

(1) First Account and Report of Conservators; Petition for its Approval; (2) for Waiver of Future Accountings and (3) for Waiver of Bond (Prob. C. 2323, 2620, 2628, and 2640)

Age: 20	N. ROBERT NEILSEN, JR., and TAMARA K. NIELSEN,	NEEDS/PROBLEMS/COMMENTS:
DOB: 12-31-91	Parents and Conservators, are Petitioners.	
	Account period: 10-15-10 through 10-15-11	
<input type="checkbox"/> Aff.Sub.Wit.	Accounting: \$18,984.10	
<input checked="" type="checkbox"/> Verified	Beginning POH: \$18,964.10	
<input type="checkbox"/> Inventory	Ending POH: \$0	
<input type="checkbox"/> PTC	Conservators: Waived	
<input type="checkbox"/> Not.Cred.	Attorney: To be paid outside of the conservatorship estate.	
<input checked="" type="checkbox"/> Notice of Hrg	Petitioners state the conservatorship estate was exhausted as of 5-31-11, and request to waive future accountings pursuant to Probate Code §2628 and waive bond pursuant to Probate Code §2323(a).	
<input checked="" type="checkbox"/> Aff.Mail W	Petitioners pray for an order:	
<input type="checkbox"/> Aff.Pub.	1. Settling and allowing the account and report and approving and confirming the acts of Petitioners as Co-Conservators of the Estate for this account period;	
<input type="checkbox"/> Sp.Ntc.	2. Waiving future accountings until such time as the conservatorship estate no longer satisfies the conditions of Probate Code §2628(a);	
<input type="checkbox"/> Pers.Serv.	3. Waiving bond and discharging the surety on Petitioner's bond until such time as the estate no longer satisfies the conditions of Probate Code §2628(a);	
<input type="checkbox"/> Conf. Screen	4. Such other orders as the Court deems proper.	
<input checked="" type="checkbox"/> Letters 10-15-10		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report		
<input checked="" type="checkbox"/> 2620(c)		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

Reviewed by: skc

Reviewed on: 12-22-11

Updates:

Recommendation:

File 1 - Nielsen

First Report and Account of Trustee; Petition for Its Settlement and Allowance of Attorney's Fees; Petition for Reimbursement of Expenses

Age: 8	<p>MARIA ALVAREZ-GARCIA, Maternal Grandmother, Guardian and Trustee of the Special Needs Trust, is Petitioner.</p> <p>Account period: 6-4-10 through 10-18-11</p> <p>Accounting: \$208,497.05 Beginning POH: \$100,000.00 Ending POH: \$142,460.82 (cash only)</p> <p>Reimburse Conservator: \$1,897.09 for expenses associated with a vehicle (maintenance, registration, insurance) and expenses associated with travel to UCLA Medical Center.</p> <p>Attorney: \$3,249.00 (11 hours @ \$295.00/hr)</p> <p>Costs: \$555.00 (filing fees)</p> <p>Petitioner requests that further reports and accounts be waived since trust funds are invested in a blocked account and annuity payments are made directly to that account. The trustee is not receiving any fees.</p> <p>Petitioner states that special needs include insurance and gasoline for vehicles and travel needs, and requests reimbursement for expenses associated with a vehicle and with travel to UCLA Medical Center.</p> <p>Petitioner requests an order:</p> <ol style="list-style-type: none"> 1. Settling, allowing and approving this first report and account; 2. Ratifying and approving all acts and transactions of the trustee as set forth in this account; 3. Authorizing payment of the attorney fees and costs; 4. Authorizing reimbursement to herself per above; 5. Waiving future accountings because funds are held in a blocked account. 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>SEE PAGE 2</u></p>
DOB: 10-31-03		
Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
<input checked="" type="checkbox"/> Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	<p>Reviewed by: skc</p> <p>Reviewed on: 12-23-11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 3 - Carbajal</p>	

First Report and Account of Trustee; Petition for Its Settlement and Allowance of Attorney's Fees; Petition for Reimbursement of Expenses

NEEDS/PROBLEMS/COMMENTS (Continued):

1. The trust was originally funded with cash and with an annuity that pays approx. \$1,150.00 monthly. Schedule E Property on Hand lists only the cash held in the trust account. The annuity and its value should also be listed as an asset of the trust.
2. It appears major purchases/disbursements were made and attorney fees paid without prior authorization from this Court. The trust was brought under the jurisdiction of this Probate Court on 8-30-10. Petitioner refers to court orders dated 10-27-10 and 5-17-11 authorizing withdrawal for certain items; however, there is no documentation in this file regarding such authorization. Were these items authorized by another Court? If so, it appears that such petition and authorization may be inappropriate.

