1 **Rosa Linda Larssen (CONS/PE)** **Case No. 0321261**

Atty **Ratzlaff, Ruth E (for Sylvia Gonzales and Guadalupe Pena – Co-Conservators)**

(1) Eleventh Account and Report of Co-Conservators and (2) Petition for Allowance of Fees to Co-Conservators and Attorney (Prob. C. 2620)

Age: 56
DOB: 5/3/1955

	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	
	Objections	
	Video Receipt	
✔	**CI Report**	
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

SYLVIA GONZALES, sister, and **GUADALUPE PENA**, mother, are Co-Conservators.

Account period: 5-1-08 through 4-30-10

Accounting: $232,943.72
Beginning POH: $191,840.99
Ending POH: $188,621.57
($39,060.25 is cash, $35,113.55 is blocked)

Current bond: $42,000.00 (ok)

Conservator Sylvia Gonzales: $1,800.00 (120 hours @ $15/hr)

Conservator Guadalupe Pena: Not requested

Attorney: $2,000.00 (per local rule)

Petitioners pray for an order:

1. Approving, allowing and settling the account; and
2. Authorizing payment of the conservator's and attorney's fees and commissions.

Court Investigator Charlotte Bien filed a status review on 1-6-12.

NEEDS/PROBLEMS/COMMENTS:

1. **Need proof of service of Notice of Hearing on Conservatee Rosa Linda Larssen at least 15 days prior to the hearing per Probate Code §2621.**
2. **Petitioner explains that one of the conservatorship estate accounts was turned over by the bank to the State Controller for inactivity between 2002 and 2004, and includes $23,235.35 as property on hand although it is not yet recovered.**

   The Court may require clarification regarding the time it has taken (approx. 8 years) to recover funds, with reference to interest that would have accrued had it been recovered earlier.
3. **The Conservatee owns the house and lives there with her mother. Her adult son also lived there during part of this account period. The account indicates that Conservatee pays all household expenses, including water, sewer, garbage, power, phone, gardening, groceries, etc. Need clarification: Do the other household members contribute to household expenses?**
4. **The Court Investigator's status review indicates that the Conservatee now lives in Redding, CA with her daughter. Therefore, need Post-Move Notice of Change of Residence with appropriate service.**
5. **Need Order.**

Reviewed by: skc

Reviewed on: 1-4-12

Updates: 1-6-12

Recommendation:

File 1 - Larssen

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

2 Erin L. Hood (CONS/PE) Case No. 0389050

Atty Jaech, Jeffrey A. (for Westamerica Bank – Conservator of the Estate)

(1) Second Account and Status Report of Conservator of Estate and Petition for Settlement Thereof, (2) for Compensation for Conservators of the Person and Estate, and (3) Compensation for Attorneys [Prob. C. §2620]

Age: 41

DOB: 10-27-70

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

WESTAMERICA BANK (Trust Officer: Catherine S. Johnson), Successor Conservator of the Estate, is Petitioner. (County Bank was appointed 9-2-08 and acted until acquired by Westamerica.)

EDWINA WOOLARD, Mother, continues to serve as Conservator of the Person (appointed 11-17-88).

Account period: 9-1-09 through 8-31-11

Accounting:	$	1,192,968.31
Beginning POH:	$	941,405.86
Ending POH:	$	842,580.03 ($27,151.37 is cash)

Conservator of the Person Edwina Woolard: $1,800.00 (120 hours @ $15/hr)

Family Law Attorneys Lerandeau & Lerandeau, LLP: $12,862.50 (Balance due for legal services in connection with Family Law case # 09CEFL06280 involving a domestic violence restraining order and child custody and visitation involving Conservatee's youngest child Samantha (3). There is a current restraining order protecting Conservatee from her former live-in boyfriend and father of Samantha that expires 11-4-12. Per Declaration of Attorney Paul Lerandeau, fees totaling $20,242.50 were incurred, and $12,862.50 remain unpaid. $7,380.00 was authorized at the last accounting. The declaration describes the legal services rendered, and describes that the firm spent more time than usual, but this was necessary and reasonable due to the Conservatee's limited mental capacities and the nature of the proceedings.)

Probate Attorneys Baker Manock & Jensen, PC: $39,130.50, plus costs of $750.00 (Court filing fees) Declaration of Attorney Jeffrey Jaech describes that until a life coach was hired for Conservatee, their office, Specifically paralegal Sally Ladd, was required to deal with a "whole assortment of problems" of Conservatee and her children. Conservatee often refused to communicate with her mother (Conservator of the Person) and therefore, contacted the law firm for non-legal problems.

Petitioner expressed concern regarding Conservatee's income vs. expenditures and has made changes that will result in significant savings, including:

- Instead of a nanny at a total cost of $54,717.86 for 11 months, Conservatee's youngest child is now in pre-school (tuition $5,800.00/yr)
- Instead of a personal housecleaner at $25/hr working up to 2 days/wk, Conservator hired a cleaning service to come once a week @ $175.00/wk
- Due to serious Conservatee's difficulties in coping with day-to-day problems, such as plumbing issues, etc., as well as budgeting her allowance, she was contacting the law firm for many non-legal issues, incurring fees. Conservator hired a Life Coach, Michelle Biggs, who meets with Conservatee weekly to assist with various tasks and issues. Conservatee now calls Ms. Biggs when she needs assistance with everyday issues.

SEE PAGE 2

NEEDS/PROBLEMS/ COMMENTS:

SEE PAGE 2

Reviewed by: skc

Reviewed on: 1-5-12

Updates:

Recommendation:

File 2 - Hood

2 Erin L. Hood (CONS/PE) Case No. 0389050

Atty Jaech, Jeffrey A. (for Westamerica Bank – Conservator of the Estate)

SUMMARY (Continued):

Conservator of the Estate Westamerica Bank: $17,870.03 (1% of the average market value of the estate) Declaration of Catherin S. Johnson, Assistant Vice President and Trust Officer, describes that the Trust Officer monitors the investment strategy and allocation of assets in light of objectives and cash needs of the conservatorship. The declaration states the bank reviews and approves proposed trades presented by Wright Investors' Services and initiates trades for mutual funds. In addition, the bank is responsible for the Conservatee's tax returns and engaged a CPA to prepare the returns. The bank spends time gathering and sending the information to the CPA, and later reviewing, signing and mailing the returns, and also responds to inquiries from IRS or FTB, or contacts the CPA to assist in response. The bank also engaged a CPA to review and prepare accountings to Court requirements.

The bank also provides quarterly and annual statements to the Conservator of the Person, and maintains a computer system that provides daily investment cash positions for each account and lists daily transactions. The bank reviews each report to determine appropriate action, if any. The bank's trust operations unit also monitors and processes routine and non-routine disbursements.

Petitioner prays for an Order:

1. Approving, allowing and settling the second account and report of the conservatorship as filed;
2. Authorizing compensation to Conservator of the Person Edwina Woolard of $1,800.00;
3. Authorizing compensation to Conservator of the Estate Westamerica Bank of $17,870.03;
4. Authorizing compensation to Baker Manock & Jensen, PC, of $39,130.50;
5. Authorizing reimbursement of costs to Baker Manock & Jensen, PC, of $750.00;
6. Authorzing payment to Lerandeau and Lerandeau of $12,862.50; and
7. Such further orders as the Court considers proper.

