



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

Attorney Poochigian, Mark S. (for Petitioner Antonette Gutierrez, Successor Trustee)

Petition for Determination of Right to Surcharge Beneficiary's Interest, or in the Alternative, Enforce Money Judgment against Trust Beneficiary

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| DOD: 10/7/2005 | ANTONETTE GUTIERREZ , daughter and Successor Trustee, is Petitioner. | NEEDS/PROBLEMS/COMMENTS: |
| | Petitioner states: | Continued from 11/9/2015. Minute Order states Mr. Poochigian requests 60 days due to the Stay of Proceedings filed by Attorney Nunez on behalf of Raymond Renteria in U.S. Bankruptcy Court. |
| | <ul style="list-style-type: none"> Settlor Erlinda Gutierrez created the ERLINDA GUTIERREZ TRUST by Declaration of Trust dated 6/21/2005 (copy attached as Exhibit A); Trust terms provide that Petitioner shall become sole trustee to fill the vacancy created by Settlor's death; Petitioner is the sole Successor Trustee of the Trust; Trust is the owner of an interest in real property on Pecan Avenue in Reedley; On 10/22/2007, RAYMOND RENTERIA [Settlor's brother], individually and as Guardian Ad Litem for RITA RENTERIA, filed an Ownership Action in Case 07CECG03513 alleging that they were the rightful owners of the property; Court concluded that the Renterias failed to establish their ownership; On 9/6/2012, the Court also entered in the Ownership Action a \$86,229.95 money judgment in favor of the Trust and against Renteria in favor of Petitioner, individually, and as Trustee of the Trust, and as Executor of the Estate of Erlinda Gutierrez in Case 06CEPR00207 (copy of judgment attached as Exhibit C; Court of Appeal upheld Trial Court decision); Accordingly, the Trust is the rightful owner of the property, and Petitioner, individually, as Trustee of the Trust, and as Executor of the Estate, is a judgment creditor of Renteria; | <p>Notes:</p> <ul style="list-style-type: none"> Notice of Stay of Proceedings filed by Attorney Nunez on 8/6/2015 shows this matter is automatically stayed with regard to RAYMOND RENTERIA caused by filing in U.S. Bankruptcy Court on 7/24/2015. Order Settling Second and Final Account, etc., filed 11/12/2015 in the Erlinda Gutierrez Estate, Case #06CEPR00207, distributes the \$86,229.95 money judgment against RAYMOND RENTERIA to the estate heirs in their respective percentages. <p>The following issue from the last hearing remains:</p> <ol style="list-style-type: none"> Need proposed order pursuant to Local Rule 7.1.1(F) which provides a proposed order shall be submitted with all pleadings that request relief. |
| Cont. from 081015, 092115, 110915 | | |
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| | | Reviewed by: LEG |
| | | Reviewed on: 1/4/16 |
| | | Updates: |
| | | Recommendation: |
| | | File 1 – Gutierrez |

Petitioner states, continued:

- Order Determining Construction of Trust Instrument and Instructing Trustee filed 9/19/2011 describes the nature of the interests of the parties with respect to the Reedley property under the terms of the Trust; the Court's order finds Renteria is the holder of a legal life estate in the property and is required to *[in brief sum, act as to the residence in a manner that a fee simple owner would normally act; not injure or harm the future interest holders; deliver to Antonette Gutierrez or her successors in interest possession of the residence upon termination of the life tenancy; keep the property in repair, pay taxes and other annual charges]*;
- Renteria presently occupies a portion of the residence located on the property and receives rent from leasing the remainder; Renteria has been derelict in his duties as holder of a life estate and has allowed the property to fall into a state of disrepair by failing to perform necessary repairs, neglecting to pay property taxes and insurance, and is therefore causing harm to the future interest held by the person designated to receive the remainder after Renteria's death;
- The Trust provides that the named beneficiaries' interests are not subject to voluntary or involuntary transfer;
- Apart from Renteria's life estate in the property, Petitioner believes he has no assets against which the judgment in favor of the Trust may be enforced, and that the value of Renteria's interest in the property is insufficient to satisfy the **[\$86,229.95]** money judgment entered against him.