Need clarification regarding the following items with reference to the following notes:

- Vehicle \$48,493.07
- Car Audio \$950.00
- TV and Computer \$2,322.25
- Attorney Fees \$1,746.50 (Bolen Fransen LLP)
- Attorney Fees \$3,704.92 (Camp Rousseau Montgomery LLP)
- Attorney Costs \$1,363.00 (Bolen Fransen, LLP)
- Second Mortgage \$4,971.49
- Screen Door \$500.00
- Vacation \$1,985.00

a. None of the tangible items purchased with special needs trust funds are listed as assets of the trust or property on hand.

In addition to the annuity per #1 above, Schedule E should also include the vehicle, the electronics, and possibly an interest in the house (see below). The Court may require clarification, amendment of account and/or amendment of the various titles.

Note: Petitioner requests reimbursement for costs associated with the vehicle, such as maintenance, registration, insurance, etc., which implies that it is an asset of the trust, but it does not appear as property on hand. How is title held?

b. Need clarification regarding the use of special needs trust funds for payment of second mortgage on trustee's home.

The Ex Parte Petition for Withdrawal of Funds filed 10-24-11 *begins* to explain that the trust authorizes the purchase of a residence for the beneficiary, and because his grandmother and guardian now cares for him, she is not able to work and therefore, has not kept up payments on a second mortgage on her residence. However, the narrative is incomplete, the 10-24-11 petition did not request that amount, and payment does not appear to have been approved by this Probate Court.

Although the narrative points to the trust's authorization to purchase real property for the beneficiary as authority for this disbursement, Petitioner does not state whether the second mortgage was paid in full or simply brought current, how the payment qualifies as a special need for the beneficiary, or whether the trust/beneficiary received consideration, such as an interest in the real property, for the contribution toward the home.

c. Need clarification regarding the use of special needs trust funds for a screen door. Was this purchase for the residence? Does the minor or the trust have an interest in or receive specific special needs benefit from this item? Examiner notes that, on its face, this appears to be an expenditure typical of home-ownership; however, because the trust does not own the home, the Court may require clarification.

c. Need clarification regarding the use of special needs trust funds of \$1,985.00 for a vacation. Examiner does not see authorization from this Court for such expenditure.

SEE PAGE 3

3 Adam Carbajal Special Needs Trust Case No. 10CEPR00612

Atty Herold, Kim Marie (for Maria Alvarez-Garcia – Trustee – Petitioner)

First Report and Account of Trustee; Petition for Its Settlement and Allowance of Attorney's Fees; Petition for Reimbursement of Expenses

NEEDS/PROBLEMS/COMMENTS (Continued):

3. Attorney's fee calculation of \$3,249.00 appears incorrect. Examiner calculates 11 hours @ \$295/hr = \$3,245.00 (a \$4.00 difference).
4. Attorney's fees include 3.8 hours or \$1,121.00 in connection with two requests for withdrawal of funds. The Court may require clarification.
5. Petitioner requests to waive future accountings; however, based on the above issues, the Court may require further clarification regarding the potential trust assets, and more specific language in the order regarding the disposition of such assets, before authorizing such waiver.

Also, if future accountings are waived, the Court may set status hearings annually or biennially for brief status reports on the trust.

(1) First and Final Report of Administrator, Petition for Settlement on Waiver of Accounting and (2) for Final Distribution Based Upon Agreement Between Heirs-at Law (Prob. C. 6402, 10954 and 11640 et seq)

DOD: 4/15/11		<p>BRIAN ADNEY, Administrator, is Petitioner.</p> <p>Accounting is waived.</p> <p>I&A: \$301,144.39 POH: \$301,144.39 <i>(\$193,883.39 is cash)</i></p> <p>Administrator: \$9,022.89 (statutory)</p> <p>Attorney: \$9,022.89 (statutory)</p> <p>Closing Reserve: \$3,000.00</p> <p>Petitioner requests Distribution, pursuant to the laws of intestate succession (PrC §§6400 et seq.) and signed and written Agreement (<i>dated 10/13/11 and attached to Petition as Exh. D</i>) between Petitioner Brian Adney and and other sole heir, James R. Evans (Decedent’s surviving spouse).</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>	
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input checked="" type="checkbox"/>	Inventory			
<input checked="" type="checkbox"/>	PTC			
<input checked="" type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
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<input type="checkbox"/>	Letters			6/21/11
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input checked="" type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input checked="" type="checkbox"/>	FTB Notice			

Reviewed by: NRN
 Reviewed on: 12/23/11
 Updates:
 Recommendation: SUBMITTED
 File 4 – Kemmerer-Evans