NEEDS/PROBLEMS/COMMENTS:

1. **Need account statements per Probate Code §2620(c).**

2. **The Court may require further information or clarification regarding the following expenses related to the residence:**
   - Earthquake insurance ($281.00 on 12-2-09, etc.)
   - Appraisal ($375.00 on 7-20-10)
   - "Annual Inspection" ($250.00 on 9-23-10)

   For example: Is there a reason earthquake insurance on this Fresno residence is necessary? Was there a transaction with the home in 2010 that required appraisal and inspection? The home does not appear to be encumbered.
   Is the inspection annual? If so, what is the purpose?

3. **Examiner notes that certain items were purchased, but not included as property on hand belonging to the estate. Although Conservatee appears to own various items of personal property, such as furniture, etc., this type of item does not appear to have been included historically in this particular conservatorship estate.**

   Because this Examiner is not entirely familiar with the extensive history of this conservatorship estate, the Court may require brief explanation. For example, the Court may require clarification regarding why these "big-ticket" items are not considered property on hand:
   - Dishwasher $726.91 on 3-31-10 and 4-12-10
   - Line items referencing Alltrade Construction for tear-down and relocate existing pool and installation of Jungle Gym totaling approx. $10,000.00 between 5-4-10 and 6-7-10.
   - Refrigerator $1,376.65 on 8-31-11
   - Washer $392.81 on 1-27-11

3 **Lawrence J. Ferrua (Estate)** **Case No. 08CEPR00767**

Atty **Flanigan, Philip M. (for Petitioner/Executor Anna Ferrua-Almeida)**

(1) First and Final Report of Status of Administration on Waiver of Accounting and Petition for Settlement Thereof; (2) for Allowance of Statutory Attorney's Compensation; (3) for Allowance of Extraordinary Compensation for Reimbursement of Costs Advanced; and (4) for Final Distribution (Prob. C. 11600 et seq)

DOD: 7/1/2008		
Cont. from		
	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	

ANNA FERRUA-ALMEIDA, Executor, is petitioner.

Accounting is waived.

I & A - **$717,194.80**
POH - **$516,930.73**

Executor - **waives**

Attorney - **$13,940.52** (statutory)

Attorney X/O- **$5,104.11** (per itemization and declaration for the successful defense of a Will contest)

Costs - **$1,887.69** (filing fees, certified copies, Probate Referee, publication)

Distribution, pursuant to Decedent's Will, is to:

Anna Ferrua-Almeida - $48,976.91 and 1/3 interest in real property.

Domenico Ferrua - $48,976.91 and 1/3 interest in real property.

Samantha Giles - $48,976.91 and 1/3 interest in real property.

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: KT
Reviewed on: 1/5/12
Updates:
Recommendation:
File 3 - Ferrua

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

4 Kaleb Schafer (GUARD/PE) **Case No. 08CEPR00771**

Atty Stegall, Nancy (for Petitioners Gary Schafer and Shana Schafer)

Ex Parte Petition for Withdrawal of Funds from Blocked Account

Age: 16 years		
DOB: 9/14/1995		
Cont. from 111611		
	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	

GARY SCHAFER and **SHANA SCHAFER**, paternal uncle and aunt/Guardians, are petitioners.

The Court file contains the following information:

- The guardianship estate receives approximately $2,000.00 per month income from Worker's Compensation Appeals Board. The funds are placed into a blocked account.
- Guardians receive $1,020.00 from Social Security for the minor's benefit. This money is paid directly to the guardians for the minor's support and is not accounted in the court accountings.
- The Guardians are allowed to withdraw up to $280.00 per month from the blocked account for services provided by Dr. Robert D. Wells.
- The Guardians are allowed to withdraw $410 per month for Cullinan Education Center.

Petitioners state they have become aware that Kaleb was entitled to Survivor Income based on a life insurance policy through Standard Insurance Company held by North Central Fire District for Kaleb's deceased father. Kaleb is entitled to survivor income in the sum of $1,247.75 per month. The last payment was made in January 2009, thus, Kaleb would be entitled to a total amount of $30,432.50 and thereafter monthly payments of $1,247.75 until he is age 19 or age 23 as long as he remains a full time student. Standard Insurance Company will not release the funds without a Court Order because the Letters specify "guardian is not authorized to take possession of money or any other property without a court order."

Petitioners therefore request the Court order the funds currently held from Standard Insurance Company, be deposited into a blocked account at WestAmerica Bank. **(<u>Note:</u> *This request was approved at the 11/16/11 hearing and an order has been signed*.)**

Please see additional page

NEEDS/PROBLEMS/COMMENTS:

Continued from 11/16/11. Minute Order states the Court approves the request to increase the blocked account by the amount of the Standard Insurance. Additionally, the Court approved the withdrawal of $4,930.00. *The remaining issues (attorney fees) were continued.*

1. **Attorney fee statement for attorney Brian Pinion includes a bill dated February 2, 2010 showing a past due balance of $2,082.27 and a payment of $1,642.53. Mr. Pinion was allowed fees pursuant to Court order dated 8/13/10 totaling $8,875.00 for services rendered through 12/10/09 and attachment 6E shows was paid on 8/17/10. The first entry on the February 2, 2010 statement is for 1/21/10. Need billing statements for 12/11/09 through 1/21/10 showing what services were provided totaling $442.74 (the difference between the past due amount of $2,082.27 and the payment of $1,642.53).**

Please see additional page

Reviewed by: KT
Reviewed on: 11/10/11
Updates:
Recommendation:
File 4 - Schafer

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

Petitioner state as of this year, Kaleb is no longer in need of tutoring from Cullinan Education Center and has stopped attending.

Current balance of the blocked account is $50,059.09

Supplemental and Revised Declaration of Nancy Stegall in Support of Attorney Fees Request filed on 1/3/12.

Petitioners request authority to withdraw funds from the blocked account as follows:

1. **$4,930.00** for bedroom furniture, school clothes and personal expenses for minor. Petitioners state the minor has recently moved into his own room in their home and does not have any bedroom furniture. Kaleb has also outgrown his entire wardrobe and will need to purchase all new clothes. Kaleb has shown an interest in weight lifting and body building and would like to pursue this hobby. **(Note:** ***This request was approved at the 11/16/11 hearing and an order has been signed*.)**

2. **$2,895.00** to Attorney Brian Pinion for attorney fees in connection with the guardianship.

3. **$2,066.00** to Attorney Nancy Stegall for attorney fees for the preparation of this petition.

Additional NEEDS/PROBLEMS/COMMENTS:

2. **Attorney fee statement for attorney Brian Pinion includes $197.15 in interest on unpaid balances. Probate Code §2647 states, "No attorney fees may be paid from the estate of the ward or conservatee without prior court order. The estate of the ward or conservatee is not obligated to pay attorney fees established by any engagement agreement of other contract until it has been approved by the court." Therefore, it appears that the attorney should not be allowed interest on the unpaid attorney fees.**

3. **Need Receipt for Blocked Account (Order to Deposit Money into Blocked Account was signed on 12/1/11.)**

5 **Kenneth L. Coker (Estate)** **Case No. 08CEPR01037**

Atty **Kruthers, Heather H (for Petitioner/Administrator Public Administrator)**

(1) First and Final Account and Report of Administrator and (2) Petition for Allowance of Ordinary and Extraordinary Commissions and Fees (Prob. C. 9202, 10800, 10810, 10951, 11600)

DOD: 10/11/08

Cont. from

	Aff.Sub.Wit.	
✓	Verified	
✓	Inventory	
✓	PTC	
✓	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✓	Letters	2/18/09
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	FTB Notice	

PUBLIC ADMINISTRATOR, Administrator with Will Annexed, is petitioner.

