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.

Dept. 303, 9:00 a.m. Monday, January 11, 2016

1 Erlinda Gutierrez Trust dated 6/21/2005 Case No. 11CEPR00097

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

DOD: 10/7/2005		
Cont. from 081015, 092115, 110915		
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	Order	X
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	FTB Notice	

ANTONETTE GUTIERREZ, daughter and Successor Trustee, is Petitioner.
Petitioner states:

- 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;

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

<u>Continued from 11/9/2015</u>. *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.

<u>Notes</u>:
- *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.

The following issue from the last hearing remains:
1. 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.

Reviewed by: LEG
Reviewed on: 1/4/16
Updates:
Recommendation:
File 1 – Gutierrez

<u>Petitioner states, continued</u>:

- *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.

2 Selvie Hemison Mitchell (CONS/PE) Case No. 12CEPR00172

Atty **Summer Johnson of Dowling, Aaron Inc., (for Petitioners Kate Singh and Hubert Mitchell, Co-Conservators of the Person)**

Atty **Robert D. Wilkinson, of Baker Manock & Jensen (for Petitioner Bruce D. Bickel, Conservator of the Estate)**

Petition for Approval of Third Account and Report of Conservator of the Estate; Request for Approval of Payment of Conservators Fees; Request for Approval; of Payment of Conservators' Attorney's Fees and Reimbursement of Costs Advanced; Request for Approval to Execute option Agreement and to Independently Exercise Power to Sell Kern County Real Property; Request for Approval to Reimburse expenses of Co-Conservators of the Person.

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	2620(c)	X
	Order	X
	Aff. Posting	
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	UCCJEA	
	Citation	
	FTB Notice	

KATE A. SINGH, niece, and **HUBERT MITCHELL**, brother, Co-Conservators of the Person, and **BRUCE BICKEL**, Conservator of the Estate, are Petitioners.

Account period: 7/1/2014 – 6/30/2015

Accounting	-	**$1,237,215.62**
Beginning POH	-	**$1,135,256.98**
Ending POH	-	$1,028,357.79
		($200,008.69 is cash)

Conservator/Person - **Not requested**

Conservator/Estate - **$12,143.10** (per itemization and declaration 97.51 hours at $150 per hour for fiduciary and transactional services, $110 - $125 per hour for case management services and $60 per hour for case services.)

Attorney for Conservator/Person - **$9,762.50** (per itemization and declaration for preparation of the accounting and review and analysis of option agreement. 41 hours @ $275/hr.)

Attorney costs - $**561.75** (filing fee and photocopies)

Current Bond - **$966,000.00** *(is sufficient)*

NEEDS/PROBLEMS/COMMENTS:

1. This accounting was prepared by attorney Summer Johnson, attorney for the co-conservators of the person. It is unclear why the attorney for the co-conservators of the person is preparing the accounting and not the attorney for the conservator of the estate. Court may require clarification.

2. Need bank statements pursuant to Probate Code §2620(c)(2).

3. Need care facility statements pursuant to Probate Code §2620(c)(5).

4. Costs include $126.75 in copy charges. Local Rule 7.17B states the court considers copy charges to be a normal cost of doing business and therefore are not reimbursable.

5. Need Order.

Reviewed by: KT

Reviewed on: 1/4/16

Updates: 1/7/15

Recommendation:

File 2- Mitchell

Petitioner states in the Spring of 2015, Mr. Bickel was approached by Recurrent Energy regarding entering into an Option Agreement for the sale of 2 parcels of real property belonging to the conservatorship estate ("Option Properties"). Recurrent Energy is interested in obtaining an Option Agreement in order to purchase the Option Properties for the purpose of developing a "solar farm."

The Option Properties were appraised by the probate referee as of the date of the establishment of the conservatorship as follows:

19.55 acres in Kern County appraised at $35,000.00 and 9.55 acres in Kern County appraised at $19,000.00.

Recurrent Energy proposes to purchase the Option Properties at $12,500.00 per acre. Consequently the sales price for the 19.55 acre property would be $244,375.00 and the sales price for the 9.55 acre property would be $119,375.00.

Recurrent Energy proposes to pay non-refundable option payments totaling $70,000 over 30 months following court approval (schedule outlined in pleadings).

Mr. Bickel believes that it is in the best interest of the Conservatorship to execute the Option Agreement as the Option Properties are currently undeveloped, not productive, not currently located in the pathway of any other type of commercial development and costs the conservatorship estate ongoing maintenance in the form of annual property taxes.

Mr. Bickel further requests the authority to reimburse the Co-Conservators of the person for travel related expenses to visit the conservatee. Mr. Mitchell and Ms. Singh, the Co-Conservators of the person, each reside outside the State of California. Mr. Mitchell and Ms. Singh believe that it is in the Conservatee's best interest that, in addition to the monitoring of his care by regular telephone and e-mail contact with his care providers at Cottonwood Court, that they visit the Conservatee, on a minimum, a quarterly basis in order to view firsthand his care and well-being. Mr. Mitchell and Ms. Singh estimate that the following amounts would be incurred by one (1) of them each quarter to visit the conservatee:

Flight (roundtrip): $600.00
Rental car: $400.00
Hotel (4 nights x 125/night): $500.00
Total amount: $1,500.00

With Court approval and authorization as requested herein, Mr. Bickel is in agreement with providing reimbursement, without additional court approval, to the Co-Conservators of the person, on a quarterly basis, for travel related expenses up to the amount of $1,500.00.

Petitioners pray for an order that:

1. The Third Account and Report be settled, allowed, and approved as rendered, and all acts and transactions of Bruce Bickel set forth in it, or relating to the matters set forth in it, be ratified, confirmed and approved;
2. The Conservator of the Estate be authorized to pay himself compensation for services rendered in the amount of $12,143.10;
3. The Conservator of the Estate be authorized to pay Dowling Aaron Inc. in the amount of $9,762.50 for legal services rendered and $561.75 for costs for costs advanced for a total amount of $10,324.25;

Please see additional page

4. The Conservator of the Estate be authorized under Probate Code §2590 and 2591(b) to execute an Option Agreement form Recurrent Energy in the form attached as Exhibit "C";
5. The Conservator of the Estate be authorized under Probate Code §2590 and 2591(b) to independently execute the power to consummate the sale of the Option Properties consistent with the terms of the Option Agreement, without prior court approval or authorization;
6. The Conservator of the Estate be authorized to reimburse, on a quarterly basis, without further Court approval, the Co-Conservators of the Person, for travel related expenses up to the amount of $1,500.00, incurred by the Co-Conservator's of the Person to visit the Conservatee, upon presentation of appropriate documents and receipts supporting the expenses incurred.

Court Investigator Jennifer Daniel's Report filed 7/7/2015.

Note: If the petition is granted, a status hearing will be set as follows:

- **Wednesday, September 13, 2017** at 9:00 a.m. in Department 303, for the filing of the fourth account.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.

3 Olivia T. Issa (Estate) Case No. 12CEPR00197

Attorney Feist, Raymond Frank, Jr.

Waiver of Account and Report of Executor, Petition for Order Approving Acts of the Executor, as Reported Herein; For Statutory Attorneys' Fees, Extraordinary Attorney's Fees; Waiver of Executor's Commission; Request for Judicial Notice of Proceedings Held In the San Diego County Superior Court, Estate of Olivia Issa, Case No. 37-2013-00036170-PR-OP-CTL, Including, But Not Limited To the Minute Orders Dated 1/9/15 and 9/11/15; and For Final Distribution Under Will

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DOD: 4/28/01

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MAY ISSA LORAH, Daughter and Executor with Full IAEA without bond, is Petitioner.

Accounting is waived.

I&A: $1,320,000.00
POH: $1,320,000.00 (a 50% community property interest in a 25% interest in Quetico, LLC valued at $2,640,000.00)

Executor waives compensation

Attorney (statutory): $26,200.00

Judicial Notice: It is requested that the Court take judicial notice of the proceedings held in San Diego Superior Court, Estate of Olivia Issa, Case No. 37-2013-00036170-PR-OP-CTL, including, but not limited to, the Minute Orders dated 1/9/15 and 9/11/15.