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 1/5/11	KARL M. ROTSTAN , son and named executor without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 12/5/11. Minute Order states:</u> Nancy Oehler represents to the Court the Will references the pre-deceased spouse in question; there is one beneficiary; asks for Appraiser Rick Smith; addresses the issue of bond. The Court, in response, accepts the notion of the pre-deceased spouse and asks no further information be provided regarding item #8 (examiner notes #3); approves Rick Smith being appointed; waives the bond under the circumstance there is a sole beneficiary and waiver being stated in the Will. Ms. Oehler will get affidavits; the Court mentions the matter of 1/9/12 may be on the approved matters list. <u>Note:</u> At the time of death, Decedent was a resident of New York State. Per <i>Petition</i> , the property at issue in the instant <i>Petition</i> consists primarily of Decedent's real property located in Fresno County.
	Will dated: 6/29/09	
Cont. from 120511	Full IAEA – o.k.	
<input type="checkbox"/> Aff.Sub.Wit.	Publication - Fresno Business Journal	
<input checked="" type="checkbox"/> Verified	Residence - Greene County, New York	
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	Estimated value of estate:	
<input checked="" type="checkbox"/> Aff.Mail	Personal property \$ 3,000.00	
<input checked="" type="checkbox"/> Aff.Pub.	Annual income .00	
<input type="checkbox"/> Sp.Ntc.	Realproperty \$155,000.00	
<input type="checkbox"/> Pers.Serv.	Total \$158,000.00	
<input type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters	<u>PROBATE REFEREE: RICK SMITH</u>	
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: NRN
		Reviewed on: 12/23/11
		Updates: SUBMITTED
		Recommendation:
		File 5 - Rotstan

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 10/6/99	<p>HAROLD L. PETERSON, son and named alternate executor without bond, is Petitioner. [Note: Petition states that pursuant to a May 2, 2001 <i>Mutual Settlement and Release Agreement</i> between the estate’s two sole heirs (Petitioner and his brother John E. Peterson) regarding distribution of assets of a 1998 family trust, original named alternate executor John E. Peterson declines to act and Petitioner is to be responsible for the probate of Decedent’s estate.]</p> <p>Will dated: 5/2/1998</p> <p>Full IAEA – o.k.</p> <p>Publication: Fresno Business Journal Residence: Fresno</p> <p>Estimated value of estate:</p> <table> <tr> <td>Personal property:</td> <td>\$0.00</td> </tr> <tr> <td>Annual income:</td> <td>.00</td> </tr> <tr> <td>Real property:</td> <td>.00</td> </tr> <tr> <td>Total</td> <td>\$0.00</td> </tr> </table> <p>PROBATE REFEREE: RICK SMITH</p>	Personal property:	\$0.00	Annual income:	.00	Real property:	.00	Total	\$0.00	NEEDS/PROBLEMS/COMMENTS:
Personal property:		\$0.00								
Annual income:		.00								
Real property:		.00								
Total		\$0.00								
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Aff.Sub.Wit.										
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Inventory										
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		Reviewed by: NRN								
		Reviewed on: 12/23/11								
		Updates:								
		Recommendation: SUBMITTED								
		File 6 - Peterson								

Loramae Magee DOD: 10-21-11	<p>MARCY VALDOVINOS, daughter of Settlor and named beneficiary of the Tarance S. Magee Testamentary Trust established 6-7-1963, is Petitioner.</p> <p>Petitioner states trustee Loramae Magee died on 10-21-11. The named successor trustee, Glenn E. Rose, died on 1-17-10.</p> <p>Petitioner requests the Court appoint her as Successor Trustee without bond. Petitioner states she is one of the three surviving beneficiaries and upon the death of Loramae Magee, the trust assets are to be distributed in equal shares to Petitioner and her siblings: Sharon Metzler and Colleen Snyder. Their sibling John Thomas Magee died 9-29-09.</p> <p>Petitioner states that the trust waived bond for the named trustees and the trust assets consist only of an undivided ½ interest in five separate parcels of land that will be promptly distributed to the beneficiaries upon approval of this Petition. Also, each of the three beneficiaries waive bond (consents attached).</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> Petitioner filed a Proof of Service showing service of the Petition on her two living siblings; however, Probate Code §17203 requires Notice of Hearing, which is a mandatory Judicial Council form (DE-120). The Court may require amended service (30 days’ notice) with the Notice of Hearing form that contains mandatory language re the hearing. The copy of the trust provided by Petitioner is largely illegible; however, from what Examiner can determine, the trust names all four of the siblings as beneficiaries in equal shares. <p>Petitioner notes that the two living siblings waive bond and that upon appointment, the trust assets will be promptly distributed to the three remaining siblings; however, it is unclear whether the deceased brother’s share was to lapse or to pass to his issue.</p> <p>The Court may require notice to the deceased brother’s heirs or issue, or the personal representative of his estate, and may require a more legible copy or certified transcript.</p>																																																			
<table border="1"> <tr><td>Aff.Sub.Wit.</td><td></td></tr> <tr><td>✓ Verified</td><td></td></tr> <tr><td>Inventory</td><td></td></tr> <tr><td>PTC</td><td></td></tr> <tr><td>Not.Cred.</td><td></td></tr> <tr><td>Notice of Hrg</td><td>X</td></tr> <tr><td>Aff.Mail</td><td>W</td></tr> <tr><td>Aff.Pub.</td><td></td></tr> <tr><td>Sp.Ntc.</td><td></td></tr> <tr><td>Pers.Serv.</td><td></td></tr> <tr><td>Conf. Screen</td><td></td></tr> <tr><td>Letters</td><td></td></tr> <tr><td>Duties/Supp</td><td></td></tr> <tr><td>Objections</td><td></td></tr> <tr><td>Video Receipt</td><td></td></tr> <tr><td>CI Report</td><td></td></tr> <tr><td>9202</td><td></td></tr> <tr><td>✓ Order</td><td></td></tr> <tr><td>Aff. Posting</td><td></td></tr> <tr><td>Status Rpt</td><td></td></tr> <tr><td>UCCJEA</td><td></td></tr> <tr><td>Citation</td><td></td></tr> <tr><td>FTB Notice</td><td></td></tr> </table>	Aff.Sub.Wit.		✓ Verified		Inventory		PTC		Not.Cred.		Notice of Hrg	X	Aff.Mail	W	Aff.Pub.		Sp.Ntc.		Pers.Serv.		Conf. Screen		Letters		Duties/Supp		Objections		Video Receipt		CI Report		9202		✓ Order		Aff. Posting		Status Rpt		UCCJEA		Citation		FTB Notice			<table border="1"> <tr><td>Reviewed by: skc</td></tr> <tr><td>Reviewed on: 12-23-11</td></tr> <tr><td>Updates:</td></tr> <tr><td>Recommendation:</td></tr> <tr><td>File 7 - Magee</td></tr> </table>	Reviewed by: skc	Reviewed on: 12-23-11	Updates:	Recommendation:	File 7 - Magee
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File 7 - Magee																																																					