Account period: 2/17/09 – 6/30/11

Accounting	-	**$139,225.00**
Beginning POH	-	**$129,635.00**
Ending POH	-	**$ 6,422.40**
Administrator (statutory)	-	**$5,041.00**
Administrator X/O (per Local Rule for sale of personal property and preparation of tax returns)	-	**$1,127.85**
Attorney (statutory)	-	**$5,041.00**
Court fees (certified copies)	-	**$15.50**
Bond Fee (o.k.)	-	**$812.28**
Closing	-	**$1,000.00**

Petitioner states that the estate is insolvent. After payment of fees and commissions there will be no estate left to pay creditors or heirs.

NEEDS/PROBLEMS/COMMENTS:

1. **Petition indicates the decedent's ½ interest in real property valued at $118,000.00 was foreclosed upon. *Estate of Stein (1968) 267 Cal. App. 2, 631* found when calculating the statutory fees for estates where there was foreclosed property the loss is the difference between the inventory and appraisal value and the encumbrances on the property. Petition did not include information regarding the encumbrances on the property therefore examiner is unable to verify that the statutory fees and commissions are correct.**

Reviewed by: KT

Reviewed on: 1/5/12

Updates:

Recommendation:

File 5 - Coker

6 **Robert Russell (Estate)** **Case No. 09CEPR00684**

Atty **Smith, Sandra J. – *Not eligible to practice law* (for Kathleen Strickland–Administrator/Petitioner)**

(1) First Report on Waiver of Accounting and (2) Petition for Final Distribution and (3) Allowance of Compensation Administrator for Ordinary Fees and (4) Attorney for Ordinary and Extraordinary Services

DOD: 03/07/08

Cont. from 042811, 062911, 081011, 100511, 110911

	Aff.Sub.Wit.	
✓	Verified	
	Inventory	x
	PTC	x
✓	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	w/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	10/08/10
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	FTB Notice	

KATHLEEN STRICKLAND, Administrator with $10,000 bond, is Petitioner.

Accounting is waived.

I & A	-	**NEED**
POH	-	$80,000.00
Administrator (statutory)	-	$3,200.00
Attorney (statutory)	-	$3,200.00

Distribution, pursuant to intestate succession, is to:

Kathleen Strickland	-	33.33%
Jennifer Todd	-	33.33%
Deborah Gist	-	33.33%

NEEDS/PROBLEMS/COMMENTS:

Note: Attorney Sandra Smith is involuntarily no longer eligible to practice law.

CONTINUED FROM 11/09/11

Minute Order dated 11/09/11 states: No appearances, the matter is continued to 01/18/12. The Court orders Kathleen Strickland to be personally present on 01/18/11.

Per Clerk's Certificates of Mailing filed 11/18/11 and 12/21/11 the minute order was mailed to the Petitioner at two different addresses. The minute order was returned as undeliverable from one of the addresses.

As of 01/06/12, Petitioner has filed no additional documents and the following items remain outstanding:

1. **Need Inventory & Appraisal (I & A). Pursuant to PC § 8800 (b), an I & A shall be filed within 4 months after letters are issued. The Examiner notes that the Petition references an I &A that was filed in a "related" case, however an I & A for another case cannot be considered by the Court in this matter.**
2. **Need Property Tax Certification.**
3. **Petition does not contain a statement stating whether notice to the Franchise Tax Board was performed, as required by Probate Code 9202(c)(1).**
4. **Order does not comply with Local Rule 7.6.1 (A) which states: 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.**
5. **Item 15 of the Order authorizes and directs payment of $4,200.00 to attorney, however, statutory fees due attorney as stated in the Petition are $3,200.00.**

Note: Without an I & A, the Examiner is unable to determine the character (real property/personal property/cash or cash equivalents, etc.) of the estate assets to be distributed.

Reviewed by: JF

Reviewed on: 01/06/12

Recommendation:

Updates:

File 6 - Russell

7 Richard E. & Pauline D. Jeffery Revocable Trust Case No. 10CEPR00865

Atty Fishman, Robert G. (for Petitioner/Trustee Paul E. Quinn)
Atty Milnes, Michael (for Richard E. Jeffery Jr.)
Atty Jaech, Jeffrey (for Joan Berry Rodreick and Carleen Jeffery)

Petition for Distribution to a Beneficiary for Return on Funds from Beneficiaries, and for Allowance and Payment of Post-Accounting Trustee and Attorney Fees (Prob. C. 16243, 16247, 1700(A), 17200(b)(9), 17206)

Cont. from		
	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	

PAUL E. QUINN, Trustee, is petitioner.

Petitioner states this petition seeks three distinct, yet interrelated requests, as follows:

1. Approval to make an immediate distribution of Trust funds to a single Trust beneficiary to equalize such Trust beneficiary with the other Trust beneficiaries who have received greater distributions;
2. The return of a relatively small portion of the Trust funds already distributed to Trust beneficiaries so that the Trust has an adequate reserve to cover anticipated litigation costs and expenses; and
3. Approval of payments to Petitioner of $42,004 and Petitioner's attorney of $48,662.60 in professional fees defending the Trust in litigation. Neither Petitioner nor Petitioner's attorney have been paid for services provided to the Trust since July 1, 2011.

Petitioner states that throughout the course of his administration, and at the request of the Trust beneficiaries, he has made distributions in an amount totaling $3,660,009.34. Each beneficiary was to receive a 1/3 interest in the Trust corpus. However, one beneficiary (Carleen) has received $200,000 less in distributions than the other beneficiaries. Petitioner requests the Court authorize and allow immediate distribution of $200,000 to Carleen.

Please see additional page

NEEDS/PROBLEMS/COMMENTS:

<u>Please Note:</u> ***A Petition for Determination of Apportionment of Estate Taxes*** **filed by Trustee, Paul E. Quinn, is set for hearing on 2/6/12.**

1. **Proof of service for the Second Declaration re: Attorney Fees and the Second Declaration re: Trustee Fees indicates copies of the declaration were mailed to interested parties on 12/27/11 (21 days-notice). Probate Code §17203 requires 30 days-notice.**

Reviewed by: KT
Reviewed on: 1/9/12
Updates:
Recommendation:
File 7 - Jeffery

Currently the Trust has approximately $294,137.85 of cash remaining in a Trust bank account (of which $200,000 is earmarked as Carleen's share). In addition the Trust has incurred an additional $90,666.60 in accrued and unpaid Trustee and attorney's fees. Given the fact that the Trust is embroiled in litigation with a single beneficiary who shows no signs of relenting, it is apparent that there are simply not enough Trust assets to cover all future costs and expenses that are anticipated to be incurred as a result of the litigation. Petitioner believes that the reserves in the Trust should increase by $150,000.00. Thus, Petitioner requests this Court order each of the Trust beneficiaries to return a small portion of the Trust distributions already received by them ($50,00 per Trust beneficiary) to the Trust so that the Trust as an adequate reserve to cover anticipated expenses.

In addition, Petitioner also requests the Court authorize payment of the outstanding Trustee and attorney fees, of $42,004 and $48,662.60, respectively, for services performed from July 1, 2011 to November 10, 2011.

Background:

On or about 7/1/11 Petitioner filed a Petition for Settlement of Account and Approval of Distribution of Trust Assets and Payment of Trustee and Attorney fees (the "Accounting"). On or about 8/16/11 Petitioner was served with objections to the Accounting (the "Objection") by Trust beneficiary Rick Jeffery, Jr. On or around 9/15/11 Petitioner was served with a Petition for Determination, wherein beneficiaries, Joan and Carleen allege that Rick had made the Objection in bad faith and requested that he be charged costs incurred in responding to such Objections.

