to be held in trust for the minor until the minor reaches majority..." (Prob. C. § 3401(a).) The petitioner shall explain why acquisition of an asset whose value will depreciate over time is an appropriate means of holding the funds in trust for the minor.

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**IN RE ESTATE OF JEAN M. CARLSON, DECEASED  
FPR047454**

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

## PREGRANT ORDER

The court on its own motion continues the hearing to February 9, 2016 at 9:00 a.m. in Department 22. At least fifteen days prior to the continued hearing, the petitioner shall file and serve an amendment to the petition correcting the following deficiencies:

- (1) Petition, Item 3(g): This information must be provided.
- (2) Petition, Item 5(a): Either box (3) or (4) must be checked.
- (3) Petition, Item 5(b): This information must be provided.
- (4) Petition, Item 8: Residence and relationship information must be provided for Elisa Cetera, as she is listed in Item 2 of the petition.

The court orders that the appointment of a special administrator is extended to the next hearing date above. Counsel shall submit new letters for issuance.

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## **IN RE ESTATE OF EVELYNE NESS, DECEASED FPR047466**

Petition for Letters of Special Administration

## PREGRANT ORDER

Counsel to appear and shall be prepared to address the following:

- (1) The petition seeks limited authority under the IAEA to “manage” the property. The term “manage” is vague. What specific powers is the petitioner seeking?
- (2) The proposed order includes the power to sell. This power was not requested in the petition.
- (3) Under the presented circumstances, it is unclear why a petition for general appointment is not being requested.