DOD: 11-6-10	TIZA PETERSON and TRISTINE SMITH,	NEEDS/PROBLEMS/COMMENTS:
	daughters, are Petitioners.	
	40 days since DOD	
<input type="checkbox"/> Aff.Sub.Wit.	No other proceedings	
<input checked="" type="checkbox"/> Verified		
<input checked="" type="checkbox"/> Inventory	I&A - \$95,000.00 (real property in Kingsburg)	
<input checked="" type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.	Will dated 6-30-95 devises the entire estate to	
<input checked="" type="checkbox"/> Notice of Hrg	Petitioners.	
<input checked="" type="checkbox"/> Aff.Mail	W	
<input type="checkbox"/> Aff.Pub.	Petitioners request court determination that	
<input type="checkbox"/> Sp.Ntc.	Decedent's 100% interest in real property in	
<input type="checkbox"/> Pers.Serv.	Kingsburg passes to them pursuant to the will.	
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: skc
		Reviewed on: 12-23-11
		Updates:
		Recommendation: SUBMITTED
		File 8 - Grimes

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C. 1820, 1821, 2680-2682)

Age: 85	<p>TEMPORARY CONSERVATORSHIP OF THE PERSON ONLY EXPIRES 12-19-11, extended to 1-9-12</p> <p>ANDREW M. BOSNIAK, Son, is Petitioner and requests appointment as Probate Conservator of the Person and Estate with medical consent powers and with bond.</p> <p>Estimated Value of Estate: Personal property: \$3,000.00 Annual income: \$48,000.00 (pension, Social Security) Real property: \$80,000.00</p> <p>Capacity Declaration was filed 12-21-11.</p> <p>Petitioner states his mother suffered a ruptured cerebral aneurism on or about 11-13-11 in conjunction with a stroke. She was taken to Fresno Community Hospital on 11-17-11 and had an angiogram to stop the cranial bleeding and has been a patient there since then, and was transferred to a "step-down" unit on 12-4-11. She is bedridden and has a tracheotomy to assist with breathing and a feeding tube. She requires assistance and is not able to move her left side.</p> <p>Mrs. Bosniak is unable to manage her finances or property or pay bills related to her residence. Petitioner and his family reside with her in her residence and it is necessary that the bills be paid to keep the household functioning.</p> <p>Petitioner states his mother had let her health insurance lapse and temporary conservatorship of the <u>person only</u> was granted, including the power to reinstate the policy could be reinstated so that she could be discharged to a local sub-acute care facility.</p> <p>Audrey Medina, daughter, filed an Objection on 12-16-11. Objector states she cared for the proposed conservatee in her home in Bakersfield from 2008, after she had a fall at home, through May of 2009. When Mrs. Bosniak came to reside with Objector, her hip was injured from the fall, she was blind, and she had severe dental problems. Objector cared for her until her hip was healed and assured that she had cataract surgery to restore as much vision as possible and addressed the dental problems.</p> <p style="text-align: center;">SEE PAGE 2</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Court Investigator advised rights on 12-19-11.</u></p> <p>Voting rights affected - Need minute order</p> <p><u>Minute Order 12-19-11 (hearing on temporary petition):</u> Mr. Knudson informs the Court that the Kaiser Medical Insurance has been reinstated; however, Lucy Bosniak is currently on Medicare. The Court orders Andrew Bosniak to authorize the release of Lucy Bosniak's medical records to Mr. Knudson. Mr. Knudson is ordered to provide a copy of the medical records to Ms. Hicks and the Court upon receipt. Mr. Knudson is directed to prepare the authorization and the order. The temporary of the person is extended to 1/9/12.</p> <p>1. Need Capacity Declaration addressing Mrs. Bosniak's ability to consent to medical treatment.</p> <p>The Capacity Declaration filed 12-21-11 is incomplete and appears to be meant to <u>only</u> address her ability to attend the hearing on 12-19-11.</p> <p>Attorney Knudson's declaration explains handwritten notes regarding the condition preventing her presence at the hearing and states that this is what was returned by the doctor; however, based on the caption, it does not appear that further declaration regarding capacity was requested of the doctor. Examiner notes that Box B of the form's caption (the purpose of the declaration) is not checked.</p> <p>2. Bond should be at least \$56,100.00 based on the estimated values and income provided in the Petition (not including real property).</p>
DOB: 12-25-26		
Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
Inventory		
PTC		
Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail W		
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<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
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Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	<p>Reviewed by: skc</p> <p>Reviewed on: 12-27-11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 9 - Bosniak</p>	