Petitioner prays for an Order:

1. That this Court direct and approve the distribution of $200,000 to Carleen Jeffery (of which $50,000 is to be retained by the Trustee and added to the reserve) for a net amount distributed to Carleen Jeffery of $150,000;

2. That this Court direct and order Richard E. Jeffery, Jr. and Joan Rodrieck to each deposit with the Trustee of the Trust the amount of $50,000 to be held by the Trustee and added to the reserve;

3. That the amounts deposited by Richard E. Jeffery, Jr. and Joan Rodrieck and the amounts withheld by Carleen Jeffery, which amounts to $150,000, be set aside by the Trustee and designated as an increase to the reserve, for the purpose of covering future Trust litigation expenses and costs;

4. That the Court approve and direct the payment of $42,004 to Petitioner's accounting firm, Ryan, Christie, Quinn & Horn, for Petitioner's services rendered as Trustee of the Trust from July 1, 2011 to November 10, 2011;

5. That the Court approve and direct payment of $48,662.60 to the law firm of Fishman, Larsen, Goldring & Zeitler, for its services rendered to the Trust from July 1, 2011 to November 10, 2011, (which includes a reimbursement of direct and indirect costs of $2,250.10).

Please see additional page

Second Declaration Re: Attorney Fees filed on 12/27/11 states additional fees have been incurred since the filing of the Petition. Declaration states the attorneys have provided substantial services to Petitioner and the Trust from November 11, 2011 to December 21, 2011 for which services have not been paid. Attorney fees total $17,265. and costs total $1,421.10 for a total of $18,686.10 in additional attorney fees and costs.

Second Declaration Re: Trustee's Fees filed on 12/27/11 states additional services have been provided since the filing of the Petition. Declaration states the Trustee has provided substantial services to the Trust from November 11, 2011 to December 21, 2011 for which services have not been paid. Trustee fees total $10,942. which have not been paid.

8 Palmira Marando (Trust) **Case No. 11CEPR00180**

Atty Reich, Jeff (for Mike Montgomery)

Atty Saccheria, James L. (pro per Petitioner)

Accounting by James L. Saccheri

			JAMES L. SACCHERI is petitioner.
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		

NEEDS/PROBLEMS/COMMENTS:

Continued from 11/2/11. As of 1/5/11 the following issues remain:

1. **Accounting does not comply with Probate Code §16063 and §1060 et seq.**
2. **Petition does not include the names and addresses of those entitled to notice. Probate Code §17201.**
3. **Need Notice of Hearing. Probate Code §17203.**
4. **Need proof of service of the Notice of Hearing on all interested parties. Probate Code §17203.**
5. **Need order.**

Reviewed by: KT

Reviewed on: 1/5/12

Updates:

Recommendation:

File 8 – Marando

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

9 **Virgil Albert Lininger (CONS/PE)** **Case No. 11CEPR00360**

Atty **Sanoian, Joanne (Court-appointed for Conservatee – Petitioner)**

Petition for Attorney Fees (Prob. C. 1472)

	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	

JOANNE SANOIAN, Petitioner, was Court-appointed to represent the Conservatee on 5-26-11.

Robert B. Jones, nephew, was appointed Conservator of the Person and Estate on 10-20-11.

Petitioner requests fees in connection with the representation of the Conservatee for the petition to appoint a conservator.

Petitioner asks that she be paid $8,268.00 from the conservatorship estate for 20.7 attorney hours @ $200.00-$300.00/hr. and 22.75 staff hours @ $40.00-125.00/hr. (1.2 attorney hours were not charged.)

Services are itemized by date and include review and drafting of documents, conferences with client and other parties in connection with deposition, discovery, settlement, etc., and court appearances.

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: skc

Reviewed on: 1-5-12

Updates:

Recommendation:

File 9 - Lininger

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

10 **Lee & Jacqueline Johnson 1988 (Trust)** **Case No. 11CEPR00420**

Atty **Bickel, Bruce (Pro Per – Successor Trustee)**

Review of Bond Issue and Inventory and Appraisal

Cont. from 110811		
	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	X
	UCCJEA	
	Citation	
	FTB Notice	

BRUCE BICKEL, a licensed fiduciary, was appointed Successor Trustee of the Trust on 8-10-11 with bond of $3,600,000.00.

The Court set this status hearing for review of the bond and to determine its adequacy pursuant to an Inventory and Appraisal to be filed prior to the hearing.

Bond of $3,600,000.00 was filed 9-19-11.

NEEDS/PROBLEMS/COMMENTS:

1. **Bond of $3,600,000.00 was filed 9-19-11; however, as of 1-4-12, there has been no documentation filed regarding adequacy of the bond.**

   Therefore, need Inventory and Appraisal or other sufficient documentation (declaration, etc).

<u>Minute Order 11-8-11</u>: The Court continues the matter to 1-18-12 and set further status hearing for 3-7-12 for the filing of the first account. The Court advises counsel that if the bond amount turns out to be adequate and the inventory and appraisal is filed by 1-18-12, the matter can be taken off calendar.

Reviewed by: skc
Reviewed on: 1-4-12
Updates:
Recommendation:
File 10 - Johnson

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

11A Mary Corrales (Estate) **Case No. 11CEPR00636**

Atty **LeVan, Nancy J. (for Demetria Mijangos – daughter/Petitioner)**

ProPer **Villareal, Monica (pro per – Petitioner/objector)**

Petition to Revoke Probate of Will and for Instructions to Public Administrator (Original Exhibit Attached)

DOD: 05/11/11		
Cont. from 102411		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	w/o
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	x
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

MONICA VILLAREAL, daughter, is Petitioner.

On 07/26/11, Demetria Mijango's, decedent's daughter, filed a petition for probate to be appointed Administrator with Will Annexed and admit decedent's Will dated 11/06/08 to Probate.

On 08/08/11, Monica Villareal, filed a Declaration in Opposition to Demetria Mijango's Petition for Probate.

On 08/30/11 the Court appointed the Public Administrator as Administrator of the Estate.

On 09/16/11, Monica Villareal filed this Petition to Revoke Probate of Will and For Instructions to Public Administrator. The Petition states that at the hearing on 08/30/11 another daughter of the decedent, Ruth Reyes, presented a holographic Will of the decedent dated 02/09/09 that leaves the entire estate to Ruth Reyes. Also presented was a handwritten note by the decedent declaring that the deed she signed giving joint tenancy to Demetria and Jose Mijangos was a product of fraud and undue influence. The note further completely disinherits the Mijangos. Ms. Villareal states that the Court would not accept these documents during the 08/30/11 hearing, but states that these documents should be accepted by the Court as the decedent's last Will. Further, Ms. Villareal requests the Court to direct the Public Administrator to act on these two holographic documents.

NEEDS/PROBLEMS/COMMENTS:

<u>CONTINUED FROM 10/24/11</u>
As of 01/06/12, no additional documents have been filed in this matter.

1. **Need Order.**

<u>Note:</u>
See Page 11B for related matter.

Reviewed by: JF
Reviewed on: 01/06/12
Updates:
Recommendation:
File 11A - Corrales

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

11B Mary Corrales (Estate) **Case No. 11CEPR00636**

Atty **LeVan, Nancy J. (for Demetria Mijangos – daughter/Petitioner)**

ProPer **Villareal, Monica (pro per – Petitioner/objector)**

Status Hearing

DOD: 05/11/11		
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	

DEMETRIA MIJANGOS, daughter, filed a Petition for Probate to be appointed Administrator with Will Annexed and admit decedent's Will dated 11/06/08 to Probate on 07/26/11.