Attorney (Extraordinary): $24,810.00 (for 79.3 attorney hours @ $300/hr plus 6.8 paralegal hours @ $150/hr, itemized at Declaration filed 11/3/15 in connection with litigation the 850 Petition in Fresno and San Diego)

Petitioner states all attorney fees will be paid by the trust.

Distribution pursuant to Decedent's Will: May Issa Lorah and Marwan Mark Issa, Co-Trustees of the Issa Family Trust dated June 24, 1999: Entire estate
</td>
<td>
NEEDS/PROBLEMS/COMMENTS:

1. Petitioner states the only asset of this estate is the asset valued on the I&A filed 7/9/12, later declared to be the Final I&A, the Decedent's 50% community property interest in a 25% interest in Quetico, LLC valued at $1,320,000.00, and states that asset is on hand for distribution to the trust per the Decedent's will.

The Minute Order from San Diego Superior Court at Exhibits B indicates the Court ruled that the Quetico asset was the community property of the decedent and her spouse.

However, the Minute Order at Exhibit C, states: "The Court orders as follows:
1. Ownership of the decedent Olivia Issa a <u>10% Interest</u> in Quetico is confirmed;
2. The Estate of Murched Mike Issa has no interest in Quetico LLC."

Therefore, need clarification re Property On Hand: Does this estate contain a 50% community property interest in a 25% interest in Quetico, LLC (which would translate to a 12.5% interest)
<u>or</u> does the estate now own only a 10% interest per the minute order for distribution to the trust?

Reviewed by: skc
Reviewed on: 1/7/16
Updates:
Recommendation:
File 3- Issa
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4 Nathaniel Swenson & Scarlet Swenson Case No. 12CEPR00833

Atty Fanucchi, Edward L. (for Talina Hurley – maternal grandmother/Guardian)

Status Hearing Re: the Establishment of a Guardianship in Oregon

Nathaniel, 13

Scarlet, 10

Cont. from 012615, 030915, 060115, 062915, 080315, 083115, 102615

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	Citation	
	FTB Notice	

TALINA HURLEY, maternal grandmother, was appointed Guardian of the minors on 11/19/12

On 05/27/14, Guardian's Petition to Fix Residence Outside the State of California was granted.

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.

At the 07/10/14 hearing, the matter was set for a court trial on 07/24/14.

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.

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.

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.

NEEDS/PROBLEMS/COMMENTS:

<u>CONTINUED FROM 10/26/15</u>
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.

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.

1. Need order appointing Guardian in Oregon.

Reviewed by: JF

Reviewed on: 01/05/16

Updates:

Recommendation:

File 4- Swenson

5 **Ivone Carlson (Estate)** **Case No. 13CEPR00294**

Attorney Teixeira, J. Stanley
Attorney Hinshaw, Caroline K

Status Hearing Re: Filing Second and Final Account or Petition for Final Distribution.

				NEEDS/PROBLEMS/COMMENTS: **OFF CALENDAR** **Continued to 2/17/16 per Minute Order 1/5/16.**
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	Aff. Posting			**Reviewed by:** skc
	Status Rpt			**Reviewed on:** 1/5/16
	UCCJEA			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 5- Carlson**

5

6 Rick Gerald Smith III (GUARD/P) Case No. 13CEPR00311

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

Petition for Termination of Guardianship

				NEEDS/PROBLEMS/COMMENTS: **CONTINUED to 2/8/2016** **Per Petitioners' request**
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	Status Rpt			**Reviewed on:** 1/4/16
	UCCJEA			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 6- Smith**

6

7 **Patricia Stott (CONS/PE)** **Case No. 13CEPR00432**

Attorney **Shahbazian, Steven L. (for Brooke A. Castle – Conservator/Petitioner)**

Probate Status Hearing RE: Transfer of Personal Property

DOD: 01/08/15 **Cont. from** Aff.Sub.Wit. 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 Order Aff. Posting Status Rpt UCCJEA Citation FTB Notice	**BROOKE A. CASTLE**, Granddaughter, was appointed Conservator of the Person and Estate on 8-15-13. Conservator's Second and Final Account was approved on 11/09/15. The Order Settling Second and Final Account authorized the conservator to transfer the balance of the property on hand, after payment of authorized fees, to Clayton James Stott, Successor Trustee of THE PATRICIA STOLL GREGORY STOLL SURVIVOR'S TRUST. An affidavit pursuant to Probate Code §§ 13100 – 13116 by Clayton James Stott was filed 10/19/15. **Minute Order from 10/19/15** set this status hearing regarding transfer of personal property.	**NEEDS/PROBLEMS/COMMENTS:** 1. Need status update regarding transfer of personal property. **Reviewed by:** JF **Reviewed on:** 01/06/16 **Updates:** **Recommendation:** **File 7- Stott**

8A Gene Ray Chance (Estate) Case No. 13CEPR00612

Attorney **Standard, Donna M (for Walter Sherwood Chance – Petitioner - Executor)**

Amended First Account and Report of Status of Administrator of Estate Gene Ray Chance

DOD: 10/16/2015			**WALTER SHERWOOD CHANCE**, Executor, with limited IAEA authority, is petitioner. Account period: 07/12/2013 - 07/30/2015 Accounting - **$145,375.95** Beginning POH - **$136,373.49** Ending POH - **$143,387.62** ($8,387.62 is cash) Executor – Not requested at this time Attorney – Not requested at this time **Petitioner states:** the estate is not in a condition to be closed at the present time until a sale of real property has occurred. At time of sale petitioner would request that upon confirmation of the sale and receipt of all proceeds from the sale of the real property that those funds be distributed pursuant to the Private Covenant/Contract which has been deemed the Last Will of Decedent, Gene Ray Chance. **Petitioner requests:** reimbursement for costs advanced in the amount of $21,830.91 for payments of costs for the benefit of the estate after the sale of real property. **Wherefore:** 1. Petitioner requests the Amended First Account and Report of Administrator be allowed and approved as filed; 2. The costs of this proceeding be ordered paid by the estate in portions determined by the Court at the time of closing the estate. 3. For such other and further order the Court may deem just and proper.	**NEEDS/PROBLEMS/COMMENTS:** **Minute Order of 11/09/2015: Matter is continued due to the defects listed in the Examiner's notes, which are to be addressed before the next hearing.** **The following issues remain:** 1. Court order dated 09/20/2013 requires all estate funds are ordered to be placed in a blocked account. The petition asserts that the cash amounts presently in the Estate are now held by Sabine State Bank and Trust in a blocked interest bearing account. The cash had previously been held in a regular account despite the Court's order which required all estate funds to be placed in a blocked account. It appears that the Court has never been provided a Blocking order. Need Order to Deposit Money into Blocked Account, mandatory Judicial Council Form MC-355 and Receipt for Blocked Account, mandatory Judicial Council form MC-356. 2. Petitioner's signature on the corrected Inventory and Appraisal filed 08/03/2015 appears to be a color copy and not an original signature as required. 3. Petition states the balance on hand is $145,375.95, however the Schedule 4 lists total property on hand is $143,387.62. Need clarification. <u>**Please see additional page**</u>
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✓	**9202**			
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	Aff. Posting			**Reviewed by:** LV
	Status Rpt			**Reviewed on:** 01/07/2016
	UCCJEA			**Updates:**
	Citation			**Recommendation:**
✓	**FTB Notice**			**File 8A – Chance**

3. Order appointing personal representative orders all funds of the estate to be placed in a blocked account. Accounting shows income from rents in the amount of $9,002.46 and disbursements of $1,988.33. The purpose of the blocked account is so that the funds of the estate are protected and all withdrawals from blocked account are to be approved by the Court. It appears that disbursements have been made without a Court order.

4. Need Notice of Hearing on Mandatory Judicial Council Form with proof of service on all interested parties.

5. It appears that petitioner is requesting that he be reimbursed for costs advanced in the amount of $21,830.91 for payments of cost for the benefit of the estate, however it is not included in the prayer of the petition.

6. If petitioner is requesting reimbursement in the amount of $21,830.91 it should be included in the *"it is so ordered"* portion of the order. Need new order.