9 Lucy M. Bosniak (CONS/PE)
Atty Knudson, David N. (for Andrew M. Bosniak – Son – Petitioner)
Atty Hicks, Julie A. (for Audrey Medina – Daughter – Objector)
Atty LeVan, Nancy (Court-Appointed for Proposed Conservatee Lucy M. Bosniak)

Case No. 11CEPR01074

**Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C.
1820, 1821, 2680-2682)**

SUMMARY (Continued):

When she lived with Objector, her social security and pension income were deposited into accounts in her own name in Bakersfield. Objector states that Petitioner often asked Mrs. Bosniak for money during this time, and in May 2009, he came to Objector's house and stated he wanted to have lunch with the proposed conservatee. He took her to the bank, closed her accounts, and took her to Fresno.

Objector's access to any kind of contact with her mother has been very limited since that date. When she has tried to visit, Petitioner and his family are hostile, and at times would not even unlock the gate. Petitioner and his family live in the proposed conservatee's house in Fresno, and the house has been allowed to fall into disrepair.

When Mrs. Bosniak was admitted to the hospital in November, Objector is informed that she was dehydrated and in very poor physical condition, with bed sores and severe gingivitis. Objector is concerned about her physical well-being in Petitioner's care, and is concerned that he is using her funds for his own purposes and is neglecting her needs, including the need for health insurance. Objector is investigating health insurance options for her mother; however, it is now very expensive due to her physical condition.

Objector believes the proposed conservatee would be safer and her finances more appropriately managed under her care. She is not estranged from her mother through her own doing. Objector's primary goal is her mother's health and safety, and proper management of her financial affairs.

Objector requests that:

1. The petition for conservatorship by Andrew Bosniak be denied;
2. Objector be allowed to petition for conservatorship; and
3. Other relief the Court considers proper.

Court Investigator Charlotte Bien filed a report on 12-22-11.

Age: 96	<p>BEVERLY A. EDLUND, Daughter, was appointed Conservator of the Person and Estate with \$30,000.00 bond on 11-19-08.</p> <p>On 8-23-10, the first account was settled and the Court set this status hearing for filing of the next account.</p> <p>On 10-17-11, this status hearing was continued to 1-9-12 at Counsel’s request.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. As of 12-22-11, nothing further has been filed. Need second account pursuant to Probate Code §2620.</p>
DOB: 2-8-15		
Cont. from 101711		
<input type="checkbox"/> Aff.Sub.Wit.		
<input type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg		
<input type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters 11-19-08		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt X		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
Reviewed by: skc		
Reviewed on: 12-22-11		
Updates:		
Recommendation:		
File 10 – Greco		

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution (Prob. C. § 122200, et seq.)