On 08/08/11, Monica Villareal (daughter of decedent), filed a Declaration in Opposition to Demetria Mijango's Petition for Probate.

On 08/30/11 the Court appointed the Public Administrator as Administrator of the Estate.

On 09/16/11, Monica Villareal filed a Petition to Revoke Probate of Will and For Instructions to Public Administrator See Page 11A).

Minute Order dated 09/29/11, continue the matter to 10/24/11 and states:
The Court is informed that a holographic [Will] has been found that leaves everything to Ruth Reyes. Monica Villareal informs the Court that there is no insurance on the property and her mother didn't have it insured. Ms. Kruthers advises the Court that there is no cash in the estate and the Public Administrator has no funds to provide insurance. The Court directs Ms. LeVan to assist her client in obtaining homeowners insurance. The Court advised Monica Villareal that she will need to pay 1/3 of the homeowners insurance. The Public Administrator is dismissed from providing further services in this matter.

Minute Order from 10/24/11 hearing set this matter for status on 01/18/12 and states: The Court directs Monica Villareal to provide Ms. LeVan copies of the Holographic Will and the Quitclaim. Ms. Levan advises the Court that her client has obtained Farmers Insurance. The Court orders Monica Villareal to pay 1/3 of the insurance. The Court appoints the Public Administrator as Administrator with Will Annexed. The Court notes for the record that it is waiving bond given that the Public Administrator is being appointed. The Court orders that no property be sold or distributed pending further order of the Court. The Court directs that the Public Administrator be advised that the 2009 Will needs to be reviewed. Counsel is directed to submit a revised order.

NEEDS/PROBLEMS/COMMENTS:
Reviewed by: JF
Reviewed on: 01/10/12
Updates:
Recommendation:
File 11B - Corrales

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

12 Sexton Family Trust dated 11-29-1990 Case No. 11CEPR00939

Atty Motsenbocker, Gary L., sole practitioner (for Petitioner Robert Sexton)
Atty Sanoian, Joanne, sole practitioner (for Respondent Jacquelyn Trout, daughter)

Status Hearing Re: Petition for Relief for Breach of Trust; for Conversion of Trust Property; for Breach of Fiduciary Duty; for an Account of Trust Administration; for Removal of Trustee; and for Damages (Prob. C. 17200(b) et seq; 17211; 850 et seq; 16000-16006; 16040; 16060; 16063; 16400; 16420; and 16440 et seq)

Delores DOD: 1/18/2010		
Orville DOD: 5/5/2010		
Cont. from 120711		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	W/
✓	Summons	
	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	

ROBERT SEXTON, son and named Beneficiary of the **SEXTON FAMILY TRUST dated 11/29/1990**, as amended, is Petitioner.

Petitioner states:

- **ORVILLE DEAN SEXTON** and **DELORES A. SEXTON** as Settlors and Trustees of the Trust created on 11/29/1990, jointly amended the Trust by a *First Amendment* dated 10/29/1996; a *Second Amendment* dated 4/19/2007; and by Orville alone in a document referenced by him as *Agreement/Letter of Instruction (Third Amendment)* dated 3/1/2010 *(copies of Trust and amendments attached as Exhibits A, A1, A2, and A3)*;
- After the death of Delores (DOD 1/18/2010), Orville became the sole Trustee, and pursuant to the terms of the Trust, the Trust was not divided into two trusts as provided by its terms; upon the death of Orville (DOD 5/5/2010), the Trust became irrevocable;
- **JACQUELYN TROUT**, daughter (Respondent), assumed the office of Successor Trustee after the death of Orville and has been acting as Successor Trustee since his death;
- Pursuant to the *Agreement/Letter of Instruction (Third Amendment)* dated 3/1/2010, Orville appointed **GARY ROGERS** as a Successor Co-Trustee of the Trust to implement distribution;
- The Successor Trustee (Jacqueline Trout) owed a fiduciary duty to the Petitioner, had a duty to exercise the utmost care, integrity, honesty and loyalty in her dealings with the Trust and the interest of the beneficiaries;

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

<u>Continued from 12/7/2011</u>. *Minute Order* set this matter for Status Hearing on 1/18/2012.

Please see third additional page for response by Jacquelyn Trout, daughter.

Reviewed by: LEG
Reviewed on: 1/10/12
Updates:
Recommendation:
File 12 - Sexton

Petitioner states, continued:

- The Successor Trustee deposited Trust funds into her personal account; she took possession of personal property belonging to the Trust, and the proceeds from the sale of personal property assets belonging to the Trust, and she converted them to her own use, all of which accrued to the detriment of the Petitioner;
-
- The Successor Trustee knew or should have known that her acts would accrue to the detriment of the Petitioner's interest in the Trust estate, and that she did all of these acts in patent "bad faith" with the intent of depriving Petitioner of his fair share of the Trust estate;
- Petitioner requests the Court should suspend her powers as Successor Trustee and order her removal as the Successor Trustee of the Trust for breach of trust and for her wrongful and unlawful conduct;
- The Successor Trustee has not rendered an account after one year as required by the Probate Code; she has not provided information to the Petitioner upon his reasonable request as to information in regard to the assets belonging in the Trust; she has provided inaccurate, incomplete and/or incorrect information to the Petitioner in regard to the Trust;
- Petitioner requests the Court order the Successor Trustee to render a detailed account of her administration of the Trust commencing on 5/5/2010 to the present and to cause a copy of the accounting to be delivered to the Petitioner and his attorney within 90 days of the initial hearing on this matter;
- The Successor Trustee owed the Petitioner a duty to act in scrupulous good faith and with absolute candor; she breached her fiduciary duty to the Petitioner by failing to control and preserve the Trust property, by failing to deal impartially with the assets of the Trust; by failing to administer the Trust in the interest of the beneficiaries; by failing to keep the beneficiaries reasonably informed; by failing to keep Trust property separate from non-trust property; by converting trust property to her own use and enjoyment; and by failure to maintain the cash in the Trust in interest-bearing accounts;
- The Successor Trustee should be ordered to respond in damages for each and every breach of trust and wrongful act;
- The Successor Trustee has repeatedly breached her fiduciary duty of loyalty and impartiality to the Petitioner as a Trust beneficiary; the breaches accrued to the specific and special detriment of the Petitioner; the Successor Trustee personally benefited from her acts and course of conduct; she concealed her activities from the Petitioner, and her entire course of conduct and actions in the matter constitute "bad faith" per se; her conduct and actions with Petitioner were outrageous and they constitute acts of oppression, fraud and malice;
- The Successor Trustee should be ordered to pay exemplary damages for her wrongful conduct, or in the alternative, she should be ordered to pay as damages an equal amount to double the value of all property taken, concealed and/or disposed of by the Successor Trustee in bad faith, according to proof;
- The Successor Trustee's acts constitute breach of trust, she engaged in self-dealing, she failed to deal impartially with the interest of beneficiaries, she failed to keep the Trust property separate from other property; she breached the duty of loyalty, and all of her acts and actions were patently unfair and prejudicial to the interest of the Petitioner in the Trust estate; the Successor Trustee failed to observe the directions and intent of the Settlor as expressed in the Trust; Petitioner contends that as to all acts of Successor Trustee in regard to the Trust, she did them with intent to deprive Petitioner of his rightful share of the Trust estate and in "bad faith;"

~Please see additional page~

Petitioner states, continued:

- Petitioner is entitled to damages with interest as provided in the Probate Code for all breaches of Trust, or in the alternative, the Successor Trustee should be ordered to pay as damages an amount equal to double the value of all property taken, concealed and/or disposed of by the Successor Trustee in "bad faith," according to proof;
- The Successor Trustee concealed and transferred property to herself while she held a fiduciary relationship in regard to the Petitioner; she made gifts of money and property to herself and others in contravention to the provisions of the Trust; all such transactions and/or transfers were in violation of her fiduciary duties as Successor Trustee and they should be adjudge voided and set aside and the asset or value of the assets and/or transactions and/or transfers should be surcharge against the Successor Trustee;
- The Successor Trustee has acted in all matters concerning the Petitioner with oppression, fraud and malice toward the Petitioner, and he is entitled to exemplary damages, or in the alternative, an amount equal to double the value of all property taken, concealed and/or disposed of by the Successor Trustee in "bad faith," according to proof.