7. #5 of the Order includes the following statement, "any other property not now know or discovered that may belong to the estate or decedent or in which the decedent or estate has an interest should be distributed pursuant to the Private Contract/Covenant, which the Court has accepted as the Last Will Ray Chance," this statement should be included in the final distribution order not the order for the first account. Need new order.

8B Gene Ray Chance (Estate) Case No. 13CEPR00612

Attorney Standard, Donna M (for Walter Sherwood Chance – Petitioner - Executor)

Probate Status Hearing RE: Receipt for Blocked Account

DOD: 10/16/2015			**WALTER SHERWOOD CHANCE**, Executor, with limited IAEA authority, is petitioner. Letters issued on 11/26/2013 Minute Order of 11/09/2015 set this Status Hearing for the filing of the Receipt for Blocked Account.	**NEEDS/PROBLEMS/COMMENTS:** 1. Need Receipt for Blocked Account. **Note:** Court order dated 09/20/2013 requires all estate funds are ordered to be placed in a blocked account.
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	Status Rpt			**Reviewed on:** 01/07/2016
	UCCJEA			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 8B- Chance**

8B

Attorney **Kruthers, Heather H. (for Public Administrator)**

Probate Status Hearing RE: Filing of the First Account

DOD: 04/12/13 **Cont. from 101915** Aff.Sub.Wit. 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 Order Aff. Posting Status Rpt UCCJEA Citation FTB Notice	**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. 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. **Note:** On 2-3-15, Jeoffery Speer, former Administrator, filed an Inventory and Appraisal; however, the document is incomplete. **Minute Order from hearing on 02/09/15** set this matter for status regarding filing of the Account/Petition for Distribution. **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.	**NEEDS/PROBLEMS/ COMMENTS:** **<u>CONTINUED FROM 10/19/15</u>** 1. Need Accounting/Petition for Final Distribution. **Reviewed by:** JF **Reviewed on:** 01/05/16 **Updates:** **Recommendation:** **File 9 – Speer**

Attorney Nunez, Henry D. (for Estella Garza and Raquel Nanez – Administrators/Petitioners)

First and Final Account Report of Administrators Regarding Estate and Petition for Settlement, Distribution, and Approval

DOD: 09/28/11			**ESTELLA GARZA** and **RAQUEL NANEZ,** Administrators, are Petitioners. Account period: 09/28/11 – 10/30/15 Accounting: Does not balance Beginning POH: $310,000.00 Ending POH: $305,029.13 Administrator: waived Attorney: waived **Distribution, pursuant to intestate succession, is to:** Nicolas Garza Garza – 1/10th Rojelia Garza Gonzalez – 1/10th Estella Garza Garza – 1/10th Anna Garza Lopez – 1/10th Rachel Garza Nanez – 1/10th Alicia Garza Azua – 1/10th Delia Garza Gonzalez – 1/10th Irasema Garza Gonzalez – 1/10th David Garza Garza – 1/10th Teodoro Garza Garza – 1/10th	**NEEDS/PROBLEMS/COMMENTS:** 1. The accounting does not balance. The Total charges and total credits should match. Need amended Petition. 2. The property on hand for distribution includes two parcels of real property. The Petition states that each beneficiary is to receive 1/10th of the estate. If real property is to be distributed in undivided interests, need written consent of all distributees pursuant to Local Rule 7.12.4. 3. Need Order. **Note:** All orders or decrees in probate matters must be complete in themselves. Orders shall set forth all matters ruled on by the court, the relief granted, and the names of persons, descriptions of property and/or amounts of money affected with the same particularity required of judgments in general civil matters. Monetary distributions must be stated in dollars, and not as a percentage of the estate.
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	Letters	10/03/14		
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
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	Order	x		
	Aff. Posting			**Reviewed by:** JF
	Status Rpt			**Reviewed on:** 01/06/16
	UCCJEA			**Updates:**
	Citation			**Recommendation:**
✓	**FTB Notice**			**File 10- Garza**

12 Fran Mae Johns (Estate) Case No. 14CEPR00073

Executor Johns, Dennis H (Pro Per)

Probate Status Hearing Re: Filing First Account and/or Petition for Final Distribution

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DOD: 01/14/2008

Cont. from 082815, 101915

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	FTB Notice	

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DENNIS H. JOHNS, son, was appointed Executor with limited IAEA authority without bond on 06/23/2014.

Letters issued on 06/23/2014.

Final Inventory & Appraisal filed 11/04/2014 shows an estate valued at $260,000.00.

Final Corrected Inventory & Appraisal filed 01/04/2016 shows an estate valued at $302,376.62.

Minute Order of 06/23/2014 set this status hearing for the filing of the First Account and/or Petition for Distribution.

Status Report of Melvin K. Rube filed 10/15/2015 (for hearing on 10/19/2015) states he has been retained by the executor, Dennis Johns, who resides in Sterling, Alaska, to prepare and file on his behalf, a first and final report and accounting and petition for final distribution. Attorney Rube has reviewed the file provided by the Executor and has determined that before a first and final accounting can be filed, a supplemental Inventory and Appraisal needs to filed.

Mr. Rube states he is having knee replacement surgery on 10/22/2015 and will be out of his office for at least two weeks. Therefore, Mr. Rube requests a 90 day continuance of this matter so that a Supplemental Inventory and Appraisal can be filed and a first and final report and account and petition for distribution prepared and filed with the Court.

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NEEDS/PROBLEMS/COMMENTS:

<u>OFF CALENDAR.</u>
<u>First and Final Account filed 01/07/2016. Hearing is set for 02/23/2016.</u>

Minute Order of 10/19/2015: Mr. Rube was just recently retained.

1. Need First Account or Petition for Final Distribution 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.

Reviewed by: LV

Reviewed on: 01/06/2016

Updates: 01/07/2015

Recommendation:

File 12 - Johns

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13 Lorraine Keehn (CONS/PE) Case No. 14CEPR00474

Attorney **Jerry Casheros; Anil Pai (for Movant Richard Natividad)**

Notice of Motion and Motion for Order Awarding Attorney's Fees

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	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

RICHARD NATIVIDAD, son, is Movant, and moves this Court for an order awarding him reasonable attorney's fees related to his opposition to the petition for temporary guardianship and efforts to secure proper care for the Conservatee, based upon the following:

- This motion is made pursuant to the equitable principles of the Probate Code, and upon the grounds that the Petitioner conferred a substantial benefit on Conservatee by and through his involvement in these conservatorship proceedings, and thus should receive his reasonably incurred legal fees and costs;
- Petitioner requests that the Court order payment of attorney's fees [*and costs totaling **$24,751.58***], as reasonably related to his efforts to serve the best interest of the Conservatee, and thus recoverable under the Probate Code; additionally, Petitioner requests his further fees incurred related to this Motion;
- Motion is based on the Notice, accompanying Declaration of Jerry Casheros, *Memorandum of Points and Authorities*, any filed reply, all evidence and argument at hearing, on pleadings and documents in Court's file, and on any further matters brought to the Court's attention on or before hearing.

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

Note: Attorney **LEE S.W. COBB** represents Conservator, **ROCHELLE ROSENBALM**, spouse of Conservatee's grandson, who also serves as Trustee of the **LORRAINE KEEHN 2014 REVOCABLE TRUST.**

1. Movant requests attorney fees and costs be paid from the Conservatorship Estate without indicating the source of payment, which information the Court may require due to the insufficiency of cash in the estate, as evidenced by the *Final Inventory and Appraisal* filed 11/3/2015 showing a Conservatorship Estate value of **$218,891.19**, consisting of stock, personal property, and **~$8,800.00** in cash.

~Please see additional page~

Reviewed by: LEG

Reviewed on: 1/6/16

Updates:

Recommendation:

File 13- Keehn

13 Additional Page, Lorraine Keehn (CONS/PE) Case No. 14CEPR00474

***Memorandum of Points and Authorities* filed 11/4/2015, contains the following exhibits, and provides background, in sum:**

- **Exhibit A:** Copy of *Points and Authorities in Opposition to Petition for Appointment of Conservator* filed 6/10/2015;
- **Exhibit B**: Copy of Settlement Agreement and General Release executed October 2014;
- **Exhibit C**: *Order Granting Amended Petition for Substituted Judgment* filed 7/29/2015;
- **Exhibit D**: *Remittance Page* from McCormick Barstow Attorneys at Law, containing attorney fee itemization of Jerry Casheros and Anil Pai @ **$300.00**/hour and Kelly Lowe @ **$240.00**/hour.

