

Superior Court of California County of Yuba

Probate Notes for September 6, 2011

The Probate Calendar will be called in Department Two,
the Hon. Debra L. Givens Presiding.

***These notes are posted on August 29,
and will not be updated prior to the hearing.***

The probate notes represent staff's recommendations to the Court, and are not tentative rulings. If the probate notes indicate that a petition should be granted, no appearance is required at the hearing. The matter will be deemed submitted on the papers. If the Court does not follow staff recommendation, appropriate instructions will be issued.

Frequently, the only defect in a probate petition is the absence of the Proof of Publication. In such instances, if the Proof of Publication is filed by 12:00 p.m. on the Friday before the hearing, the recommendation will be deemed to have been changed to a recommendation that the petition be granted.

If the moving party would like to continue the matter to cure defects showing in the probate notes, he or she may do so by sending an email to probate@yubacourts.org no later than 12:00 p.m. the Friday before the hearing. The email is to state the case name and number, and indicate a Monday date to which the continuance is requested. If such an email request is timely made, no appearance is required at the hearing, and the matter will be continued unless the probate notes indicate that the Court has directed otherwise.

In some instances Staff recommends that the Court instruct that a party file a petition, e.g., a petition for distribution, for hearing on a certain date. A date certain is recommended for tracking purposes, and is not meant to prejudice the ability to bring a petition on an earlier date. Subject to ordinary filing and service requirements, and unless specifically instructed otherwise, a party may set the matter for hearing **on or before** the specified date.

Name: Estate of Evans CVPB 11-68

Proceedings: Petition to Determine Succession to Real Property

Discussion: Son of the decedent petitions to succeed to specified real property. The decedent died intestate.

The petition is not in order. The petition discloses that the decedent has two other children. All heirs of the decedent must either join in the petition or decline their interests. Pr.C. §§13151, 13152. The petition is otherwise in order. The notice is in order.

Recommendation: It is recommended that, at the election of the Petitioner, the petition be denied without prejudice, or continued to September 26, 2011, at 9:00 am. In Department Two to allow either for joinder or declination by the other heirs.