Petitioner requests:

1. The Court remove Jacquelyn Trout as Successor Trustee for cause;
2. The Court order the Successor Trustee to render a detailed and correct account for all property held by her from the Decedent's date of death;
3. The Court order the Successor Trustee to account for all property and funds administered, expended and/or distributed on behalf of the Decedent;
4. The Court award damages against the Successor Trustee for all property unaccounted for or missing, together with interest at the legal rate per annum from the date of the breach of trust;
5. The Court award damages to Petitioner, together with interest at the legal rate per annum from the date of each and every breach of trust according to proof;
6. The Court award damages for each and every breach of trust according to proof;
7. In the alternative, the Court award damages in an amount equal to double the value of the property taken, concealed and/or disposed of by the Successor Trustee "in bad faith" according to proof;
8. The Court order a constructive trust on the assets of the Trust and/or the Successor Trustee for such sums that the Court determines to be due the Petitioner; and
9. The Court award attorney's fees provided for in the law and costs of suit incurred herein.

~Please see additional page~

***Response of Jacquelyn Trout to Petition for Relief for Breach of Trust; for Conversion of Trust Property; for Breach of Fiduciary Duty; for an Account of Trust Administration; for Removal of Trustee; and for Damages* filed on 12/21/2011 states:**

- She admits and denies allegations in identified paragraphs of the *Petition*, with some specifics as follows:
  - She denies the Trust was amended by a third document referred to by Petitioner as a Third Amendment;
  - She submits to the venue of this action in Fresno County, but denies that the principal place of administration is in Fresno County;
  - She denies that Orville Dean Sexton's date of death was 5/5/2010;
  - She denies the date she acted as Successor Trustee of the Trust was 5/5/2010;
  - She is currently preparing a full and complete accounting of trust administration and all actions taken by her as Successor Trustee, although she has kept Petitioner apprised of all of her actions throughout her administration of the Trust; in 10/2010, Petitioner agreed to a final and specific distribution of trust assets and approved all actions of Respondent in Trust Administration;
  - Petitioner breached his agreement to Respondent for resolution of this matter by bringing this action;
  - She admits that she has a duty to act in good faith with respect to Petitioner.

- Respondent alleges the following affirmative defenses to each cause of action asserted in the *Petition*:
  1. **Offset:** Respondent denies that Petitioner is entitled to any recovery against Respondent; however, in the event that Petitioner obtains any award against Respondent, the amount owed by the Respondent to Petitioner as a result of that award is to be reduced and/or offset by the amount equal to all monies received by Petitioner from Respondent or owed by Petitioner to Respondent or other persons identified in the *Petition*.
  2. **Unclean Hands:** Petitioner is not entitled to any relief because he comes to this Court with unclean hands.
  3. **Excuse:** Any performance by this answering Respondent is excused by the acts, errors, omissions, and non-performance of Petitioner and others;
  4. **Waiver:** Respondent alleges the Petition is barred by the doctrine of waiver.
  5. **Estoppel:** By reason of Petitioner's own actions, Petitioner is estopped from pursuing the claims set forth in the *Petition*.
  6. **Justification:** Any alleged conduct of Respondent is justified on account of the acts, errors and omissions of Petitioner.
  7. **Good Faith:** The *Petition*, and each and every purported claim and/or cause of action stated in it, is barred because at all relevant times the Respondent acted in good faith, observing all reasonable standards in her actions and dealings at issue in the lawsuit.
  8. **Other Defenses:** Respondent presently has insufficient knowledge or information on which to form a belief as to whether she may have additional affirmative defenses available to her; accordingly, Respondent reserves the right to assert additional affirmative defenses in the event discovery indicates it would be appropriate.

Respondent prays for an order denying the *Petition*.

13 Gabriel Villa (GUARD/P) **Case No. 06CEPR00606**

Atty Lopez, Sylvia Quintana (Pro Per – Maternal Grandmother – Guardian)

Petition to Establish Child Care and Visitation of the Minor Child Gabriel Villa

Gabriel Villa
Age: 7
DOB: 8-4-04

Cont. from 102611

	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	

SYLVIA QUINTANA LOPEZ, Maternal Grandmother and Guardian since 10-2-06, is Petitioner.

Mother: Corina Villa
Maternal Grandfather: Ramon Adame
Father and Paternal Grandparents: Unknown

Petitioner states there have been changes in the needs of the child and it would be to his benefit to modify the orders.

Regarding visits with Maternal Great-Grandmother Mary Serafin: The Court previously restricted visits with Mary Serafin. Petitioner requests the restrictions be removed and the child be allowed to visit unrestricted and that she be permitted to provide child care if needed. Mary has been a positive influence in Gabriel's life and has been a Fresno County Foster Grandmother for about 10 years. Gabriel is close with her and they enjoy spending time together. Gabriel's Great-Aunt Alice Silvas also lives with Mary and Petitioner requests that no restrictions be placed on Gabriel's ability to visit and spend time with either of them.

Regarding child-care: The Court previously ordered that Stephanie Leyva be the only child care provider. Ms. Leyva now has four small children of her own and is unable to care for Gabriel. Petitioner requests that her son Manuel Villa, Jr., be allowed to provide child care at Petitioner's residence. He is 25 years old and has lived with Petitioner since she was appointed Guardian. CPS has performed a background investigation and he has been given clearance to be left alone with Gabriel.

Regarding Mother's visitation: The Court previously ordered that Mother's boyfriend Frankie Padilla, who is the person specifically found to have caused bodily harm and emotional distress and trauma to Gabriel and was ordered to not be around him at any time, not be present around the minor at any time. Petitioner states that for the last several months, Mother has caused internal problems with family members, has stopped visiting regularly, and is expecting another child with Frankie Padilla. Gabriel is still traumatized by just the mention of his name, and Mother intends to continue her relationship with him and is opposition of the court's order regarding him. **Petitioner asks that visits with Mother be terminated until further review and that the stay-away order remain in full force and effect.**

Petitioner states that Gabriel's only real family are those that are currently being restricted from being involved in his life.

Court Investigator Jo Ann Morris filed a report on 1-9-12.

NEEDS/PROBLEMS/ COMMENTS:

Minute Order 10-26-11: The Court modifies its previous order to include that Manuel Villa, Jr. may provide child care in addition to Stephanie Leyva. The Court further orders that mother call the guardian regarding visitation the Thursday before her visit and guardian accepted her calls. All prior orders not modified remain in full force and effect. The Court orders that a court investigator conduct a further investigation of the parties. The matter is continued to 1-18-12.

Reviewed by: skc

Reviewed on: 1-4-12

Updates: 1-11-12

Recommendation:

File 13 - Villa

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

14A Boyd Earl (CONS/PE) **Case No. 08CEPR01222**

Atty Johnson, Shanise Earl (pro per Petitioner/Conservator)

Final Account Current and Report of Conservator

DOD: 2/19/11		
Cont. from 102011		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	N/A
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	2620(c)	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

SHANISE JOHNSON, Conservator, is petitioner.