Background summary:

- A dispute arose between **LINDA COURTNEY**, daughter and Petitioner requesting appointment of **ROCHELLE ROSENBALM**, spouse of Conservatee's grandson, as Conservator of the Person and Estate, and the instant Movant **RICHARD NATIVIDAD**, regarding the proposed conservatorship of Conservatee;
- With meritorious arguments on both sides, it was agreed to approach the litigation in a reasonable manner instead of engaging in an "all or nothing" approach;
- As a result of parties' combined efforts to resolve dispute amicably to the substantial benefit of Conservatee, Ms. Courtney (represented by **STEVEN MATLAK**) and Mr. Natividad entered into a comprehensive settlement agreement which resolved multiple issues including securing proper care for Conservatee;
- Because the conservatorship action ultimately provided a substantial benefit to Conservatee, the parties, attorneys, and **JENNIFER WALTERS**, counsel for Conservatee, agreed that Ms. Courtney and Mr. Natividad would support one another in a request for attorney's fees and costs from the Conservatorship Estate;
- Paragraph 6 of the *Settlement Agreement* contains provision that Ms. Courtney and Mr. Natividad shall be permitted to seek reimbursement of other payment of his or her attorneys' fees and costs from the Conservatorship Estate pursuant to Probate Code § 2640.1 and other applicable statutes; neither Ms. Courtney and Mr. Natividad shall object to and both Ms. Courtney and Mr. Natividad shall affirmatively support, the award of attorneys' fees and costs to each other; in this regard, if requested by the other party, Ms. Courtney and Mr. Natividad will file with the Court a consent to the reimbursement or other payment of each other's attorneys' fees and costs from the Conservatorship Estate.

Movant RICHARD NATIVIDAD respectfully requests this Court award him $24,751.58 in attorneys' fees and costs incurred in connection with this action.

<u>NEEDS/PROBLEMS/COMMENTS, continued</u>:

2. *Memorandum of Points and Authorities* filed 11/4/2015 states Movant seeks additional attorney fees, and that a supplemental declaration will be submitted in connection with a reply, if any, setting forth additional time spent by Movant's attorneys on this motion and other matters, which time has not yet been billed to Movant in connection with this matter. It is noted that the Invoice for professional services rendered through 7/31/2015 contains line items that appear to relate to the instant *Motion for Attorney's Fees* filed 11/4/2015, totaling **~$2,190.00**. In lieu of awaiting any reply to the instant Motion, the Court may require the filing of a consent by **LINDA COURTNEY** to the reimbursement or other payment of attorneys' fees and costs requested by Movant **RICHARD NATIVIDAD** to be paid from the Conservatorship Estate, as set forth in Paragraph 6 of the *Settlement Agreement.*

3. 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.

14 Virginia Howard Revocable Trust 3/29/05 (Trust) Case No. 14CEPR00732

Atty **Upton, Andrea M. (for Petitioner Holly Foley)**
Atty **Kruthers, Heather (for Public Administrator)**

Petition to Compel Account

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DOD: 10/3/12

Cont. from 092914, 102714, 012615, 042715, 062915, 083115, 092815

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	Status Rpt	
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	Citation	
	FTB Notice	

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HOLLY FOLEY, Beneficiary, is Petitioner.

Petitioner states the trust was created 3/29/05 by Virginia Howard as Settlor and Trustee and amended and restated in its entirety on 7/4/11, and amended again on 8/12/11. Petitioner is informed and believes that **VICTORIA HOWARD** is currently the sole trustee, **VAUGHN HOWARD** having resigned on or about 6/23/14.

Petitioner states Virginia Howard died 10/3/12. Petitioner alleges the value of the trust at her death was over $600,000.00.

On 5/16/14, Petitioner, through counsel, made a written request for an account of the trust. On 5/28/14, following the sale of certain real property owned by the trust, Petitioner again requested a full and complete account of the remaining assets. Petitioner is entitled to receive an account per Probate Code §16062.

On or about 4/15/13, Petitioner received an inventory of trust assets from the trustee's former legal counsel, but has not received anything since that date. More than 60 days have elapsed since Petitioner's written request for a full account; therefore, this petition is appropriate under Probate Code §17200(b) and Petitioner requests an order of this Court instructing the trustee to deliver an account of the transactions of the trust to Petitioner.

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NEEDS/PROBLEMS/COMMENTS:

<u>Minute Order 9/28/15</u>: Mr. Poochigian is representing Holly Foley. Ms. Kruthers reports that there are assets to bring in; requests 90 days.

<u>Note</u>: On 10/27/14, the Court removed Victoria Howard as the trustee and appointed the Public Administrator as the successor trustee.

Status Report filed 8/28/15 by Public Administrator states the Public Administrator has not had a chance to follow up on information provided by Attorney Poochigian. There is no new information to report since the last status report except that as Attorney Poochigian explained at the last hearing, his client did receive funds from the sale of the house.

As of 1/6/16, nothing further has been filed by Petitioner or the PA. The following issues remain noted:

<u>SEE ADDITIONAL PAGES</u>

Reviewed by: skc
Reviewed on: 1/6/16
Updates:
Recommendation:
File 14 - Howard

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14

First Supplement to Petition to Compel Account filed 10/22/14 states Attorney Gilbert Fleming continued to assist the trustees until about January 2014. Thereafter, Mr. Fleming continued to principally administer the trust from Fresno County, where the decedent resided and where both trust accounts and real property were located.

Petitioner is informed and believes that the remaining assets consist of a very small amount of money in the trust account, the trustee having depleted the account while still residing in Fresno, and the trust's interest in an investment fund.

No petition to transfer administration has been filed pursuant to §17401 and Section 12.05 of the trust. Accordingly, administration continues to be Fresno County and venue is proper in Fresno County.

Though counsel for petitioner have repeatedly inquired as to whether the trustee has retained new counsel after Mr. Fleming withdrew in January 2014, Petitioner is informed and believes that the trustee has not, and remains unrepresented.

Status Report filed 9/25/15 by the Public Administrator states the status hearing was continued to 9/28/15 to determine what other assets besides the property that was sold have been collected by the former administrator and what still remains. The PA received bank statements from an account at Central Valley Community Bank. The vesting on the account is Virginia Howard Revocable Trust dtd 3/29/05, Virginia G Howard Trustee Victoria L. Howard Trustee. The address is Victoria's address in Iowa. The account was closed in Dec. 2014. On 9/11/15, the PA emailed Attorney Eric Schaffer asking what documentation he needs to direct Winrod Investments to begin sending dividend payments to the PA as successor trustee. No response has been received, but he did say in a prior letter that interest checks of $12,120.73 since 10/3/12 have been sent to Victoria Howard.

SEE ADDITIONAL PAGES

NEEDS/PROBLEMS/COMMENTS: The following issues with this petition remain noted for reference:

1. **Petitioner states Fresno County is the proper venue pursuant to Probate Code §17005 (a)(1) (principal place of administration); however, the current trustee, Victoria Howard, resides in *Red Oak, Iowa*, and the most recent former trustee, Vaughn Howard, resides in *Omaha, Nebraska*. Petitioner resides in *Fremont, CA*. Need clarification as to how Fresno County, CA, is the proper venue for this petition.**

2. **Petitioner provides the names and addresses of the beneficiaries, but does not state if these are all of the people *entitled to notice* pursuant to Probate Code §17201. Need clarification.**

3. **Petitioner mentions receipt of an inventory from the "Trustee's *former* legal counsel." Pursuant to Probate Code §1214, if the trustee is currently represented, notice is required to be served on the attorney, and Probate Code §17203 requires 30 days' notice.**

   The Court may require clarification as to how Petitioner knows that the trustee is no longer represented by the attorney who provided the inventory, and may require continuance for notice to the attorney for the trustee, if any.