	PATRICIA GREENUP was appointed Administrator with Limited IAEA without bond and Letters issued on 1-2-07.	NEEDS/PROBLEMS/COMMENTS:
DOD: 5-5-06		<u>Note:</u> Petitioner was previously represented by Attorney Richard C. Henderson, but pursuant to Substitution of Attorney filed 10-13-09, is now pro per.
Cont. from 041111, 062011	Inventory and Appraisal filed 4-27-07 reflects real property located in Clovis valued at \$175,000.00.	<u>Minute Order 4-11-11:</u> Examiner notes handed to Ms. Greenup. Matter continued to 6-20-11.
Aff.Sub.Wit.	A status report from February 2008 indicated that the house was listed for sale and requested six months to close administration.	<u>Minute Order 6-20-11:</u> Examiner notes provided to Ms. Greenup. Mr. Greenup advises the Court that the home is not listed for sale, but is being rented by a non-relative. He further advises that he intends to have the property re-appraised. Mr. Greenup requests a five to six months continuance. Matter continued to 1/9/12.
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	On 2-18-11, the court set this status hearing for failure to file a first account or petition for final distribution. Notice was sent to Administrator on 2-18-11.	<u>As of 12-22-11, nothing further has been filed.</u>
Aff.Mail		
Aff.Pub.		
Sp.Ntc.	On 4-11-11, the matter was continued to 6-20-11.	<u>The following issue remains:</u>
Pers.Serv.		1. <u>Need account current or petition for final distribution.</u>
Conf. Screen	On 6-20-11, Mr. Greenup advised the Court that the home is not listed for sale, but is being rented by a non-relative, and he intends to have the property re-appraised. Mr. Greenup requested a 5-6 month continuance.	
Letters		
Duties/Supp		
Objections	Nothing further has been filed.	
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		Updates:
Status Rpt X		Contacts: Reviewed 12-22-11
UCCJEA		Recommendation:
Citation		Reviewed by: skc
FTB Notice		File 11 - Garza

(1) Waiver of Account and Report of Administrator and Petition for Its Settlement;
 (2) for Final Distribution and (3) for Allowance of Compensation to Administrator

DOD: 12/11/10	ROSALIE DEPROSPERO , Executor, is Petitioner.		NEEDS/PROBLEMS/COMMENTS: 1. The Petition states that real property of the estate was sold without Notice of Proposed Action as required by Probate Code § 15080, 15010, & 15011. Need consent to the sale of property from all beneficiaries. 2. Need order.
	Accounting is waived.		
Cont. from	I & A - \$107,722.62		
<input type="checkbox"/> Aff.Sub.Wit.	POH - \$23,821.28		
<input checked="" type="checkbox"/> Verified			
<input checked="" type="checkbox"/> Inventory	Executor - \$4,231.68		
<input checked="" type="checkbox"/> PTC			
<input checked="" type="checkbox"/> Not.Cred.	Closing - \$1,000.00		
<input checked="" type="checkbox"/> Notice of Hrg	Distribution, pursuant to decedent's Will, is to:		
<input checked="" type="checkbox"/> Aff.Mail	w/o	Rosalie DeProspero - \$8,365.48	
<input type="checkbox"/> Aff.Pub.		Dora Hiser - \$4,182.74	
<input type="checkbox"/> Sp.Ntc.		Stacy Bruno Cuyson - \$4,182.74	
<input type="checkbox"/> Pers.Serv.		Sergio Garzon - \$1,859.00	
<input type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters	05/26/11		
<input type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input type="checkbox"/> CI Report			
<input checked="" type="checkbox"/> 9202			
<input type="checkbox"/> Order	x		
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input checked="" type="checkbox"/> FTB Notice			
			Reviewed by: JF
			Reviewed on: 12/27/11
			Updates:
			Recommendation:
			File 12 - Bruno

Age: 2 years DOB: 9/29/2009		<p>LESLIE SMOTHERS, maternal great aunt, is petitioner.</p> <p>Mother: ASHLEY MILLER</p> <p>Petitioner was appointed temporary guardian ex-parte on 6/6/11. At the general hearing on 10/26/11 the court denied the petition for guardianship and order the minor returned to his mother on Saturday at 10:00 a.m. Visitation to be determined among the parties.</p> <p>On 11/3/11 Petitioner filed this Petition for Visitation and this hearing was set.</p> <p>On 11/29/11 Petitioner filed an Ex Parte Petition for Visitation.</p> <p>On 11/29/11 the Court granted the Ex Parte Petition for Visitation and ordered Petitioner Leslie Smothers to have unsupervised visits with the minor from 9:00 a.m. every Wednesday to 6:00 p.m. every Friday beginning 11/30/11. The visitation order is to remain in full force and effect until the Petition for Visitation hearing on 1/9/2012.</p> <p>Petitioner states in her Petition for Visitation that when they were in Court for the Guardianship Petition the judge said that the minor was to reside with the mother with visitation to her. To be decided between the mother and Petitioner. Since then the mother has allowed her to see the minor one time on 11/1/11 for approximately 2 hours in her presence. When Petitioner asked mother for visits she was told that she and her husband Greg doo things on his days off with the minor. Mother then told Petitioner that she could pick her up for lunch and she could see him then.</p>	NEEDS/PROBLEMS/COMMENTS:	
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input type="checkbox"/>	Aff.Mail			
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input checked="" type="checkbox"/>	Pers.Serv.			W/
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		<p>Reviewed by: KT</p> <p>Reviewed on: 12/22/11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 13 - Smothers</p>		

