



## 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.

**Second Amended Report and Final Account of Administrator, Petition for  
 Distribution of Personal Property upon Waiver of Accounting: Allowance of Fees  
 for Attorney and Closing an Insolvent Estate**

|  |  |   |  |
|--|--|---|--|
| <b>DOD: 01/26/04</b>                                     | <b>ANTONETTE FREGOSO</b> , Administrator, is petitioner. |   | <p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>Continued from 10/24/13. Minute order states Counsel informs the Court that they are still waiting on the release of the car and personal property.</p> <p>There have been approximately 21 hearings to close this estate and as of 1/16/14 nothing additional has been filed addressing the issues raised below.</p> <ol style="list-style-type: none"> <li>Petition states all heirs have signed an assignment of their share of the "J" Street property to the Petitioner. Need assignments from Christina Canales.</li> <li>Petition states the decedent's 1997 Buick was distributed to Christina. Property of the estate cannot be distributed prior to creditor's being satisfied.</li> </ol> |
|  | Accounting is waived.                                    |   |  |
| <b>Cont. from 091013, 102413</b>                         | I & A  | - \$264,250.00  |  |
|  | POH  | - \$ 1,500.00   |  |
| <b>Aff.Sub.Wit.</b>                                      | Administrator - <b>waives</b>                            |   |  |
| <input checked="" type="checkbox"/> <b>Verified</b>      | Attorney   | - \$4,099.00 (less than statutory)  |  |
| <input checked="" type="checkbox"/> <b>Inventory</b>     |  |   |  |
| <input checked="" type="checkbox"/> <b>PTC</b>           |  |   |  |
| <input checked="" type="checkbox"/> <b>Not.Cred.</b>     |  |   |  |
| <input checked="" type="checkbox"/> <b>Notice of Hrg</b> | <b>Petitioner prays for an Order:</b>                    |   |  |
| <input checked="" type="checkbox"/> <b>Aff.Mail</b>      | w/o  | 1. Approving, allowing and settling the 2 <sup>nd</sup> Amended Report and Final Distribution             |  |
| <b>Aff.Pub.</b>  |  | 2. Authorize Petitioner to pay her attorney \$4,099.00 for her statutory fees                             |  |
| <b>Sp.Ntc.</b>   |  | 3. Authorize Petitioner to pay former attorney Cynthia Arroyo the amount of \$1,164.00 in costs advanced. |  |
| <b>Pers.Serv.</b>  |  |   |  |
| <b>Conf. Screen</b>                                      |  |   |  |
| <input checked="" type="checkbox"/> <b>Letters</b>       | 6/15/04  |   |  |
| <b>Duties/Supp</b>                                       |  |   |  |
| <b>Objections</b>  |  |   |  |
| <b>Video Receipt</b>                                     |  |   |  |
| <b>CI Report</b>   |  |   |  |
| <input checked="" type="checkbox"/> <b>9202</b>          |  |   |  |
| <input checked="" type="checkbox"/> <b>Order</b>         |  |   |  |
| <b>Aff. Posting</b>                                      |  |   |  |
| <b>Status Rpt</b>  |  |   |  |
| <b>UCCJEA</b>  |  |   |  |
| <b>Citation</b>  |  |   |  |
| <input checked="" type="checkbox"/> <b>FTB Notice</b>    |  |   |  |
|  |  |   | <b>Reviewed by: KT</b>   |
|  |  |   | <b>Reviewed on: 1/17/14</b>  |
|  |  |   | <b>Updates:</b>  |
|  |  |   | <b>Recommendation:</b>   |
|  |  |   | <b>File 1 – Canales</b>  |

**Petition states** all other beneficiaries have filed waivers of accounting of administrator and acceptance of \$10,000 as their full beneficial interest in the estate on 6/6/11. Because of the EDD their beneficial interest could not be distributed from the estate. All the funds, except administration and attorney fees, had to be paid to the mortgage on the "J" Street property, or the EDD would not allow the partial release of the lien to allow the "J" Street property to be sold. Since there was no money remaining after the payment of title fees, costs, attorney fees and property taxes, the Personal Representative took \$20,000 from her own retirement funds and paid all other beneficiaries \$5,000.00 each. Kristina received the 1997 Buick Bonneville with the value of \$5,000.00. All beneficiaries have signed an assignment of their share of the "J" Street property to the petitioner. Petitioner has used this property as collateral to acquire enough money to pay off the "J" Street property's mortgage, back property taxes, and other debts of the decedent. Petitioner is still making payments on these loans.