   Note: The trust and amendments were prepared by Attorney Gilbert B. Fleming of Fresno, CA. Is this the attorney that served the inventory? If so, is this the basis for venue in Fresno?

Note: Probate Code §17002 states:

17002. (a) The principal place of administration of the trust is the usual place where the day-to-day activity of the trust is carried on by the trustee or its representative who is primarily responsible for the administration of the trust.

(b) If the principal place of administration of the trust cannot be determined under subdivision (a), it shall be determined as follows:

(1) If the trust has a single trustee, the principal place of administration of the trust is the trustee's residence or usual place of business.

(2) If the trust has more than one trustee, the principal place of administration of the trust is the residence or usual place of business of any of the cotrustees as agreed upon by them or, if not, the residence or usual place of business of any of the cotrustees.

If Mr. Fleming withdrew as counsel for the trustees, how did administration of the trust continue in Fresno without him? Pursuant to Probate Code §17002, the principal place of administration follows the trustee.

§17400 applies to trusts that are already before the Court. That is not the case here, and the trust section referenced does not appear to require petition to the Court for transfer. The trust has never been before this Court.

If Mr. Fleming's former representation of the trustee is the basis for Fresno as venue, Mr. Fleming is entitled to Notice of Hearing on Mr. Fleming at least 30 days prior to the hearing pursuant to §17203 and §1214.

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

DOD: 07/01/2006 **Cont. from** **Aff.Sub.Wit.** **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** **Order** **Aff. Posting** **Status Rpt** **UCCJEA** **Citation** **FTB Notice**	**PUBLIC ADMINISTRATOR,** was appointed Administrator with full IAEA authority on per minute order of 08/10/2015. Letters issued 12/11/2015. Minute Order of 08/10/2015 set the Status Hearing for the filing of the Inventory and Appraisal. 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. 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 form the minute order.	**NEEDS/PROBLEMS/COMMENTS:** **<u>OFF CALENDAR.</u>** **<u>Final Inventory and Appraisal filed 01/05/2016.</u>** 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. **Reviewed by:** LV **Reviewed on:** 01/05/2016 **Updates:** 01/07/2016 **Recommendation:** **File 15- Vaughan**

17 Anna B. Ceja (Estate) Case No. 15CEPR00204

Attorney Wall, Jeffrey L (for Rudy Ceja – Administrator)

Order to Show Cause RE: Failure to File Proof of Bond

DOD: 06/16/2006			**RUDY CEJA**, son was appointed Administrator with full IAEA with bond set at $10,000.00 on 10/23/2015. Receipt of Bond in the amount of $10,000.00 was filed on 12/11/2015. Letters issued on 12/14/2015. Minute Order of 12/07/2015 set this Order to Show Cause. Minute Order states: No Appearances. The Court issues an Order to Show Cause to Jeff Wall and Rudy Ceja, as to why Mr. Ceja should not be removed for his failure to file proof of bond and failure to appear today. Mr. Wall and Mr. Ceja are both ordered to be personally present in court on 01/11/2016 even if proof of bond is posted before that date. **Declaration of Jeffrey Wall Regarding Hearing on Order to Show Cause filed 12/29/2015** states he personally accepts the responsibility for the non-appearance. The error was entirely his own. His client was not at fault. Mr. Wall states when he and his client were in court on Rudy Ceja's Petition for Probate, the Court announced several compliance dates including the bond compliance date of December 7, 2015 and the status hearing of December 12, 2016. Mr. Wall states he hastily wrote the dates in his calendar but got it wrong. Have been confused by the two December dates that were announced, he wrote December 12, 2015 in his calendar instead of December 7, 2015 as the bond compliance date. December 12, 2015 was a Friday, and Mr. Wall states he should have realized that a status hearing would not be set on a Friday, but that did not occur to him at the time. **Please see additional page**	**NEEDS/PROBLEMS/COMMENTS:**
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	Video Receipt			
	CI Report			
	9202			
	Order			
	Aff. Posting			**Reviewed by:** LV
	Status Rpt			**Reviewed on:** 01/06/2016
	UCCJEA			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 17- Ceja**

Mr. Wall states according to his file notes, he started his efforts to obtain the bond on 10/27/2015. There were problems in trying to find a bonding company that he could work with. He called several bonding agencies, but ended up going with a bonding agency in Florida, called Surety One. That process took several weeks, because after the initial online application, Surety One followed up with three more requests for information which were required by their underwriters. The third request was for Rudy Ceja's financial statement, which took some time to prepare, because he had to get asset information from Mr. Ceja.

All requirements were completed and the original bond was received in the mail around 11/23/2015, but it needed to be signed by Mr. Wall's client before it could be filed. Because Mr. Ceja operates a trucking company and cannot always be reached during business hours, and because he lives in Firebaugh, which is quite a distance from Mr. Wall's office. The signed bond was delivered to Mr. Wall's office on 12/08/2015, but he was not in his office that day. Mr. Wall states he was still in belief that the Court's deadline for filing bond was the following Thursday. The following day, he left the bond in his court courier's box to be filed at the Clerk's office, presumably on 12/10/2015. Why it was not filed that day is not known. The filing date on his copy says 12/11/2015. Mr. Wall states his mail is delivered late in the day and he received the OSC in his office mail in the late afternoon of Thursday 12/11/2015. Only then did he realize his error.

Mr. Wall states he apologizes for the inconvenience this has caused the Court. He has never intentionally failed to attend any scheduled court hearings in his more than 42 years of practice. Mr. Wall states he acknowledges that he unintentionally failed to attend several court hearings over the years to calendaring errors.

18 The Julia G. Jones 2000 Trust Case No. 15CEPR00428

Attorneys Candace K. Ladley and Marla Martinez (Attorney Petitioners)

Motion to be Relieved as Counsel

			CANDACE K. LADLEY, of Poulsbo, WA, and MARLA MARTINEZ, of Burbank, CA, Attorneys for Jeremy Leland Hernandez, are Movants and request an order permitting them to be relieved as attorneys of record for **JEREMY LELAND HERNANDEZ**. **Declaration of Candace K. Ladley** attached to the Motion states: 1. She is the attorney of record for Petitioner Jeremy Leland Hernandez in this matter. 2. Factors have arisen that permit her to seek the Court's authorization to be relieved as counsel for Petitioner in accordance with the provisions of the Rules of Professional Conduct, Rule 3-700, subdivision (C). 3. On 9/28/15, she texted the Petitioner and advised him that she intended to withdraw from his case as attorney as he had not taken certain actions that she requested of him. 4. Pursuant to paragraph 223 of the Law and Motion Policy Memorandum, a copy of this notice is being sent to Petitioner at his address confirmed by telephone conversation on 9/15/15. Proof of Service filed 12/7/15 indicates that the Notice of Motion and Motion to be Relieved as Counsel was served on all interested parties by mail on 12/1/15.	**NEEDS/PROBLEMS/COMMENTS:** **<u>Note</u>: Trial on the Amended Petition filed by Co-Petitioners RACHELLE RAE ROBLES RICO and JEREMY LELAND HERNANDEZ, represented by Candace K. Ladley, is set for 2/23/16.** ***<u>SEE ADDITIONAL PAGES</u>***
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	Objections			
	Video Receipt			
	CI Report			
	9202			
✔	Order			
	Aff. Posting			**Reviewed by:** skc
	Status Rpt			**Reviewed on:** 1/7/16
	UCCJEA			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 18- Jones**

Page 2 – NEEDS/PROBLEMS/COMMENTS:

1. **The motion was filed and verified by Attorney Ladley only, but appears to request that both Attorneys Ladley and Martinez be relieved as counsel (see #1 of Motion) for Jeremy Leland Hernandez only (see name of client above #1 of Motion).**

   a. Attorney Martinez did not sign the motion, did not file a Declaration in Support, and was not included in the service of the motion. Because the attorneys do not appear to practice from the same office, the Court may require verification or further information re Attorney Martinez' participation in this motion. Note: The proposed order appears to relieve only Attorney Ladley as counsel of record for Jeremy Leland Hernandez.

   b. Attorneys Ladley and Martinez represent both petitioners in this matter, Jeremy Leland Hernandez and Rachelle Rae Robles Rico. (See Amended Petition filed 8/12/15.) This motion appears to requests to be relieved as counsel for Jeremy Leland Hernandez only. The Court may require clarification or further information regarding continued representation of Rachelle Rae Robles Rico.