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 8 months DOB: 4/28/11		<u>TEMPORARY EXPIRES 1/9/12</u>		NEEDS/PROBLEMS/COMMENTS: 1. Need proof of service of the Notice of Hearing along with a copy of the Petition or consent and waiver of notice or declaration of due diligence on: a. Paternal grandfather (not listed) Court Investigator Samantha Henson to provide: 1. Court Investigation report 2. Clearances
		JOSEPH ARTELLAN and TAMMY ARTELLAN , maternal uncle and aunt, are Petitioners.		
Cont. from		Father: GARY BIRDSONG – <i>consent and waiver of notice filed 10/31/11</i>		
	Aff.Sub.Wit.			
✓	Verified			
	Inventory	Mother: SALINA JENKINS – <i>consent and waiver of notice filed 10/31/11</i>		
	PTC			
	Not.Cred.	Paternal grandfather: Not listed Paternal grandmother: Emma Birdsong – <i>consents and waives notice.</i>		
✓	Notice of Hrg	Maternal grandfather: Sylvester Jenkins – <i>consent and waiver of notice filed 10/31/11</i>		
✓	Aff.Mail	W/	Maternal grandmother: Leota Canady – <i>consent and waiver of notice filed 10/31/11</i>	
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
✓	Conf. Screen	Petitioners state that the minor was placed in their care by Sacramento County CPS. Sacramento CPS advised the petitioners to seek guardianship of the minor in order to ensure her safety and well-being.		
✓	Letters	Petitioners state that guardianship is necessary in the event of an emergency or in the event either parent tries to remove the child from their home. Petitioners state that neither parent is able to care for the minor.		
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report	X		
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
				Reviewed by: KT
				Reviewed on: 12/22/11
				Updates:
				Recommendation:
				File 14 - Birdsong

Sage Marie Rubi (7) DOB: 9-28-04	<p>NO TEMPORARY – none requested</p> <p>MARY HELEN CARBRAL, Maternal Grandmother, is Petitioner.</p> <p>Father: MARCELINO RUBI - <i>Consent and Waiver of Notice filed 10-28-11</i></p> <p>Mother: JOANNA WELLS - <i>Consent and Waiver of Notice filed 10-28-11</i></p> <p>Paternal grandfather: Not listed Paternal grandmother: Mary R. Rubi Maternal grandfather: Howard E. Wells, Jr.</p> <p>Petitioner states she can provide a home, clothing, and the love the children need.</p> <p>UCCJEA indicates the children lived with their parents until 10-4-11 when they came to live with Petitioner.</p> <p>Court Investigator Jennifer Young to provide report, clearances.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Court Investigator to provide report, clearances.</u></p> <p>1. Need attachment Petitioner’s Confidential Guardian Screening Form explaining the answer “yes” to #6.</p> <p>2. Need Notice of Hearing and proof of service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1511 or consent and waiver of notice or declaration of due diligence on:</p> <ul style="list-style-type: none"> - Maternal grandfather Howard E. Wells, Jr. - Paternal grandmother Mary R. Rubi - Paternal grandfather (not listed) 	
Marley Angelique Rubi (3) DOB: 3-5-08			
Violet Jodie Rubi (23 mo.) DOB: 1-22-10			
Laura Sincere Rubi (2 mo.) DOB: 10-1-11			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			X
Aff.Mail			X
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			N/A
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
CI Report	X		
Clearances	X		
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
		Reviewed by: skc	
		Reviewed on: 12-27-11	
		Updates:	
		Recommendation:	
		File 15 - Rubi	