Account period: 8/17/10 – 2/19/11

Accounting	-	?????
Beginning POH	-	$141,411.11
Ending POH	-	$137,988.35

NEEDS/PROBLEMS/COMMENTS:

<u>OFF CALENDAR</u>. Amended Petition filed and set for hearing on 2/15/12.

Continued from 10/20/11. As of 1/5/12 the following issues remain:

This is actually the First Amended Second and Final Account. Need Second Amended Second and Final Account based on but not limited to the following:

1. **Accounting does not balance. Total charges and total credits must be the same amount for the account to balance.**
2. **Summary of account listed in the narrative of the petition is not the same as the summary of account on the schedules attached to the petition.**
3. **It appears that the ending cash on hand is the balance of the bank account on 2/28/10 however the account period ends on 2/19/10. Therefore the balance of cash on hand should be the balance on 2/19/10.**
4. **Need Order.**

Reviewed by: KT

Reviewed on: 1/5/12

Updates: 1/9/12

Recommendation:

File 14A - Earl

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

14B Boyd Earl (CONS/PE) **Case No. 08CEPR01222**

Atty Johnson, Shanise Earl

[Subsequent] Final Account Current and Report of Conservator

Age: 2/19/11		
Cont. from 102011		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	N/A
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	2620(c)	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

SHANISE JOHNSON,
Conservator, is petitioner.

Account period: 2/20/11 – 5/31/11

Accounting - ?????
Beginning POH- $137,988.35
Ending POH- $135,343.72

NEEDS/PROBLEMS/COMMENTS:

<u>OFF CALENDAR</u>. Amended Petition filed and set for hearing on 2/15/12.

Continued from 10/20/11. As of 1/5/12 the following issues remain:

This is actually the Subsequent Second and Final Account. Need Amended Subsequent Second and Final Account based on but not limited to the following:

5. **Accounting does not balance. Total charges and total credits must be the same amount for the account to balance.**
6. **Summary of account listed in the narrative of the petition is not the same as the summary of account on the schedules attached to the petition.**
7. **Need change in asset schedule showing the cemetery plot as no longer an asset of the estate.**
8. **Petition does not state the disposition of the remaining assets of the estate.**
9. **Need Order.**

Reviewed by: KT
Reviewed on: 1/5/12
Updates: 1/9/12
Recommendation:
File 14B – Earl

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

15A Esmeralda B. Mendez (GUARD/E) **Case No. 09CEPR00717**

Atty Chavez, Maria Araceli (pro per – Mother/Petitioner)

Probate Status Hearing Re: Filing of the First Account

Age: 15		
DOB: 12/04/96		
Cont. from 030911, 050411, 072011, 101911		
	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	

MARIA ARACELI CHAVEZ, mother, was appointed Guardian of the Estate on 01/26/10.

Final I & A filed 04/06/10 - $77,336.67

Minute Order 01/06/10 set matter for status hearing for the filing of the first account on 03/09/11.

Minute Order 03/09/11 states: Parties not appearing. Matter continued to 05/04/11. The Court orders Maria Chavez to be present at the next hearing. The Court directs that a copy of the minute order be sent to Ms. Chavez.

On 4-28-11, Guardian filed a request to withdraw $25,000.00 from each minors' blocked account to purchase a home for the family. The matter was heard on 7-7-11. [See Page 15B for status relating to this request].

Minute Order 5-4-11 set this matter for status on 7-20-11.

Minute Order from Status Hearing on 07/20/11 continued the matter to 10/19/11.

Minute Order from 10/19/11 states: Ms. Mendez advised the court that the Petitioner was unable to be present today due to having recently obtained employment and her inability to get the day off. The Court excuses the Petitioner's non-appearance here today. The Court continues the matter to 01/18/12. The Court advised Ms. Mendez that it will be expecting an accounting by 01/18/12. Ms. Mendez provides a residence address to the Court. Ms. Mendez advises the Court that this is her address, but that the Petitioner can be contacted there.

NEEDS/PROBLEMS/COMMENTS:

CONTINUED FROM 10/19/11
As of 01/10/12, no accounting has been filed.

1. **Need first account pursuant to Probate Code 2620(a).**

Parties are Spanish-speaking.

Note: Page 16A and 16B is the related case (this minor's sister).

Reviewed by: JF
Reviewed on: 01/10/12
Recommendation:
Updates:
File 15A - Mendez

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

15B Esmeralda B. Mendez (GUARD/E) **Case No. 09CEPR00717**

Atty Chavez, Maria Araceli (pro per – Mother/Petitioner)

Status Hearing Re: House Purchase

Age: 15		
DOB: 12/04/96		
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	

MARIA ARACELI CHAVEZ, mother, was appointed Guardian of the Estate on 01/26/10.

Final I & A filed 04/06/10 - $77,336.67

Petitioner filed **an Ex Parte Petition for Withdrawal of Funds from Blocked Account** on 04/28/11 requesting to withdraw $25,000.00 from this minor's account [and also filed a request to withdraw $25,000.00 from the related case] for the purpose of purchasing a home for the family to live in.

The Court set the matter for a noticed hearing on 07/07/11.

Minute Order 7-7-11 states: The Court grants the petition on the condition that Ms. Chavez maintain the dwelling and pay all the expenses including, but not limited to the taxes and insurance. In addition, Ms. Chavez is to execute a will whereby the dwelling/ property will vest in the minor. The Court further orders that the account be unblocked for the limited purpose of obtaining the maximum allowable funds by the Court of $25,000 as to this case.

On 7-11-11, the court signed orders to transfer up to $25,000.00 from each minor's account to an unblocked account "for the limited purpose of obtaining funds to purchase a home, subject to court hearing regarding vesting of ownership prior to the close of escrow.

Also on 7-11-11, the court signed orders for withdrawal of court fees from each minor's account pursuant to the court's prior order of 1-6-10.

NEEDS/PROBLEMS/COMMENTS:

1. **Need status update on the purchase of a house.**

Reviewed by: JF

Reviewed on: 01/10/12

Updates:

Recommendation:

File 15B - Mendez

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

16A Ruby Isela Mendez Chavez (GUARD/E) **Case No. 09CEPR00895**

Atty Chavez, Maria Araceli (pro per – Mother/Petitioner)

Probate Status Hearing Re: Filing of the First Account

Age: 8	**MARIA ARACELI CHAVEZ,** mother, was appointed Guardian of the Estate on 01/26/10.	**NEEDS/PROBLEMS/COMMENTS:**
DOB: 05/19/03	Final I & A filed 04/06/10 - $77,336.67	**CONTINUED FROM 10/19/11** **As of 01/10/12, no accounting has been filed.**
Cont. from 030911, 050411, 072011, 101911	**Minute Order 01/06/10 set matter for status hearing for the filing of the first account on 03/09/11.**	**2. Need first account pursuant to Probate Code 2620(a).**
Aff.Sub.Wit.	**Minute Order 03/09/11 states:** Parties not appearing. Matter continued to 05/04/11. The Court orders Maria Chavez to be present at the next hearing. The Court directs that a copy of the minute order be sent to Ms. Chavez.	**Parties are Spanish-speaking.**
Verified		**Note: Page 15A and 15B is the related case (this minor's sister).**
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	**On 4-28-11,** Guardian filed a request to withdraw $25,000.00 from each minors' blocked account to purchase a home for the family. The matter was heard on 7-7-11.	
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.	**Minute Order 5-4-11** set the matter on 7-20-11.	
Conf. Screen		
Letters	**Minute Order from Status Hearing on 07/20/11** continued the matter to 10/19/11.	
Duties/Supp		
Objections		
Video Receipt	**Minute Order from 10/19/11** states: Ms. Mendez advised the court that the Petitioner was unable to be present today due to having recently obtained employment and her inability to get the day off. The Court excuses the Petitioner's non-appearance here today. The Court continues the matter to 01/18/12. The Court advised Ms. Mendez that it will be expecting an accounting by 01/18/12. Ms. Mendez provides a residence address to the Court. Ms. Mendez advises the Court that this is her address, but that the Petitioner can be contacted there.	
CI Report		
9202		
Order		
Aff. Posting		**Reviewed by:** JF
Status Rpt		**Reviewed on:** 01/10/12
UCCJEA		**Recommendation:**
Citation		**Updates:**
FTB Notice		**File 16A – Mendez-Chavez**