2. **The mandatory Judicial Council Form MC-052 Declaration in Support of Attorney's Motion to be Relieved as Counsel was not used, which form requires the specific reasons for the motion, details re notice to the client, and details re ongoing matters and upcoming hearings. The Court may require continuance for proper filing and service of this mandatory form pursuant to Cal. Rule of Court 3.1362.**

3. **Alternatively, the Court may require further information regarding how this motion will affect the upcoming trial on 2/23/16.**

4. **It appears this motion was served by mail on all interested parties (except Attorney Martinez as noted above); however, mandatory Judicial Council Form Notice of Hearing DE-120 is required for hearings in all probate matters pursuant to Probate Code §1211. The Court may require continuance for proper service of Notice of Hearing.**

19 Charles Kemmer (Estate) Case No. 15CEPR00638

Attorney Markeson, Thomas A. (for Christopher Kemmer – Administrator)

Probate Status Hearing RE: Filing of the Inventory and Appraisal

DOD: 05/30/2015	**CHRISTOPHER KEMMER,** was appointed Administrator with full IAEA without bond on 08/10/2015.	**NEEDS/PROBLEMS/COMMENTS:**
	Letters issued on 08/12/2015.	1. Need Final Inventory and Appraisal.
Cont. from	Minute Order of 08/10/2015 set this Status Hearing for the filing of the Inventory and Appraisal.	
Aff.Sub.Wit.	**Status Report filed 01/05/2016** states the filing of the inventory and appraisal was delayed because of a situation regarding tax liens (about $50,000.00) that were discovered when a title search was done in November in regards to the sale of the residence. The liens, if imposed, will not allow a completion of the sale (the mortgage, tax liens and other expenses exceed the sale price). Last month a request for the IRS to Discharge the Lien, was prepared but that request requires an appraisal in order to be processed. Because the estate has no cash, petitioner's attorneys were unwilling to advance the funds to the Probate Referee for this appraisal. Petitioner advanced the appraisal fees from his personal funds and the inventory was submitted to Steven Diebert on December 30 for his action. Petitioner is hopeful that the appraisal will be completed prior to the status hearing however if not, he requests the court continue this hearing for 30 days in order to receive the final inventory and appraisal on file with the Court.	
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		
Order		
Aff. Posting		**Reviewed by:** LV
Status Rpt		**Reviewed on:** 01/06/2016
UCCJEA		**Updates:**
Citation		**Recommendation:**
FTB Notice		**File 19- Kemmer**

19

20 Zachery Ruffner (GUARD/P) Case No. 15CEPR00646

Attorney: Walters, Jennifer L. (for Jana Todd – Maternal Aunt – Petitioner)
Objector: Ruffner, Brian (pro per)

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

Cont. from 083115, 092815, 110915	See petition for details.	**NEEDS/PROBLEMS/ COMMENTS:**
Aff.Sub.Wit.		<u>Minute Order 11/9/16</u>: Mr. Ruffner is provided with Examiner Notes. If the service defects are not cured for the 1/11/16 hearing, Mr. Ruffner's Objection will be stricken and the Court will move forward.
✓ Verified		As of 1/6/16, nothing further has been filed.
Inventory		1. Need proof of service of the Objections of Brian Ruffner on: a. Karen Todd-Lopez (mother) b. Zachary Ruffner (minor)
PTC		
Not.Cred.		
✓ Notice of Hrg		
✓ Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
✓ Pers.Serv.		
✓ Conf. Screen		
✓ Letters		
✓ Duties/Supp		
✓ Objections		
Video Receipt		
✓ CI Report		
✓ Clearances		
✓ Order		
Aff. Posting		**Reviewed by:** skc
Status Rpt		**Reviewed on:** 1/6/16
✓ UCCJEA		**Updates:**
Citation		**Recommendation:**
FTB Notice		**File 20 – Ruffner**

21 Jack Fletcher (GUARD/P) Case No. 15CEPR00868

Petitioner: Michelle L. Sullivan (pro per)

Petition for Appointment of Guardian of the Person

Cont. from 110915		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	W/
	Aff.Pub.	
	Sp.Ntc.	
✓	**Pers.Serv.**	W/
✓	**Conf. Screen**	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
✓	**CI Report**	
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

TEMPORARY EXPIRES 1/11/16

MICHELLE L. SULLIVAN, maternal grandmother, is petitioner.

Please see petition for details.

Court Investigator Jennifer Daniel's Report filed on 11/2/15.

NEEDS/PROBLEMS/COMMENTS:

Minute order dated 11/9/15 states Nichole De Los Reyes and Ronnie Fletcher state that they have not used meth or marijuana for approximately 2 months. The Court orders Nichole De Los Reyes and Ronnie Fletcher to report to Avertest for urine drug tests forthwith, with Michelle Sullivan paying the costs of the tests. The test results are to be brought to court on 1/11/16.

Reviewed by: KT

Reviewed on: 1/4/16

Updates:

Recommendation:

File 21 - Fletcher

22 Dominic Brooks (GUARD/P) Case No. 15CEPR00870

Petitioner Chretien, James Joseph, Sr. (Pro Per – Maternal Grandfather – Petitioner)

Petition for Appointment of Guardian of the Person

			See petition for details.	NEEDS/PROBLEMS/ COMMENTS: <u>Minute Order 11/9/15</u>: Examiner Notes provided in open court. Ms. Parker represents that the paternal grandfather is Allen Brooks, Sr., and the paternal grandmother is Darlene Manning. Continued to 1/11/16. 1. Notices of Hearing filed 11/19/15 on the paternal grandparents do not state that a copy of the petition was served with the notice §1511, and the server's information is not included. The Court may require further service. <u>Also, need clarification</u>: Per the minute order of 11/9/15, the paternal grandmother's name is Darlene Manning; however, the Notice of Hearing indicates service on Darlene Hall. Is this the same person?
Cont'd from 110915				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg	X		
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters			
	Duties/Supp			
✓	Objections			
	Video Receipt			
✓	CI Report			
✓	Clearances			
✓	Order			
	Aff. Posting			Reviewed by: skc
	Status Rpt			Reviewed on: 1/6/16
✓	UCCJEA			Updates:
	Citation			Recommendation:
	FTB Notice			File 22 - Brooks

 Betty Chambers (Spousal) **Case No. 15CEPR00885**

Attorney **Porter, Tres A. (for Larry Chambers – surviving spouse/Petitioner)**

Spousal or Domestic Partner Property Petition

<table>
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DOD: 05/16/08

Cont. from 102615, 110915

	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**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	

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LARRY CHAMBERS, surviving spouse, is Petitioner.

No other proceedings.

Decedent died intestate.

Petitioner states that he and the decedent were married on 06/16/56 and remained married until decedent's death on 05/16/08. Petitioner states that he and the Decedent had two sons during their marriage and have no predeceased children. Decedent inherited the ½ interest in the real property seeking to be passed with this petition from her mother's estate on 11/29/65, while the decedent and petitioner were married.

Petitioner requests Court confirmation that ½ interest in real property located at 13506 W. Kearney Blvd., Kerman, passes to him.

Supplemental Declaration of Larry Chambers in Support of Spousal Property Petition filed 12/15/15 states: while it's true the property in question was obtained by decedent via inheritance, the decedent and Petitioner discussed many times over the years the fact that the property was theirs together as a couple. California Family Code § 850 et seq. provides that married persons, can, by agreement, transmute separate property to community property. Petitioner states that he and the decedent always treated the property as their community property and it was their joint intention that the decedent's interest in the property be theirs together as community property. They raised their children there and continually referred to it as their home. Petitioner and his attorney contend that an oral agreement to transmute the property such as the one between decedent and himself is valid because the transmutation occurred prior to January 1, 1985.