Petitioner requests an Order that:

1. Petitioner, as Trustee of the Trust, is entitled to surcharge Renteria's remaining interest to (a) partially satisfy the money judgment entered in Case 07CECG03513, (b) pay for necessary repairs and maintenance on the property, and (c) pay all necessary expenses, including property taxes and insurance;
2. Petitioner is authorized and directed to take possession of the property, to lease the property for its reasonable rental value, collect all rents and profits received from the property, and apply the net income from all of the Trust property to the satisfaction of the **[\$86,229.95]** money judgment] until the judgment is satisfied in full, at which time all of the net income of the Trust shall be paid in convenient installments to Renteria; OR,
3. As an alternative to surcharge of the beneficiary's interest, the Trustee under Code of Civil Procedure § 709.010, shall lease the property for its reasonable rental value, and collect all rents and profits received therefrom and apply such funds to the satisfaction of the **[\$86,229.95]** money judgment]; or shall satisfy the judgment by such means as the Court in its discretion determines are proper, including imposition of a lien on or sale of the judgment debtor's interest, collection of trust income, and liquidation and transfer of trust property; and
4. Petitioner is awarded her attorneys' fees and costs.

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| <p>Nathaniel, 13</p> | <p>TALINA HURLEY, maternal grandmother, was appointed Guardian of the minors on 11/19/12</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> |
| <p>Scarlet, 10</p> | <p>On 05/27/14, Guardian's Petition to Fix Residence Outside the State of California was granted.</p> | <p>CONTINUED FROM 10/26/15 Minute Order from 10/26/15 states: Counsel represents that the Oregon court continued their matter to 11/30/15 to trail the juvenile case for Nathaniel.</p> |
| <p>Cont. from 012615, 030915, 060115, 062915, 080315, 083115, 102615</p> | <p>On 06/24/14, Debra Swenson, paternal grandmother, filed an Ex Parte Application for Temporary Restraining Order Preventing Guardian from Fixing Residence of Minors Outside of California and an Order Shortening Time on Petition to Terminate Order Fixing Minors Residence Outside of California. The Ex Parte Application was granted on 06/24/14 and set a hearing for 07/10/14.</p> | <p>Copy of document titled Acceptance of Appointment as Fiduciary filed 08/03/15 states that Talina Hurley was appointed Guardian on 07/30/15 and that she accepts the appointment and willingly subjects herself to the jurisdiction of the Oregon Court.</p> |
| <p>Aff.Sub.Wit.</p> | <p>At the 07/10/14 hearing, the matter was set for a court trial on 07/24/14.</p> | <p>1. Need order appointing Guardian in Oregon.</p> |
| <p>Verified</p> | <p>At the Court trial on 07/24/14, the Court found that there was no detriment in allowing the children to move to Oregon and set this matter for a Status Hearing regarding the Establishment of a Guardianship in Oregon.</p> | <p>Reviewed by: JF</p> |
| <p>Inventory</p> | <p>Cover Sheet for Oregon Petition for Appointment of Guardian and Attached Documents filed 02/17/15 attaches a copy of a Petition for Appointment of Guardian in Washington County, Oregon.</p> | <p>Reviewed on: 01/05/16</p> |
| <p>PTC</p> | <p>Status Report filed 12/08/15 states: since the last hearing, the Oregon court held a hearing on 11/30/15. The Oregon Judge set the matter for review on 06/27/16. The Oregon Judge also indicated that he had been in contact with Judge Kazanjian and that the California guardianship will remain in full force and effect until the Oregon mater gets set aside.</p> | <p>Updates:</p> |
| <p>Not.Cred.</p> | | <p>Recommendation:</p> |
| <p>Notice of Hrg</p> | | <p>File 4- Swenson</p> |
| <p>Aff.Mail</p> | | |
| <p>Aff.Pub.</p> | | |
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| <p>Duties/Supp</p> | | |
| <p>Objections</p> | | |
| <p>Video Receipt</p> | | |
| <p>CI Report</p> | | |
| <p>9202</p> | | |
| <p>Order</p> | | |
| <p>Aff. Posting</p> | | |
| <p>Status Rpt</p> | | |
| <p>UCCJEA</p> | | |
| <p>Citation</p> | | |
| <p>FTB Notice</p> | | |

Petitioner Marlene Smith (Pro Per, Co-Guardian)
 Petitioner Rick Smith (Pro Per, Co-Guardian)