Charles E. Moore, Sr. DOD: 12-8-08	CINDY MARIE MOORE HARVEY , Daughter and Executor with full IAEA without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Note: This is an ancillary proceeding concerning a 7.66% interest in certain real property in Fresno, CA. Decedent and his wife were residents of South Carolina. 1. Petitioner states this petition is brought pursuant to Probate Code §§ 850 and <u>17200(b)</u> , which indicates that a trust is involved. Examiner also notes that the South Carolina Inventory and Appraisement form from Ellen Moore’s probate (Exhibit D) states “BLACKSTONE REAL ESTATE PROPERTY <u>IN</u> <u>TRUST FROM HER FATHER’S ESTATE.</u> ” <i>[Emphasis added].</i> Probate Code §17203(b) requires notice to any person whose right, title, or interest would be affected. <u>Need clarification:</u> - How is title of this interest in the real property currently held? - Is a trust involved, and are there any other parties whose interest in the subject property may be affected by this petition (such as Ellen Moore’s relatives or other trust beneficiaries or owners of interest in the property)? <p style="text-align: center;"><u>SEE PAGE 2</u></p>
Ellen Moore DOD: 11-12-03	Petitioner states Decedent and his wife were residents of South Carolina. Decedent’s wife Ellen Moore owned a 7.66% interest in certain real property in Fresno, and after her death in 2003, her estate was probated in South Carolina. Decedent was the sole beneficiary and this asset was listed as an asset of her estate in the South Carolina probate. Decedent assumed the property had been conveyed and treated the property as his own, including obtaining rental income. He also specifically identified the property in his own will.	Reviewed by: skc Reviewed on: 12-28-11 Updates: Recommendation:
	Petitioner recently discovered that no conveyance of title to the subject property was ever recorded in Fresno County; however, there can be no question that Charles E. Moore, Sr., was the legal owner and inherited it from Ellen Moore, and this it is properly part of his estate.	File 17 - Moore
Aff.Sub.Wit.	Petitioner states notice was provided to the living beneficiaries of both estates and provides authority including reference to Probate Code §§ 850-859, specifically 850(a)(2)(C)-(D) and 856, regarding satisfaction of the Court for conveyance or transfer. Petitioner states there is ample evidence here and the “evident purpose” of these statutes is to “effectuate the intent of the decedent.” (<i>In re Estate of Young</i> (2008) 160 Cal.App.4 th 62, 92.)	
<input checked="" type="checkbox"/> Verified	Petitioner requests an order confirming that title passed to Decedent by and through the Estate of Ellen Moore and is part of his estate.	
Inventory		
PTC		
Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
<input checked="" type="checkbox"/> Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
<input checked="" type="checkbox"/> Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

NEEDS/PROBLEMS/COMMENTS (Continued):

2. The Court may require clarification or authority for transfer of the subject property interest within this estate rather than an ancillary proceeding of Ellen Moore's estate with notice to her relatives/heirs.

Petitioner states the parties entitled to notice pursuant to Probate Code §17203(a) are Petitioner, Stanley Moore and Paul Moore, who are this decedent's children and Ellen Moore's step-children. This decedent treated the subject property as his own and specifically devises it to his children in equal shares.

However, Examiner notes that the South Carolina probate order lists two sons of Ellen Moore, Mark East and Reggie East, both of Fresno, who are not listed or noticed here. Further, Ellen Moore's will intentionally made no provision for Stanley Moore and Paul Moore, and at this time, transfer to this decedent's estate would, in essence, effectuate transfer to parties that were specifically excluded.

3. Petitioner states the South Carolina probate included the subject property and refers to the Inventory and Appraisal. However, Examiner notes that the South Carolina I&A form *incorrectly* lists the subject property as an "*In-state*" property rather than an "*Out-of-state*" property.

Since Petitioner requests conveyance based on the inclusion of the real property in that 2003 South Carolina "Informal" probate, the Court may require authority regarding whether such inclusion was appropriate.

Examiner further notes that the South Carolina "Informal" probate appears to be verification-based only and does not appear to have admitted the will or required notice to her relatives at that time.

Therefore, the Court may require clarification and/or further notice.

Petition for Appointment of Temporary Guardian of the Person (Prob. C. 2250)

Age: 5 months DOB: 07/23/11	<p align="center"><u>GENERAL HEARING 02/28/11</u></p> <p>ISABEL PARKS, paternal grandmother, is Petitioner.</p> <p>Father: PATRICK PARKS</p> <p>Mother: JADE HORN</p> <p>Paternal grandfather: JACKY PARKS</p> <p>Maternal grandfather: DAVID HORN Maternal grandmother: LISA RUIZ</p> <p>Petitioner states that the minor's mother is unable to provide a stable environment and is bouncing around from home to home and practically living out of her car. Petitioner states that the mother removed the minor from her home, the only home he has ever known. Petitioners also state that the mother is using marijuana and that the parents fight continually.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i>. 2. Need proof of personal service at least 5 court days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Temporary Petition or Consent and Waiver of Notice or Declaration of Due Diligence</i> for: <ul style="list-style-type: none"> - Patrick Parks (father) - Jade Horn (mother) 3. Need <i>Confidential Guardian Screening Form</i> and <i>Confidential Probate Guardian Questionnaire</i>. 		
Cont. from				
Aff.Sub.Wit.				
✓ Verified				
Inventory				
PTC				
Not.Cred.				
Notice of Hrg			x	
Aff.Mail				
Aff.Pub.				
Sp.Ntc.				
Pers.Serv.			x	
Conf. Screen			x	
✓ Letters				
✓ Duties/Supp				
Objections				
Video Receipt				
CI Report				
9202				
✓ Order				
Aff. Posting				
Status Rpt				
✓ UCCJEA				
Citation				
FTB Notice				
			Reviewed by: JF	
			Reviewed on: 12/28/11	
			Updates:	
		Recommendation:		
		File 18 - Parks		