Memorandum of Points and Authorities in Support of Spousal Property Petition filed 12/15/15 states: it is the position of Petitioner and his attorney that a transmutation of the property occurred during the term of their marriage before 01/01/85, whereby the subject property went from separate property of the decedent to community property of the decedent and petitioner. *Legal argument in support provided.*

</td><td>

NEEDS/PROBLEMS/ COMMENTS:

<u>CONTINUED FROM 11/09/15</u>
Minute Order from 11/09/15 states: Matter is continued for Counsel to do further research regarding the defect listed in the Examiner's notes.

1. Petitioner states that the property was transmuted from separate property to community property by verbal agreement of the parties prior to 01/01/85. The Court may require more information or evidence of such transmutation.

Reviewed by: JF

Reviewed on: 01/05/16

Updates:

Recommendation:

File 23 – Chambers

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</table>

24 Shaquille Wortham, Raymond Richardson, Jaharri Richardson (GUARD/P)
Case No. 15CEPR00960

Petitioner: Christina Jones (pro per)

Petition for Appointment of Guardian of the Person

<table>
<tr><td colspan="3"></td><td rowspan="29"><u>TEMPORARY EXPIRES 1/11/16</u>

CHRISTINA JONES, maternal aunt, is petitioner.

Please see petition for details.

Court Investigator Report filed on 12/21/15

Court Investigator Supplemental Report filed on 1/5/16</td><td rowspan="23">NEEDS/PROBLEMS/COMMENTS:

This petition is as to RAYMOND RICHARDSON and JAHARRI RICHARDSON only.

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. Raymond Richardson (minor)
b. Shaquille Wortham (sibling)
c. Darnesha Hopkins (sibling)
d. Jaharri's paternal grandparents</td></tr>
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<tr><td colspan="3">Cont. from</td></tr>
<tr><td></td><td>Aff.Sub.Wit.</td><td></td></tr>
<tr><td>✓</td><td>Verified</td><td></td></tr>
<tr><td></td><td>Inventory</td><td></td></tr>
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<tr><td>✓</td><td>Duties/Supp</td><td></td></tr>
<tr><td></td><td>Objections</td><td></td></tr>
<tr><td></td><td>Video Receipt</td><td></td></tr>
<tr><td>✓</td><td>CI Report</td><td></td></tr>
<tr><td></td><td>9202</td><td></td></tr>
<tr><td>✓</td><td>Order</td><td></td></tr>
<tr><td></td><td>Aff. Posting</td><td></td><td>Reviewed by: KT</td></tr>
<tr><td></td><td>Status Rpt</td><td></td><td>Reviewed on: 1/7/15</td></tr>
<tr><td>✓</td><td>UCCJEA</td><td></td><td>Updates:</td></tr>
<tr><td></td><td>Citation</td><td></td><td>Recommendation:</td></tr>
<tr><td></td><td>FTB Notice</td><td></td><td>File 24- Wortham & Richardson</td></tr>
</table>

25 Novak Family Trust of 1981 and Sub-Trusts Case No. 15CEPR01038

Attorney **Jared R. Callister (for Petitioner Susan Belanger)**

Petition for Order Confirming Trust Assets (Heggstad); and Determination Concerning Construction of Trust Instrument; and Instructions

<table>
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<td>

Donna Novak DOD: 2/20/2005		
Vladimir Novak DOD: 5/4/2015		
Cont. from 120715		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**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	

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SUSAN BELANGER, Successor Trustee of the **SURVIVOR'S TRUST** and **RESIDUAL TRUST**, is Petitioner.

Petitioner states:

- **VLADIMIR STEVE NOVAK** and his wife, **DONNA MARGENE NOVAK**, established on 6/10/1981 the **NOVAK FAMILY TRUST OF 1981** *(copy attached as Exhibit A)*; over the years, the Trust held title to 7 different residential rental homes;
- Upon the death of Ms. Novak on 2/20/2005, per terms of the Trust the assets were divided into 2 sub-trusts: **RESIDUAL TRUST** and **SURVIVOR'S TRUST** (the latter known as the **VLADIMIR NOVAK REVISED AND RESTATED SURVIVOR'S TRUST** *(copy of restated survivor's trust dated 11/8/2006 and 4/9/2007 first amendment attached as Exhibit B)*;
- Steps were taken to allocate the 7 rental homes to the 2 sub-trusts: **50%** interest in each of the rental homes funded the **RESIDUAL TRUST**, and **50%** interest in each of the rental homes funded the **SURVIVOR'S TRUST**;

~Please see additional page~

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NEEDS/PROBLEMS/COMMENTS:

<u>Continued from 12/7/2015</u>. *Minute Order* states counsel will file a declaration with the missing trust page attached. Matter is continued for review of the anticipated declaration; the Court indicates that the matter will be taken under advisement on 1/11/2016.

Reviewed by: LEG

Reviewed on: 1/4/16

Updates:

Recommendation:

File 25 – Novak

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<u>Petitioner states, continued</u>:

<u>Confirmation of Norwich Residence as SURVIVOR'S TRUST property (*Heggstad Petition*):</u>

- 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**.

<u>Construction of FAMILY TRUST/RESIDUAL TRUST, Section 12(a)</u>: 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~

<u>**Petitioner states, continued**</u>:

- 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 <u>predeceased</u> *[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%**;
- <u>**Support that the Anti-Lapse Does Not Apply:**</u> 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~

<u>**Petitioner states, continued**</u>**:**

- 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 <u>she will be receiving the entire share</u> 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.

<u>**Construction of FAMILY TRUST/RESIDUAL TRUST, Section 12(c)**</u>**:** 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.

26 Louis Harold Kelly AKA Harold Kelly (Estate) Case No. 15CEPR01053
Attorney Johnson, Mark D. (for Petitioner Brian Kelly)

Petition for Letters of Administration; Authorization to Administer under IAEA

DOD: 7/28/15			**BRIAN KELLY**, Brother, is Petitioner and requests appointment as Administrator with Limited IAEA with bond to be determined. Petitioner is a resident of Pioneer, Louisiana. Limited IAEA – ok Decedent died intestate Residence: Fresno Publication: Business Journal **Estimated value of estate:** Personal property: $5,000.00 (*plus $50,000.00 per Minute order 12/7/15, for a total of $55,000.00*) Real property: $100,000.00 ($250,000.00, encumbered for $150,000.00) Probate Referee: Rick Smith	**NEEDS/PROBLEMS/COMMENTS:** **Minute Order 12/7/15: Counsel represents that related litigation with the VA will result in approx. $50,000.00 for the estate. Matter continued to 1/11/16.** **As of 1/6/16, nothing further has been filed. The following issues remain:** **1. Need Duties and Liabilities of Personal Representative and Confidential Supplement.** **2. Need Notice of Petition to Administer Estate and proof of service on Chad Kelly (Son) and all other relatives listed at #8 per Probate Code §8110.** **3. If only limited IAEA is granted, the Court may require bond of $55,000.00 to cover the estimated personal property. Reminder: Cal. Rule of Court 7.204 outlines duty to apply for increased bond upon necessity.** **4. Need Order.** **Note: If the petition is granted status hearings will be set as follows:** • **Monday, 6/13/16 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and** • **Monday, 3/13/17 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
Cont'd from 120715				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg	x		
	Aff.Mail	x		
✓	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters			
	Duties/Supp	x		
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	x		
	Aff. Posting			**Reviewed by:** skc
	Status Rpt			**Reviewed on:** 1/6/16
	UCCJEA			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 26 - Kelly**

26

27 Savannah Garcia-Hernandez and Sophia Garcia-Hernandez (GUARD/P)
Case No. 15CEPR01068

Petitioner **Natalie Samantha Garcia (Pro Per)**

Petition for Appointment of Guardian of the Person

Cont. from		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✓	**Conf. Screen**	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
✓	**CI Report**	
✓	**Clearances**	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

NO TEMPORARY REQUESTED

NATALIE SAMANTHA GARCIA, sister, is Petitioner.

~Please see Petition for details~

Court Investigator's *Supplemental Report* was filed on 1/5/2016.