Petition for Termination of Guardianship

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| | | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>CONTINUED to 2/8/2016</p> <p>Per Petitioners' request</p> |
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| | | Reviewed by: LEG |
| | | Reviewed on: 1/4/16 |
| | | Updates: |
| | | Recommendation: |
| | | File 6- Smith |

Probate Status Hearing RE: Filing of the First Account

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| DOD: 04/12/13 | <p>JEOFFERY SPEER, son, was appointed Administrator of the Estate without bond and with full IAEA on 11/18/13. Letters of Administration were issued on 11/20/13.</p> <p>On 10/07/14, at a status hearing regarding filing of the Inventory & Appraisal, the Court removed Jeoffery Speer as Administrator and, on its own motion, appointed the Public Administrator.</p> <p>Note: On 2-3-15, Jeoffery Speer, former Administrator, filed an Inventory and Appraisal; however, the document is incomplete.</p> <p>Minute Order from hearing on 02/09/15 set this matter for status regarding filing of the Account/Petition for Distribution.</p> <p>Status Report Regarding Final Distribution filed 12/30/15 states: The former administrator filed an Inventory & Appraisal on 02/03/15 listing two parcels of real property as the only assets of the estate. The address on the first parcel on N. Chance in Fresno is incorrect, but the APN is correct. The property at 6645 E. Cornell, Fresno was sold by Jeoffery Speer on 02/04/14 for \$258,730.00. The property was appraised at \$245,000.00. The N. Chance property is secured by a Deed of Trust from Fresno County Federal Credit Union (FCFCU). It appears that there is an impound account for the payment of taxes on this property. The PA visited the Speer property on N. Orchard. The property is occupied by a woman named Heidi Fail, she grew up with the Speer children and has an agreement to live in the property arranged by Eli Speer. She pays \$850.00 per month directly to Daniel Speer's account at FCFCU, which is why the property has not gone into foreclosure. The Public Administrators file contains a copy of an e-mail apparently written, printed and then signed by the decedent on the same day he was found deceased. The PA does not believe this is a valid will and intestate distribution will be the same as if it was a valid will. Jeoffery Speer's siblings all signed waivers of bond and therefore there is no bond from which to collect a judgment. Jeoffery Speer has not returned calls made to him. The PA will contact the other heirs to find out how they would like the PA to proceed, including possible surcharge against Jeoffery Speer. The PA will also contact the tenant to determine if she would like to buy the property. The PA requests the next status hearing be set no sooner than six months from this hearing.</p> | <p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>CONTINUED FROM 10/19/15</p> <p>1. Need Accounting/Petition for Final Distribution.</p> |
| Cont. from 101915 | | |
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| | <p>Reviewed by: JF</p> <p>Reviewed on: 01/05/16</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 9 – Speer</p> | |

15 Vivian Dorothy Vaughan (Estate) Case No. 15CEPR00143

Attorney Kruthers, Heather (for the Public Administrator)

Probate Status Hearing RE: Filing of the Inventory and Appraisal

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| DOD: 07/01/2006 | PUBLIC ADMINISTRATOR , was appointed Administrator with full IAEA authority on per minute order of 08/10/2015. | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Inventory and Appraisal or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p> | |
| | Letters issued 12/11/2015. | | |
| Cont. from | Minute Order of 08/10/2015 set the Status Hearing for the filing of the Inventory and Appraisal. | | |
| Aff.Sub.Wit. | | | |
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| Inventory | | | |
| PTC | | | |
| Not.Cred. | Minute Order states: The Court appoints the Public Administrator forthwith due to the Petitioner's inability to post bond and the fact that no other family member wishes to act at this time. | | |
| Notice of Hrg | Jonathan Vaughn and Donna Standard are ordered to turn over any and all oral and written information pertaining to the estate to the Public Administrator forthwith. Letters are to issue from the minute order. | | |
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| | | | Reviewed by: LV |
| | | | Reviewed on: 01/05/2016 |
| | | Updates: | |
| | | Recommendation: | |
| | | File 15- Vaughan | |

Petitioner states, continued:Confirmation of Norwich Residence as SURVIVOR'S TRUST property (Heggstad Petition):