**(1) First and Final Account and Report of Personal Representative and (2) Petition for Its Settlement for Allowance of Attorneys' Fees for Ordinary Services, and for (3) Final Distribution**

|  |   |  |
|--|---|--|
| <b>DOD: 07/24/10</b>                                     | <b>KENNETH HARRINGTON</b> , Administrator, is Petitioner.   | <p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need consent to the distribution of real property in undivided interests from all beneficiaries pursuant to Local Rule 7.12.4A.</li> <li>2. Need declaration regarding distributing real property to minors in undivided interests pursuant to Local Rule 7.12.4B.</li> </ol> |
|  | Account period: <b>07/24/10 – 08/01/13</b>  |  |
|  | Accounting - <b>\$334,045.53</b>  |  |
|  | Beginning POH - <b>\$306,673.00</b>   |  |
|  | Ending POH - <b>\$292,042.43</b> (\$12,041.84 is cash)  |  |
| <b>Cont. from</b>  |   |  |
| <input type="checkbox"/> <b>Aff.Sub.Wit.</b>             |   |  |
| <input checked="" type="checkbox"/> <b>Verified</b>      | Administrator - <b>waived</b>   |  |
| <input checked="" type="checkbox"/> <b>Inventory</b>     |   |  |
| <input checked="" type="checkbox"/> <b>PTC</b>           | Attorney - <b>\$9,654.41</b> (statutory)  |  |
| <input checked="" type="checkbox"/> <b>Not.Cred.</b>     |   |  |
| <input checked="" type="checkbox"/> <b>Notice of Hrg</b> | Costs - <b>\$520.50</b> (filing fees, certified copies)   |  |
| <input checked="" type="checkbox"/> <b>Aff.Mail</b> w/   |   |  |
| <input type="checkbox"/> <b>Aff.Pub.</b>                 | Closing - <b>\$1,500.00</b>   |  |
| <input type="checkbox"/> <b>Sp.Ntc.</b>                  | <b>Distribution, pursuant to intestate succession and subject to a disclaimer of interest by Michael Harrington, is to:</b>   |  |
| <input type="checkbox"/> <b>Pers.Serv.</b>               |   |  |
| <input type="checkbox"/> <b>Conf. Screen</b>             | <b>Kenneth Harrington</b> - \$91.73 cash, plus an undivided 1/4 interest in real property located on W. Antonio Drive in Clovis and an undivided 1/4 interest in real property located on W. National in Clovis   |  |
| <input type="checkbox"/> <b>Letters</b> 10/20/10         |   |  |
| <input type="checkbox"/> <b>Duties/Supp</b>              | <b>Crain Harrington</b> - \$91.73 cash, plus an undivided 1/4 interest in real property located on W. Antonio Drive in Clovis and an undivided 1/4 interest in real property located on W. National in Clovis   |  |
| <input type="checkbox"/> <b>Objections</b>               |   |  |
| <input type="checkbox"/> <b>Video Receipt</b>            |   |  |
| <input type="checkbox"/> <b>CI Report</b>                | <b>Douglas Harrington</b> - \$91.73 cash, plus an undivided 1/4 interest in real property located on W. Antonio Drive in Clovis and an undivided 1/4 interest in real property located on W. National in Clovis   |  |
| <input checked="" type="checkbox"/> <b>9202</b>          |   |  |
| <input checked="" type="checkbox"/> <b>Order</b>         |   |  |
| <input type="checkbox"/> <b>Aff. Posting</b>             | <b>Ethan George Harrington</b> - \$30.58 cash, plus an undivided 1/12 interest in real property located on W. Antonio Drive in Clovis and an undivided 1/12 interest in real property located on W. National in Clovis  |  |
| <input type="checkbox"/> <b>Status Rpt</b>               |   |  |
| <input type="checkbox"/> <b>UCCJEA</b>                   | <b>Michael Dean Harrington</b> , as Guardian of the Estate of Sommer Marie Harrington - \$30.58 cash, plus an undivided 1/12 interest in real property located on W. Antonio Drive in Clovis and an undivided 1/12 interest in real property located on W. National in Clovis |  |
| <input type="checkbox"/> <b>Citation</b>                 |   |  |
| <input checked="" type="checkbox"/> <b>FTB Notice</b>    | <b>Michael Dean Harrington</b> , as Guardian of the Estate of Sommer Marie Harrington - \$30.58 cash, plus an undivided 1/12 interest in real property located on W. Antonio Drive in Clovis and an undivided 1/12 interest in real property located on W. National in Clovis |  |
|  |   | <b>Reviewed by:</b> JF   |
|  |   | <b>Reviewed on:</b> 01/16/14   |
|  |   | <b>Updates:</b>  |
|  |   | <b>Recommendation:</b>   |
|  |   | <b>File 2 – Harrington</b>   |