NEEDS/PROBLEMS/COMMENTS:

1. Need *Notice of Hearing* and proof of personal service of the *Notice of Hearing* with a copy of the *Petition for Appointment of Guardian*, or *Consent to Appointment of Guardian and Waiver of Notice*, or a *Declaration of Due Diligence*, for:
   - Felix Rolando Hernandez, father.
2. Need proof of service by mail of the *Notice of Hearing* with a copy of the *Petition for Appointment of Guardian*, or *Consent to Appointment of Guardian and Waiver of Notice*, or a *Declaration of Due Diligence*, for:
   - Felix Hernandez, paternal grandfather, *if Court does not find due diligence per Declaration filed 12/23/2015.*
   - Tony, paternal grandmother, *if Court does not find due diligence per Declaration filed 12/23/2015.*

Reviewed by: LEG

Reviewed on: 1/6/16

Updates:

Recommendation:

File 27- Hernandez

28 Jaylyn Reddix, Walterry Reddix, II (GUARD/P) Case No. 15CEPR01076

Petitioner Figueroa, Maria Carmen (pro per – maternal grandmother)

Petitioner Figueroa, Melissa (pro per – maternal aunt)

Petition for Appointment of Guardian of the Person

Jaylyn, 14			<u>**TEMPORARY EXPIRES 01/11/16**</u> **MARIA FIGUEROA** and **MELISSA FIGUEROA,** maternal grandmother and aunt, is Petitioner. Father: **WALTERRY REDDIX** – *personally served on 11/30/15* Mother: **REBEKA FIGUEROA** – *deceased* Paternal grandparents: NOT LISTED Maternal grandfather: NOT LISTED **Petitioners state:** [see file for details]. **Objection filed 11/3/15 by Walterry Reddix, Father.** **Court Investigator Jennifer Young filed a report on 01/05/16**	**NEEDS/PROBLEMS/COMMENTS:** 1. Need *Notice of Hearing*. 2. Need proof of service by mail at least 15 days before the hearing of *Notice of Hearing* with a copy of the *Petition for Appointment of Guardian of the Person* <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: a. Paternal grandparents b. Maternal grandfather
Walterrry, 12				
Cont. from				
	Aff.Sub.Wit.			
✓	**Verified**			
	Inventory			
	PTC			
	Not.Cred.			
✓	**Notice of Hrg**			
	Aff.Mail	x		
	Aff.Pub.			
	Sp.Ntc.			
✓	**Pers.Serv.**	w/		
✓	**Conf. Screen**			
✓	**Letters**			
✓	**Duties/Supp**			
✓	**Objections**			
	Video Receipt			
✓	**CI Report**			
	9202			
✓	**Order**			
	Aff. Posting			**Reviewed by:** JF
	Status Rpt			**Reviewed on:** 01/07/16
✓	**UCCJEA**			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 28- Reddix**

28

29 Dolores Irene Brown (Estate) Case No. 15CEPR01177

Attorney **J. Stanley Teixeira (for Petitioner Jerry Brown)**

Petition for Probate of Will and for Letters Testamentary. Authorization to Administer under the Independent Administration of Estates Act

DOD: 7/11/2015	**JERRY BROWN aka WILLIAM GERALD BROWN**, son, and named Executor without bond, is Petitioner.	**NEEDS/PROBLEMS/COMMENTS:**
Cont. from	Full IAEA: OK	**Note**: Court will set Status Hearings as follows:
Aff.Sub.Wit. — S/P		• **Monday, June 13, 2016 at 9:00 a.m. in Dept. 303** for the filing of the final inventory and appraisal; and
✓ Verified	Will Dated: 6/10/1981	• **Monday, March 13, 2017 at 9:00 a.m. in Dept. 303** for the filing of first account and/or petition for final distribution.
Inventory		Pursuant Local Rule 7.5, if the documents noted above are filed 10 days prior to the dates listed, the hearings will be taken off calendar and no appearance will be required.
PTC	Residence: Fresno	
Not.Cred.		
✓ Notice of Hrg	Publication: Business Journal	
✓ Aff.Mail — W/O		
✓ Aff.Pub.	**Estimated value of the Estate:**	
Sp.Ntc.	Real property - **$900,000.00**	
Pers.Serv.	_____________ - ___________	
Conf. Screen	**Total - $900,000.00**	
✓ Letters		
✓ Duties/Supp	**Probate Referee: Rick Smith**	
Objections		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		**Reviewed by:** LEG
Status Rpt		**Reviewed on:** 1/7/16
UCCJEA		**Updates:**
Citation		**Recommendation: SUBMITTED**
FTB Notice		**File 29- Brown**

29

Joyce Gailene Richardson (Estate) Case No. 15CEPR00182

Attorney **Bruce, Daniel A. (for Robert Baker – Administrator)**

Order to Show Cause – Pre RE: Failure to File the Inventory and Appraisal

DOD: 01/13/15	**ROBERT BAKER,** son, was appointed Administrator with no IAEA authority and without bond on 06/08/15. Letters of Administration were issued on 06/22/15.	**NEEDS/PROBLEMS/COMMENTS:**
		<u>CONTINUED FROM 01/04/16</u>
		Minute Order from: 01/04/16 states: Counsel represents that the Inventory & Appraisal will be filed tomorrow. The Court orders that no appearance is necessary on 01/11/16 if said filing occurs, however, appearances by both Mr. Bruce and Robert Baker are required in person or by CourtCall should the filing not occur, and the Court will impose sanctions and/or remove Mr. Baker on that date.
Cont. from 010416		
Aff.Sub.Wit.	**Minute Order from hearing on 06/08/15** set the matter for a Status Hearing regarding filing of the Inventory & Appraisal on 11/19/15.	**As of 01/06/16, nothing further has been filed.**
Verified		
Inventory x		
PTC		
Not.Cred.	**Minute Order from hearing on 11/09/15** states: NO APPEARANCES – The Court issues an Order to Show Cause to Daniel Bruce as to why he should not be sanctioned for failure to appear, and to Robert Baker as to why he should not be removed as Administrator for failure to file the Inventory & Appraisal. Mr. Bruce and Robert Baker are both ordered to be personally present in court or via CourtCall on 01/04/16.	1. Need Inventory & Appraisal.
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections	**Clerk's Certificate of Mailing attached to 11/09/15 Minute Order** states that a copy of the 11/09/15 Minute Order was mailed to Daniel Bruce and Robert Baker on 11/09/15.	
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		**Reviewed by:** JF
Status Rpt		**Reviewed on:** 01/06/16
UCCJEA		**Updates:**
Citation		**Recommendation:**
FTB Notice		**File 30- Richardson**

1 John R. Panzak Living Trust 11-27-2000 Case No. 13CEPR00196

Attorney **Risner, Randy J. (for Gordon Panzak, son, Successor Trustee)**

Probate Status Hearing Re: Trust Administration

DOD: 3/12/2010 **Cont. from 012915, 092115** Aff.Sub.Wit. 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 Order Aff. Posting Status Rpt UCCJEA Citation FTB Notice	**PUBLIC ADMINISTRATOR** was Court-appointed as Successor Trustee on 4/29/2013. ***Beneficiary and 2nd Successor Trustee Gordon Panzak's Petition to Remove 3rd Successor Trustee (Public Administrator)* was filed on 1/28/2015** and was set for hearing on 3/16/2015. ***Minute Order* dated 3/16/2015** *[Judge Conklin]* from the hearing on the *Petition to Remove 3rd Successor Trustee* states Public Administrator voluntarily resigns as successor trustee and has no objection to Gordon Panzak being appointed as successor trustee. Petitioner will not file an order for the Court's signature; instead, counsel indicates this Minute Order will suffice. Court sets a status hearing six months out at counsel's request. *[Probate Status Hearing set for 9/21/2015 in Department 72.]* ***Minute Order* dated 9/21/2015** from the previous status hearing continued the matter to 1/11/2016 in Department 72.	**NEEDS/PROBLEMS/COMMENTS:** **This matter will be heard at 9:00 a.m. in Department 72.** **Reviewed by:** LEG **Reviewed on:** 1/6/16 **Updates:** **Recommendation:** **File 1 – Panzak**