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

16B **Ruby Isela Mendez Chavez (GUARD/E)** **Case No. 09CEPR00895**

Atty **Chavez, Maria Araceli (pro per – Mother/Petitioner)**

Status Hearing Re: House Purchase

Age: 8		
DOB: 05/19/03		
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	

MARIA ARACELI CHAVEZ, mother, was appointed Guardian of the Estate on 01/26/10.

Final I & A filed 04/06/10 - $77,336.67

Petitioner filed **an Ex Parte Petition for Withdrawal of Funds from Blocked Account** on 04/28/11 requesting to withdraw $25,000.00 from this minor's account [and also filed a request to withdraw $25,000.00 from the related case] for the purpose of purchasing a home for the family to live in.

The Court set the matter for a noticed hearing on 07/07/11.

Minute Order 7-7-11 states: The Court grants the petition on the condition that Ms. Chavez maintain the dwelling and pay all the expenses including, but not limited to the taxes and insurance. In addition, Ms. Chavez is to execute a will whereby the dwelling/ property will vest in the minor. The Court further orders that the account be unblocked for the limited purpose of obtaining the maximum allowable funds by the Court of $25,000 as to this case.

On 7-11-11, the court signed orders to transfer up to $25,000.00 from each minor's account to an unblocked account "for the limited purpose of obtaining funds to purchase a home, subject to court hearing regarding vesting of ownership prior to the close of escrow.

Also on 7-11-11, the court signed orders for withdrawal of court fees from each minor's account pursuant to the court's prior order of 1-6-10.

NEEDS/PROBLEMS/COMMENTS:

1. **Need status update on the purchase of a house.**

Reviewed by: JF

Reviewed on: 01/10/12

Updates:

Recommendation:

File 16B – Mendez Chavez

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

17 Jean Errotabere Trust 4/29/1980 (Trust) Case No. 11CEPR01020

Atty **Owdom, Bruce A. (of Dietrich, Glasrud, Mallek & Aune, for Petitioners)**

Petition for Order Approving Modification of Trust Under Probate Code Sections 15403 and 15409 [Probate Code 17200(b)(10)(13)]

	Aff.Sub.Wit.	
✔	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✔	Notice of Hrg	
✔	Aff.Mail	W/O
	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	

GEORGIANNE H. ERROTABERE, Trustee and Beneficiary, and Beneficiaries **DANIEL DOMINGO ERROTABERE, JEAN EMILE ERROTABERE,** and **REMI PHILLIP ERROTABERE**, are Petitioners.

Petitioners state the Jean Errotabere Testamentary Trust was created by court order 4-29-1980 and amended by court order dated 6-6-1989.

Petitioner Georgianne H. Errotabere is the original and present trustee, and wishes to resign. The two named successor trustees, Donald Yraceburu and Wells Fargo Bank (successor to Crocker Bank), both indicate that they would decline to serve if appointed, and have both signed declinations (Exhibits B and C).

The trust does not provide mechanism for further appointment. Petitioners seek to modify the trust so that upon the resignation of Georgianne H. Errotabere, the three sons of the trustor and Georgianne H. Errotabere, Petitioners and Beneficiaries Daniel Errotabere, Jean Errotabere and Remi Errotabere are appointed successor co-trustees, with the survivors or survivor thereof serving as co-trustees or sole trustee. Upon the death or resignation of the proposed sole successor trustee, a successor trustee may be chose by the unanimous written consent of the adult beneficiaries and the parents or guardians of minor beneficiaries without court approval.

No bond would be required of any trustee or successor trustee named in or appointed pursuant to the terms of the trust. No other trust provisions would be modified.

All present beneficiaries and all adult contingent beneficiaries consent to the modification pursuant to Probate Code §15403 and waive notice of hearing.

Petitioners also refer to Probate Code §15409 with respect to modification based on changed circumstances, and state that the trustor could not have known over 30 years ago that the two successor trustees would decline to serve.

Petitioners state that because the present trustee wishes to resign, modification of the trust is necessary to provide mechanism for appointment of successor trustees that is valid and not subject to question, challenge or delay.

NEEDS/PROBLEMS/COMMENTS:

1. **Notice was not served on the minor grandchildren of the trustor (contingent beneficiaries) pursuant to Probate Code §17203 and Cal. Rule of Court 7.51(d).**

   Petitioners state that the interests of the minor contingent beneficiaries are identical to those of the present beneficiares; therefore, they are adequately represented; however, notice (30 days) is still required per the code.

   ***Note**: Examiner notes that the adult grandchildren signed consent to this modification and waivers of notice of this hearing; however, their notice was sent "C/O" their respective parents. Because they each waived notice, this is not an issue; however, for future reference, direct notice is required (not "C/O") per Cal. Rule of Court 7.51(a).*

2. **Probate Code §15602 requires an individual who is not named as a trustee in the trust to give a bond to secure performance, unless excused for compelling circumstances.**

   Petitioners request to modify the trust under §15403 to name the proposed successor trustees without bond rather than appoint pursuant to §15660.

   Petitioners also request that the modified language not require bond for any successor appointed pursuant to the modified terms.

   The Court may require bond or clarification regarding compelling circumstances, and/or authority.

   If bond is required, need estimated value of trust assets.

Reviewed by: skc

Reviewed on: 1-5-12

Updates:

Recommendation:

File 17 - Errotabere

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012

18 Dominique Ochoa (GUARD/P) **Case No. 12CEPR00013**

Atty Garza, Yolanda (pro per – paternal grandmother/Petitioner)

Petition for Appointment of Temporary Guardian of the Person

Age: 13		
DOB: 12/17/98		
Cont. from		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	x
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	x
✓	**Conf. Screen**	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

GENERAL HEARING 03/06/12

YOLANDA GARZA, paternal grandmother, is Petitioner.

Father: **TOMMY OCHOA**

Mother: **ANGIE MONCANALIS**

Paternal grandfather: NOT STATED

Maternal grandparents: NOT STATED

Petitioner states that temporary guardianship is necessary because the parents are unstable.

NEEDS/PROBLEMS/COMMENTS:

1. **Need *Notice of Hearing.***
2. **Need proof of personal service at least 5 court days before the hearing of *Notice of Hearing* with a copy of the *Petition for Temporary Guardianship* or Consent and Waiver of Notice or Declaration of Due Diligence for:**
   - Tommy Ochoa (father)
   - Angie Moncanalis (mother)
3. **The UCCJEA is incomplete, need minor's residence information for the past 5 years.**

Reviewed by: JF

Reviewed on: 01/06/12

Updates:

Recommendation:

File 18 - Ochoa

Dept. 303, 9:00 a.m. Wednesday, January 18, 2012