**Petition to Reduce Bond**

|                       |                      |   |   |
|-----------------------|----------------------|---|---|
| <b>DOD: 8/30/2012</b> |                      | KATRINA BEST KENDALL is petitioner.   | <p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>California Rule of Court 7.207(b) applies to guardianship and conservatorship and not decedent's estates. Therefore, the bond could be reduced to \$61,251.00.</li> <li>Notice was sent to Yvette <u>V</u>est. The beneficiary of the estate is Yvette <u>B</u>est.</li> <li>Need Order. Local Rule 7.1 states a proposed Order shall be submitted with all pleadings that request relief. If the proposed order is not received in the Probate Filing Clerk's Office ten (10) days before the scheduled hearing, a continuance may be required.</li> </ol> |
|                       |                      | Petitioner was appointed as Administrator with full IAEA authority and bond set at \$260,000.00. Bond was filed on 12/6/12 and Letters issued.  |   |
| <b>Cont. from</b>     |                      |   |   |
|                       | <b>Aff.Sub.Wit.</b>  |   |   |
| ✓                     | <b>Verified</b>      |   |   |
|                       | <b>Inventory</b>     | Inventory and appraisal was filed on 6/10/13 showing the estate valued at \$61,251.00.  |   |
|                       | <b>PTC</b>           |   |   |
|                       | <b>Not.Cred.</b>     |   |   |
| ✓                     | <b>Notice of Hrg</b> | <b>Petitioner requests</b> pursuant to Probate Code §8484 that the Court reduce the amount of bond to \$67,376.10 based on the value of the estate and the costs of recovery on the bond, which is \$6,125.00 pursuant to Rule 7.207(b) of the California Rules of Court. |   |
| ✓                     | <b>Aff.Mail</b>      | W/O   |   |
|                       | <b>Aff.Pub.</b>      |   |   |
|                       | <b>Sp.Ntc.</b>       |   |   |
|                       | <b>Pers.Serv.</b>    |   |   |
|                       | <b>Conf. Screen</b>  |   |   |
|                       | <b>Letters</b>       |   |   |
|                       | <b>Duties/Supp</b>   |   |   |
|                       | <b>Objections</b>    |   |   |
|                       | <b>Video Receipt</b> |   |   |
|                       | <b>CI Report</b>     |   |   |
|                       | <b>9202</b>          |   |   |
|                       | <b>Order</b>         | X   |   |
|                       | <b>Aff. Posting</b>  |   |   |
|                       | <b>Status Rpt</b>    |   |   |
|                       | <b>UCCJEA</b>        |   |   |
|                       | <b>Citation</b>      |   |   |
|                       | <b>FTB Notice</b>    |   |   |
|                       |                      |   | <b>Reviewed by: KT</b>  |
|                       |                      |   | <b>Reviewed on: 1/17/14</b>   |
|                       |                      |   | <b>Updates:</b>   |
|                       |                      |   | <b>Recommendation:</b>  |
|                       |                      |   | <b>File 3 – Best</b>  |

**4 Margaret Mary Paul (Estate)**

Case No. 13CEPR00501

Atty Magness, Marcus D. (for Petitioner/Executor Patricia Paul Tamiyasu)

(1) First and Final Account and Report of Executor and Petition for Its Settlement,  
 (2) for Allowance of Compensation to Attorneys for Ordinary Services and (3) for  
 Final Distribution

|                                     |                      |  |                                  |
|-------------------------------------|----------------------|--|----------------------------------|
| <b>DOD: 11/6/2007</b>               |                      | <b>PATRICIA PAUL TAMIYASU</b> , Executor, is petitioner.                               | <b>NEEDS/PROBLEMS/COMMENTS:</b>  |
|                                     |                      | Account period: 7/8/13 – 11/25/13  |                                  |
| <b>Cont. from</b>                   |                      | Accounting - <b>\$32,177.30</b>  |                                  |
| <input type="checkbox"/>            | <b>Aff.Sub.Wit.</b>  | Beginning POH - <b>\$32,177.30</b>   |                                  |
| <input checked="" type="checkbox"/> | <b>Verified</b>      | Ending POH - <b>\$32,177.30</b>  |                                  |
| <input checked="" type="checkbox"/> | <b>Inventory</b>     | Executor - <b>waives</b>   |                                  |
| <input checked="" type="checkbox"/> | <b>PTC</b>           | Attorney - <b>\$1,287.09</b>   |                                  |
| <input checked="" type="checkbox"/> | <b>Not.Cred.</b>     | (statutory)  |                                  |
| <input checked="" type="checkbox"/> | <b>Notice of Hrg</b> | Costs - <b>\$1,245.50</b>  |                                  |
| <input checked="" type="checkbox"/> | <b>Aff.Mail</b>      | (filing fees, certified copies, probate referee)                                       |                                  |
| <input type="checkbox"/>            | <b>Aff.Pub.</b>      |  |                                  |
| <input type="checkbox"/>            | <b>Sp.Ntc.</b>       | <b>Distribution, pursuant to Decedent's Will, is to:</b>                               |                                  |
| <input type="checkbox"/>            | <b>Pers.Serv.</b>    |  |                                  |
| <input type="checkbox"/>            | <b>Conf. Screen</b>  |  |                                  |
| <input checked="" type="checkbox"/> | <b>Letters</b>       | Patricia Paul Tamiyasu as Trustee of the Margaret Mary Paul Living Trust - \$29,647.71 |                                  |
| <input type="checkbox"/>            | <b>Duties/Supp</b>   |  |                                  |
| <input type="checkbox"/>            | <b>Objections</b>    |  |                                  |
| <input type="checkbox"/>            | <b>Video Receipt</b> |  |                                  |
| <input type="checkbox"/>            | <b>CI Report</b>     |  |                                  |
| <input checked="" type="checkbox"/> | <b>9202</b>          |  |                                  |
| <input checked="" type="checkbox"/> | <b>Order</b>         |  |                                  |
| <input type="checkbox"/>            | <b>Aff. Posting</b>  |  |                                  |
| <input type="checkbox"/>            | <b>Status Rpt</b>    |  |                                  |
| <input type="checkbox"/>            | <b>UCCJEA</b>        |  |                                  |
| <input type="checkbox"/>            | <b>Citation</b>      |  |                                  |
| <input checked="" type="checkbox"/> | <b>FTB Notice</b>    |  |                                  |
|                                     |                      |  | <b>Reviewed by: KT</b>           |
|                                     |                      |  | <b>Reviewed on: 1/17/14</b>      |
|                                     |                      |  | <b>Updates:</b>                  |
|                                     |                      |  | <b>Recommendation: SUBMITTED</b> |
|                                     |                      |  | <b>File 4 – Paul</b>             |