- During Ms. Novak's life, their principal residence on Norwich Ave. in Clovis was not transferred to the Family Trust but was held by Mr. and Ms. Novak as joint tenants;
- After Ms. Novak's death, it appears that it was mistakenly believed that the Norwich residence was already titled in the Family Trust, as evidenced by Attorney Mara Erlach filing an *Affidavit of Death of Trustee (copy attached as Exhibit C)*, as opposed to an *Affidavit of Death of Joint Tenant*;
- In addition, Attorney Erlach had Mr. Novak execute a Grant Deed which purported to transfer the Norwich Residence from the Family Trust to the Survivor's Trust (*copy attached as Exhibit D*);
- Notwithstanding the execution and recordation of the Affidavit of Grant Deed, title to the Norwich residence is still vested in Mr. Novak as surviving joint tenant, as confirmed by a title report prepared by a title company at Trustee's request;
- Petitioner requests that the Norwich property be confirmed as an asset of the **SURVIVOR'S TRUST** under the [*Heggstad*] doctrine which held that real property not actually titled by way of deed in the name of the settlor's living trust did in fact constitute trust property as a result of the declaration and intent of the settlors that the property be trust property;
- While Mr. and Ms. Novak did not attempt to transfer the Norwich residence to their Family Trust during their joint lifetimes, it is clear that Mr. Novak wanted to, and in fact attempted to transfer, the Norwich residence to his **SURVIVOR'S TRUST**;
- Not only did Mr. Novak sign and have recorded an Affidavit and Grant Deed attempting to actually convey the Norwich residence to his **SURVIVOR'S TRUST**, but the language in his **SURVIVOR'S TRUST** also clearly demonstrates his desire to transfer the property to his **SURVIVOR'S TRUST**;
- It is important to note that Mr. Novak has a pour-over will that if probated would require the assets not held in trust to be transferred and allocated to his **SURVIVOR'S TRUST (copy of will attached as Exhibit E)**;
- Thus, Petitioner requests that this Court confirm that the Norwich residence is property subject to the **SURVIVOR'S TRUST** and under the control of Petitioner as [Successor] Trustee of the **SURVIVOR'S TRUST**.

Construction of FAMILY TRUST/RESIDUAL TRUST, Section 12(a): Petitioner also requests guidance and instruction on interpreting the **NOVAK FAMILY TRUST** so that the Trustee can make appropriate distributions from the **RESIDUAL TRUST**;

- Mr. Novak had no children or issue of his own; Ms. Novak had one son, **RICHARD E. CONLEY**, from a prior relationship;
- **RICHARD E. CONLEY** was first married to **BARBARA CONLEY** and had one child: **LEANNE MARTIN aka LEANNE CHRISTINE CONLEY**;
- **RICHARD E. CONLEY** was later married to **ELIZABETH CONLEY** and had one child: **RICHARD (RICKY) A. CONLEY**;
- Thus, Mr. Novak had one step-son and two step-grandchildren [*Page 5 of Petition includes table listing chronological births and deaths and changes to Mr. Novak's estate plan*];

~Please see additional page~

Petitioner states, continued:

- The **NOVAK FAMILY TRUST** dictates that at the surviving settlor's death, the trust estate is to be divided into one trust share for **RICHARD** and one trust share for **LEANNE**;
- Trust further provides that the Trustee is to pay or apply for the benefit of Richard and Leanne, for their lives, net income from his or her respective share of the trust estate, along with discretionary distributions of principle from their trust shares;
- Trust further provides that upon the death of Richard or Leanne, the residue of their respective trust shares is to pass to the trust share of the survivor of the two of them;
- However, as written, the trust language does create confusion as to what is to happen to the share that was to be allocated to Richard if Richard predeceased *[emphasis in original]* the surviving settlor, which is what happened in this case; **[Richard's date of death is 6/20/2003; Mr. Novak's date of death is 5/4/2015]**;
- While the reading of the Trust creates the impression that Leanne is to inherit Richard's share, there is a colorable argument that California's anti-lapse statute might apply in this case;
- While Petitioner believes that Leanne is the sole beneficiary of the **RESIDUAL TRUST** due to its terms and extrinsic evidence of Mr. Novak's intent, there is sufficient ambiguity that Petitioner seeks this Court's assistance and instruction on the proper interpretation of these trust terms;
- If the anti-lapse statute is deemed to apply, then Richard's issue will receive his share of the trust estate, namely, Leanne and her half-sibling, Ricky;
- The question is whether Leanne is the sole beneficiary of the **RESIDUAL TRUST** or whether as a result of the anti-lapse statute, Leanne is a **75%** beneficiary with Ricky receiving the other **25%**;
- **Support that the Anti-Lapse Does Not Apply:** Petitioner believes that the language in the **RESIDUAL TRUST** as well as extrinsic evidence showing settlor's intent, is sufficient to overcome any application of Probate Code § 21110, California's anti-lapse statute;
- A plain reading of Trust Section 12(a)(1)(B) of the **RESIDUAL TRUST** makes clear that upon the death of Richard, his share is to be allocated to Leanne and added to her trust share as the survivor of the two of them; this trust provision explicitly includes a survivorship requirement, requiring that the estate pass to the trust of the "survivor" of Richard or Leanne; thus, this provision is adequate to demonstrate that the Novaks wanted Leanne to inherit Richard's share, whether or not he may have predeceased the surviving Settlor; in other words, Leanne was to be the sole beneficiary if Richard was dead or later died;
- This language is sufficient to meet the statutory test under Probate Code § 21110(b) to avoid application of the anti-lapse statute as the instrument "expresses a contrary intention" to the application of the anti-lapse statute and even includes a survivorship condition which is sufficient to avoid application of the anti-lapse rules;
- To apply the anti-lapse statute would defeat the settlors' intent and would create a curious distribution scheme that the settlors did not anticipate or desire; if the anti-lapse statute is deemed to apply, then the trust share allocated to Richard would instead pass to his children in equal shares, namely Leanne and Ricky; but if Richard did not predecease the surviving settlor then his share would have passed entirely to Leanne; clearly, the settlors would not have drafted the trust to call for a **100%** allocation to Leanne at Richard's death, but only if Richard survived the settlors;
- In addition to the trust provisions as mentioned that indicate Leanne is the sole beneficiary of the **RESIDUAL TRUST** there exists persuasive extrinsic evidence to suggest that the Novak's intended Leanne to be, and in fact believed she was, the sole beneficiary of the **RESIDUAL TRUST** in light of Richard's death;

~Please see additional page~

Petitioner states, continued:

- After Ms. Novak's death, Mr. Novak engaged in estate planning with Attorney Mara Erlach, which resulted in the execution of a revised and restated stand-alone **SURVIVOR'S TRUST** (please see Exhibit B);
- Notably, Mr. Novak's **SURVIVOR'S TRUST** was amended and restated so as to completely remove Leanne as a beneficiary and to instead insert **RICKY** (Richard E. Conley's son) as a **25%** beneficiary (along with Leanne's 3 children with each of them added as **25%** beneficiaries);
- Petitioner believes Mr. Novak removed Leanne as a beneficiary of the **SURVIVOR'S TRUST** because it was his intent and understanding that Leanne was a 100% beneficiary of the **RESIDUAL TRUST**;
- In a letter dated 10/24/2006 from Attorney Mara Erlach to Mr. Novak, Ms. Erlach explains the **SURVIVOR'S TRUST** provisions stating: "You have chosen not to provide for Leanne Conley in your trust, since she will be receiving the entire share of Donna's property from the **RESIDUAL TRUST** when you pass away." [Emphasis added in Petition]; (copy of Ms. Erlach's letter attached as Exhibit F);
- While one could conceivably argue that the anti-lapse statute should apply in this instance, the wording of the **RESIDUAL TRUST** makes it clear that Leanne is the sole beneficiary of said trust and the survivorship requirement of the trust is sufficient to meet the exception to the anti-lapse rule found in Probate Code § 21110(b);
- This position is further confirmed by the extrinsic evidence which demonstrates that Mr. Novak believed and intended Leanne to be the sole beneficiary of the **RESIDUAL TRUST** and acted upon such belief and intention so as to alter his other estate documents in light of this belief and intention.

Construction of FAMILY TRUST/RESIDUAL TRUST, Section 12(c): Petitioner also requests guidance and instruction on interpreting the **NOVAK FAMILY TRUST** so that the Trustee can make appropriate distributions from the **RESIDUAL TRUST** at the death of **LEANNE CHRISTINE CONLEY (MARTIN)**;