**Atty Forry, Craig (of Mission Hills, for Petitioners Virginia Chenier, Leslie Bartimore, Lori Johnson and Lynn Feathareston**

**Atty Standard, Donna M. (for John Welsh, Trustee)**

**Amended Petition to 1) Compel Accounting; 2) Suspend and Remove John M. Welsh as Trustee of the Bartimore Family Trust; 3) Compel Distribution; 4) Conversion; 5) Constructive Trust; 6) Breach of Fiduciary Duty; and 7) Return of Property to Trust [Prob. C. 859, 15642, 17000, 17200; Civ. C. 2224 & 3294]**

|  |                      |  |  |
|--|----------------------|--|--|
|  |                      | <p><b>VIRGINIA CHENIER, LESLIE BARTIMOR, LORI JOHNSON and LYNN FEATHERSTON</b>, beneficiaries, are petitioners.</p>  | <p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Continued from 12/3/13. Minute order states Mr. Forray is appearing by CourtCall. Mr. Moushigian is appearing specially for attorney Donna Standard. Mr. Moushigian requests a continuance.</b></p> |
|  |                      |  |  |
| <p>Cont. from 080113, 082813, 100313, 102413, 111213, 120313</p> |                      | <p>Petitioners states Grantors and original Co-Trustees, <b>Charlotte V. Bartimore</b> and <b>Leonard D. Bartimore</b>, executed the Trust on 10/28/2008. Grantor Charlotte V. Bartimore died on 2/1/2011 and Grantor Leonard D. Bartimore died on 9/5/2009.</p> |  |
|  | <b>Aff.Sub.Wit.</b>  |  |  |
| ✓  | <b>Verified</b>      |  |  |
|  | <b>Inventory</b>     | <p>Charlotte V. Bartimore signed the First Amended and Restated Trust Agreement on 8/31/2010.</p>  |  |
|  | <b>PTC</b>           |  |  |
|  | <b>Not.Cred.</b>     |  |  |
| ✓  | <b>Notice of Hrg</b> | <p><b>John M. Welsh</b> is the current Trustee of the Trust.</p>   |  |
| ✓  | <b>Aff.Mail</b>      | W/   |  |
|  | <b>Aff.Pub.</b>      | <p>Pursuant to Paragraph 3.3.2(b), page 3 of the Trust, the trust was to divide the trust into two equal shares. 50% of the estate was to be allocated to the issue of Charlotte and the remaining 50% was to be allocated to the issue of Leonard.</p>          |  |
|  | <b>Sp.Ntc.</b>       |  |  |
|  | <b>Pers.Serv.</b>    |  |  |
|  | <b>Conf. Screen</b>  |  |  |
|  | <b>Letters</b>       |  |  |
|  | <b>Duties/Supp</b>   |  |  |
| ✓  | <b>Objections</b>    | <p>Each of the Petitioners are the issue of Settlor Charlotte V. Bartimore, and they are each entitled to an equal share with John Welsh.</p>  |  |
|  | <b>Video Receipt</b> |  |  |
|  | <b>CI Report</b>     |  |  |
|  | <b>9202</b>          | <p>On 5/26/2011 Petitioner Lynn Featherston sent a letter requesting that John M. Welsh provide and accounting as required by Probate Code §16063.</p>   |  |
| ✓  | <b>Order</b>         |  |  |
|  | <b>Aff. Posting</b>  |  |  |
|  | <b>Status Rpt</b>    |  |  |
|  | <b>UCCJEA</b>        |  |  |
|  | <b>Citation</b>      |  |  |
|  | <b>FTB Notice</b>    |  |  |
|  |                      | <p><b>Please see additional page</b></p>   | <p><b>Reviewed by: KT</b></p> <p><b>Reviewed on: 1/17/14</b></p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 5A – Bartimore</b></p>  |

On 2/5/2013, Petitioner's attorney sent a letter to John Welsh requesting he provide an accounting as required by Probate Code § 16063.

On 2/20/2013, Petitioner's attorney sent an additional letter to John Welsh requesting that he provide an accounting.

After representing that he would provide an accounting, John Welsh has failed and refused to provide an accounting, and no accounting has ever been provided to Petitioners.

Petitioners believe that pursuant to Probate Code § 15642 John Welsh's refusal to provide an accounting to Petitioners is a breach of the Trust. Furthermore, John Welsh's conduct demonstrates recalcitrance with regards to dealing with Petitioners, and renders John Welsh unfit to act as Trustee.

John Welsh while wrongfully acting as Trustee, and controlling the Trust, failed to comply with the terms of the Trust to distribute equal shares of the Trust estate to Petitioners.

Petitioners allege that John Welsh has failed to distribute to them their rightful shares of the Trust estate. Such failure constitutes a wrongful act made in bad faith to deprive the proper beneficiaries of the property in the Trust estate. As such John Welsh should be compelled to provide an accounting of the Trust estate at the time of Charlotte's death, and should be compelled to pay double damages as a consequence of such a wrongful appropriation of the Trust estate.

A Constructive Trust should be imposed on the real property of John Welsh located at 46910 Dunlap Road, Miramonte, California 93641 under Civil Code § 2224. Petitioners allege that John Welsh has used a portion of the Trust estate to maintain, repair, improve or otherwise benefit the Miramonte property sufficient to support a constructive trust being imposed on the Miramonte property for the benefit of Petitioners.

A Constructive Trust should also be imposed on Bank of America Account no. 23416-31370 and Wells Fargo Bank Account no. 101 10221047174 that have been used by John Welsh in the handling of the Trust Estate. Petitioners believe John Welsh has used those accounts for his personal benefit sufficient to support a constructive trust being imposed on them for the benefit of Petitioners.

Previous paragraphs allege wrongful acts which are a breach of the Trust, a mistake, accident, or outright fraud. Because John Welsh has deprived Petitioners of their rightful distributions and property, John Welsh should be deemed to be holding said property as Constructive Trustee for Petitioners.

John Walsh's acts of depriving Petitioners of their rightful property and withholding all authorized distributions constitutes the tort of conversion.

John Welsh must pay double damages for the wrongful appropriation of Trust assets in clear violation of the Trust.

Pursuant to Civil Code § 3294, an award of punitive damages against John Welsh should be awarded to Petitioners as a result of John Welsh's acts of fraud, oppression, or malice arising out of his breach of fiduciary duty as acting as Trustee and as a result of the fraudulent concealment and conversion of Trust assets.

**Please see additional page**

**Wherefore, Petitioners pray for an Order of this Court:**

1. Compelling John Welsh to render an account for the Trustee since the date of Charlotte V. Bartimore's death on 2/1/2011 through the present;
2. Removing John Welsh as successor Trustee of the Trust, or in the alternative, suspending his powers as Trustee and delivering the Trust estate to the Successor Trustee Dale R. Welsh, pending the filing of said account with this Court;
3. Compelling the distribution of Petitioners' share of the Trust estate as allocated to them under the Trust;
4. Surcharging John Welsh at the legal rate for improper payments made out of the Trust assets and for the lost value of the Trust as a consequence of their failure to make the Trust productive for beneficiaries;
5. Imposing a Constructive Trust over the wrongfully held assets by John Welsh, including but not limited to, the real property located at 46910 Dunlap Road, Miramonte, California 93641, in an amount determined at trial;
6. For double damages pursuant to Probate Code §859 in an amount to be determined at trial;
7. For punitive damages against John Welsh, in an amount determined at trial; and
8. For such other and further Orders and relief as the Court deems just and proper.

**Successor Trustee's Opposition to Petitioner's Amended Petition to Compel Accounting, Suspend and Remove John M. Welsh as Trustee and Answer to Allegations of Constructive Trust filed by Trustee, John Welsh on 8/26/2013.** Trustee John Welsh states filed concurrently is an accounting from February 1, 2011, the date of death of Settlor, Charlotte V. Bartimore, through July 31, 2013.

John Welsh, Successor Trustee, Respondent objects to removal of him as Trustee, as his actions of a late accounting do not rise to the level of a breach of fiduciary duty. Respondent states he provided an initial accounting to the beneficiaries on or about March 15, 2011. The next accounting would have been due after February 1, 2012. John Welsh states he has had several personal crisis situations occur during this period and was unable to provide the accounting due to circumstances out of his control. Both of his eldest children were hospitalized on different occasions with severe injuries and he also has a child with developmental disabilities who resides with him on a full time basis.