- There is ambiguity as to what is to happen to Leanne's trust share under the **RESIDUAL TRUST** at her death;
- While Trust Section 12(a) of the **RESIDUAL TRUST** provides that upon her death her share would pass to Richard, if he survived, that provision cannot apply here because Richard is already deceased; thus the only provision that appears to apply is Section 12(c);
- Because Richard is not alive, if Leanne dies while there are still assets in her share of the **RESIDUAL TRUST** then Section 12(c) apparently provides that her share is to pass to "other children and issue hereunder";
- It is not clear what is exactly meant by the phrase "other children and issue hereunder" as the Trust only refers to Richard and Leanne explicitly;
- In light of the ambiguity of this statement, Petitioner requests that the phrase "other issue hereunder" be interpreted to mean Leanne's issue;
- This is in accordance with the general statutory principle that "words of an instrument are to receive an interpretation that will give every expression some effect" and that "[preference is to be given to an interpretation of an instrument that will prevent intestacy or failure of transfer]" (see Probate Code § 21120);
- Thus, Petitioner requests confirmation that upon Leanne's death, her share of the **RESIDUAL TRUST** assets shall pass to her issue by right of representation.

~Please see additional page~

Construction of SURVIVOR'S TRUST, Article SIX, Section A(5): Petitioner also requests guidance and instruction on interpreting Article Six, Section (A)(5) of the **SURVIVOR'S TRUST**, as included in that certain First Amendment dated 4/9/2007; this section was added to the trust by an amendment; (see *Exhibit B*):

- It is Petitioner's belief that Mr. Novak was desirous that Leanne be given the right to live in the Norwich Residence, rent-free, for her lifetime;
- Because the **SURVIVOR'S TRUST** does not explicitly mention the requirement that rent be charged, but instead simple states that the Trustee "allow" the Norwich residence "to be used by" Leanne, Petitioner believes that the Trustee is not authorized to charge rent to Leanne should she choose to reside in the Norwich residence;
- In addition, Petitioner believes that property taxes and insurance on the Norwich Residence, as an asset of the **SURVIVOR'S TRUST**, would be paid by the Trustee from trust funds and not charged to Leanne; however, Petitioner believes that Leanne would be responsible for the payment of all utilities of the Norwich Residence while she resided therein;
- Petitioner requests confirmation that Leanne is authorized to reside in the Norwich Residence rent-free and shall only be responsible for the payment of utilities.

Petitioner prays for an Order of this Court:

1. *[Confirming that]* the Norwich Residence constitutes an asset of the **VLADIMIR NOVAK REVISED AND RESTATED SURVIVOR'S TRUST** subject to the management and control of Petitioner as [Successor] Trustee;
2. *[Deeming]* **LEANNE CHRISTINE CONLEY (MARTIN)** as the sole beneficiary of the **RESIDUAL TRUST**;
3. *[Confirming that]* upon Leanne's death, Leanne's share of the trust estate in the **RESIDUAL TRUST** shall pass to Leanne's issue by right of representation;
4. *[Confirming that]* the Trustee of the **VLADIMIR NOVAK REVISED AND RESTATED SURVIVOR'S TRUST** is authorized and allowed to permit Leanne the right to reside in the Norwich Residence (or any replacement residence as indicated in [trust terms], without charge of rent, with Leanne being responsible for the payment of utilities on said residence during the time she resides in said residence (or any replacement residence; and
5. Determining that with respect to the Petition, the interests of the minor beneficiary are adequately represented without appointment of a guardian ad litem. *[NOTE: This finding is omitted from the proposed order; it is unclear if this is intentional or clerical error.]*

Note Re Appointment of Guardian ad Litem: *Petition* states that one of the **SURVIVOR'S TRUST** beneficiaries, **TAWNI REANNE FORSTON**, (daughter of Leanne) is a minor; the other three beneficiaries are adults; because all four beneficiaries will have an equal $1/4$ interest in the **SURVIVOR'S TRUST** they each have identical interests in the **SURVIVOR'S TRUST** and thus the minor's interests are adequately represented by the other 3 adult beneficiaries and no guardian ad litem is needed. (See the discussion of doctrine of virtual representation in *CA Trusts and Estates Quarterly*, winter 2004 [citations omitted]). Probate Code § 1003(a) provides, in pertinent part, that the Court may, on its own motion, appoint a Guardian ad Litem to represent the interests of a minor if the Court determines that representation of the interest otherwise would be inadequate. Probate Code commentary to statutory provisions related to trust matters states it may not be necessary to appoint a guardian ad litem where appears that the affected interest, here consisting of the minor beneficiary's equal $1/4$ interest, may be otherwise represented, i.e., by competent adults with identical interests.