John Welsh states he made some distributions, however, due to the uncertainty surrounding the "Mariner Note", which is a not an deed of trust held against the property, payable to the Trust, which is undervalued at this time, John Welsh, Trustee has not terminated the Trust and made full distribution. John Welsh contends that funds may be necessary should it become necessary to foreclose on the note. Should foreclosure become necessary, to would require John Welsh, Trustee, to assume a large first trust deed, which is ahead of the note payable to the Trust and would require the Trust to assume those payments until the property could be sold. Presently the property is valued at \$725,000.00. The First Trust Deed Note is in the amount of \$820,000.00

**Please see additional page**

**Successor Trustee's Opposition to Petitioner's Amended Petition to Compel Accounting, Suspend and Remove John M. Welsh as Trustee and Answer to Allegations of Constructive Trust filed by Trustee, John Welsh on 8/26/2013**

**(Cont.):** John Welsh, Trustee, objects to Petitioner's request to remove him, based on the terms of the Trust, which states any successor Trustee "must be a trust company or bank qualified to do a trust business." No such designation has occurred. If the Court should consider Petitioner's request, which John Welsh, Trustee, does not consent, then the Court only has the power to appoint a trust company or bank qualified to do a trust business. The Court has no authority pursuant to the terms of the trust, to appoint the Alternate Successor Trustee, Dale M. Welsh.

John Welsh, Trustee, contends it is within his discretion to make distributions to administer the terms of the Trust. Because the issue regarding the "Mariner Note", further distribution should not be made at the present time until it is determined the course of action necessary regarding the note held by the Trust. The borrower has only recently finalized his transaction with the First Deed holder and the Successor Trustee was waiting for an appraisal of the property before entering into any final negotiations.

**Wherefore, John M. Welsh, Successor Trustee prays:**

1. That Petitioner's request to remove Successor Trustee, John Welsh, be denied;
2. That Petitioner take nothing by way of this Amended Petition;
3. For costs of suit and any other relief as may be just and appropriate.

Atty Forry, Craig (of Mission Hills, for Objectors Virginia Chenier, Leslie Bartimore, Lori Johnson and Lynn Feathareston

Atty Standard, Donna M. (for Petitioner/trustee, John Welsh)

First and Formal Account and Report of Status of the Bartimore Family Trust

|                                     |               |   |  |   |
|-------------------------------------|---------------|---|--|---|
|                                     |               | <b>JOHN WELSH</b> , Trustee, is petitioner.   | <p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>Continued from 12/3/13. Minute order states Mr. Forray is appearing by CourtCall. Mr. Moushigian is appearing specially for attorney Donna Standard. Mr. Moushigian requests a continuance.</p> <p>1. Need Order</p> |   |
|                                     |               | Account period: 2/1/11 – 7/13/13  |  |   |
|                                     |               | Accounting - \$359,826.23   |  |   |
|                                     |               | Beginning POH - \$355,755.94  |  |   |
|                                     |               | Ending POH - \$83,405.49  |  |   |
| Cont. from 102413, 111213, 120313   |               | Trustee - \$17,286.06 (petition states trustee has already paid himself \$115,500.00)   |  |   |
| <input type="checkbox"/>            | Aff.Sub.Wit.  | <p><b>Petitioner states</b> he has performed all duties of the Trust to date. The Successor Trustee is delinquent on the accounting, however, the Successor Trustee has been attempting to negotiate with the debtor on a note secured by Deed of Trust on real property located at 15940 Mariner Drive in Huntington Beach.</p> <p><b>Petitioner prays for an Order:</b></p> <p>1. That the First and Final Account and Report of Trustee be allowed and approved as filed.</p> <p style="text-align: center;"><b>Please see additional page</b></p> |  |   |
| <input checked="" type="checkbox"/> | Verified      |   |  |   |
| <input type="checkbox"/>            | Inventory     |   |  |   |
| <input type="checkbox"/>            | PTC           |   |  |   |
| <input type="checkbox"/>            | Not.Cred.     |   |  |   |
| <input checked="" type="checkbox"/> | Notice of Hrg |   |  |   |
| <input checked="" type="checkbox"/> | Aff.Mail      |   |  |   |
| <input type="checkbox"/>            | Aff.Pub.      |   |  |   |
| <input type="checkbox"/>            | Sp.Ntc.       |   |  |   |
| <input type="checkbox"/>            | Pers.Serv.    |   |  |   |
| <input type="checkbox"/>            | Conf. Screen  | <p>Reviewed by: KT</p> <p>Reviewed on: 1/17/14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 5B – Bartimore</p>  |  |   |
| <input type="checkbox"/>            | Letters       |   |  |   |
| <input type="checkbox"/>            | Duties/Supp   |   |  |   |
| <input type="checkbox"/>            | Objections    |   |  |   |
| <input type="checkbox"/>            | Video Receipt |   |  |   |
| <input type="checkbox"/>            | CI Report     |   |  |   |
| <input type="checkbox"/>            | 9202          |   |  |   |
| <input type="checkbox"/>            | Order         |   |  | X |
| <input type="checkbox"/>            | Aff. Posting  |   |  |   |
| <input type="checkbox"/>            | Status Rpt    |   |  |   |
| <input type="checkbox"/>            | UCCJEA        |   |  |   |
| <input type="checkbox"/>            | Citation      |   |  |   |
| <input type="checkbox"/>            | FTB Notice    |   |  |   |

**Objections to First Formal Account and Report of Status of the Bartimore Family Trust filed by Virginia Chenier, Leslie Bartimore, Lori Johnson and Lynne Featherston on 9/19/13.** Objectors state the original trust executed on 10/28/2008 has not been disclosed to Objectors and they have again requested a copy from John Welsh ("Welsh"). Objectors question whether or not the original trust authorized changes after the death of Leonard D. Bartimore.

- By his own admission during the hearing on 8/28/13, Welsh did not collect any payments on the Mariner Note for the past 2 years. To date, Welsh has not justified his failure to collect all of the payments due on the Mariner Note.
- Objector and their counsel have made repeated meet and confer attempts to have Welsh perform his fiduciary duties to them and make a property accounting. It was only after Objector's filed their Petition that Welsh provided Objectors with a formal accounting.
- Welsh has not reasonably performed his fiduciary duties under the trust and provides no support for his claim of trustee's fees and compensation in the amount of \$17,286.06. Such fees and compensation is unreasonable under the facts of this case that involves a small estate with limited duties, and in light of the breaches by Welsh of his fiduciary duties.
- The accounting shows Welsh paid himself the sum of \$15,500.00 as Successor Trustees fees and compensation. He claims his total is based upon 2%, 3% or 4% of the alleged value of the estate for various periods of time. Such a rate is not reasonable. The Trust provides that the trustee shall be entitled to a "reasonable compensation" for services performed in the administration of the trust. The sum of \$17,286.06 is not "reasonable for administering an estate that consisted of one residence sold by real estate agents, a Mariner Note that Welsh paid little attention to until recently, two small bank accounts and assorted furniture.
- The accounting shows payments to Attorney Dawn Thorston in the sum of \$4,723.75. To date, Welsh has not provided any support or justification for these payments.
- The accounting lists expenses for which Welsh had not provided a reasonable accounting:
  - a. AT&T - \$302.21
  - b. Public Storage - \$3,324.70
  - c. William Foster - \$450.00

In the absence of a reasonable explanation, Welsh should be surcharged for these expenses.

- The accounting includes service charges for the Bank of America checking account in the amount of \$365.79. There is no explanation why the Bank of America checking account was not closed and all of the deposits consolidated into the Wells Fargo account that did not require service charges. This caused the estate to lose \$365.79 for which Welsh should be surcharged.
- Documents provided by Welch show a check no. 109 from the Wells Fargo Bank account controlled by Welsh for \$5,000 on 1/31/11, the day before the Trustor Charlotte Bartimore died, but this check and disbursement has not been accounted for by Welsh.
- The accounting shows a disbursement on 2/2/11 as "Expenses for grandchildren (expended at the request of Charlotte Bartimore prior to death)" for \$600.00, but Welsh does not provide any substantiation or explanation of this disbursement.
- The accounting shows a disbursement on 3/4/11 as "John Welsh (catering and funeral expenses) for \$1,970.93, but Welsh had failed to provide any substantiation for this disbursement.
- Wells Fargo Bank statement shows the balance in that account on 7/19/13 us \$8,589.80 but the accounting shows that balance on that date as \$6,545.49, leaving a discrepancy of \$2,044.31 that is not explained.

**Please see additional page**

**Objections Continued:**

- The accounting states that the "balance on hand in the estate" as of 7/31/13 is \$83,405.49 and after subtracting the cash of \$6,545.46 and the Mariner Notes of \$74,000.00, the sum of \$2,860.00 remains unaccounted for.
- During the escrow for the sale of the residence of the Trustor at 200 Afenida Marjorca, Unit A, Laguna Woods, CA, the buyers paid rent to Welsh that he has not accounted for in the Accounting.
- Welsh informed Objectors that he was selling the Residence below its fair market value as it was being sold by the owner, but the agents' commissions totaled \$15,600.00 and there is no explanation for why agents were paid such commissions when the sale was below market value.
- No appraisal was provided to Objectors for the value of the Residence when it was sold on 3/31/11.
- Welsh has failed to disclose whether the personal property in the residence was included in the sale price or paid for separately by the buyer, and such personal property had a value in excess of \$3,000.00
- Welsh failed to collect payments for 21 months on the Mariner Note in the sum of \$9,065.07
- After the death of the Trustor, Welsh took possession of the personal property of the Trustor that had a value in excess of \$45,000.00, and Welsh has failed to fully account for all of the personal property in his possession.

**Wherefore, Objectors request that the Court make the following orders:**

1. Surcharge John Welsh in the amount of \$15,500.00, plus interest at the legal rate, for excessive fees and compensation;
2. Surcharge John Welsh in the amount of \$4,723.75, plus interest at the legal rate, for unsupported payments to Dawn Thorston;
3. Surcharge John Welsh in the amount of \$4,076.91, plus interest at the legal rate, for unjustified payments to AT&T, public storage, and William Forster;
4. Surcharge John Welsh in the amount of \$3,65.79, plus interest at the legal rate, for unnecessary payments to Bank of America for service charges;
5. Require John Welsh to account for the unexplained disbursements set forth in paragraph 11 of the petition;
6. Require John Welsh to account for the sales price for the Residence of the Trustor that was below fair market value and surcharge him for the difference between the fair market value and the final sales price;
7. Surcharge John Welsh in the amount of \$9,065.07, plus interest at the legal rate, for his failure to collect on the Mariner Note;
8. Require John Welsh to account for all the personal property in his possession after the death of the Trustor;
9. Award Objectors attorney fees and costs incurred in this action;
10. That the Accounting not be approved;
11. That John Welsh pay double damages pursuant to Probate Code §859 for, in bad faith, wrongfully taking, concealing, and/or disposing of property belonging to Objectors;
12. For such other relief that he Court deems just and proper.

**Please see additional page**

**Response to Objections filed on 9/30/13 by Trustee John Welsh.** Petitioner states Objectors are requesting the Trustee to produce a copy of the original Trust instrument that was amended and restated by the surviving Settlor, when the authority for the action is stated in the Amended and Restated Trust Agreement in the first paragraph. There is no relevance to such a request as the operative Trust Instrument states within the document that the settlor has such authority, which was prepared by Settlor's attorney. The original Trust document is in the possession of Dawn Thorston and the Successor Trustee does not have it in his possession. To obtain said document will require Trustee to incur fees to obtain a copy of said document. Successor Trustee objects to said request as it is not relevant, material or necessary in this proceeding. It appears Objectors are attempting to challenge the terms of the trust, without so stating. Article XX of the Trust instrument provides for a "No Contest" clause. If the beneficiaries are in fact challenging the validity of the Trust Instrument their complaint does not reflect that and therefore the Successor Trustee sees no purpose to providing a copy of a Trust instrument that is no longer in effect.

The Trust provides specific powers to the Trustee and the Successors thereto. The Trust give specific authority to undertake action regarding the Mariner Note. The reason the Successor Trustee has not collecting the interest, as of yet, was due to the possibility of the property going into foreclosure on the First Deed of Trust which is ahead of the note to the Trust. The Successor Trustee was trying to avert such action as it would create a huge expense to the Trust.

Successor Trustee did not receive repeated "meet and confer attempts." The Successor Trustee received one letter from Mr. Forry before Objector's filed their complaint.

The Successor Trustee had no breached his fiduciary duties to the beneficiaries and is authorized under the Trust instrument to compensation. The Successor Trustee fees were calculated based on the statutory compensation, pursuant to Probate Code § 10800 (a). How can the fees be unreasonable when they are based upon the statute?

The AT&T debt was an automatic deduction on his mother's account. AT&T would not stop the deduction, which is the only reason the Successor Trustee closed the account and opened a new one for the Trust.

Public Storage was utilized because the Successor Trustee attempted to sell the property while it was located in Orange County by placing items on Craig's List. Successor Trustee made numerous trips to Orange County to show the property to prospective buyers, but no offers were made.

The charge to Mr. Foster was to move furniture from the storage facility to Trustor's home in Miramonte were it is now being stored, pending sale. The successor Trustee believed he would be more successful selling the property in Orange County and would obtain a higher price. It addition, it was difficult at first to think about selling the property his mother's furniture. It smelled like her. So, admittedly the Successor Trustee had difficulty parting with her memory. Nevertheless, the Trust give Trustor the authority to retain such assts.

**Please see additional page**

Probate Code § 1060 governs all accounts to be filed with the court stating except as specifically provided elsewhere in code, or unless good cause is shown therefore, no information in addition to that required in this chapter need be in an accounting.

Trustor states that the trust allows him to hire an attorney and to pay the attorney. Any communication between Dawn Thorston and Mr. Welsh is privileged and confidential and therefore will not be produced unless ordered by the court to do so, which are documents that Objectors have requested in a Notice to Produce served by Objectors which will properly be objected to.

Successor Trustee has accounted for all transactions while he was the Trustee. The \$5,000.00 check was distributed prior to the death of the Settlor and was not included in the accounting and it did not encompass the account period.

Successor Trustee states there was no conversion alleged. There is no breach of duty alleged. There are only disgruntled beneficiaries who think there should be more and that the Successor Trustee should be taking action quicker than is being accomplished. The Trustee is administering the Trust reasonably and with caution given the circumstances.

The Successor Trustee requests that the Court deny the Objections in its entirety and award reasonable attorney fees to the Successor Trustee for having to defend against spurious allegations of wrongdoing when there are none.

Atty Forry, Craig (of Mission Hills, for Virginia Chenier, Leslie Bartimore, Lori Johnson and Lynn Feathareston

Atty Standard, Donna M. (for John Welsh, Trustee)

Status Hearing

|                          |   |   |
|--------------------------|---|---|
|                          | <b>VIRGINIA CHENIER, LESLIE BARTIMOR, LORI JOHNSON and LYNN FEATHERSTON</b> , beneficiaries, filed a Petition to Compel Accounting; Suspend and Remove John M. Welsh as Trustee of the Bartimore Family Trust; Compel Distribution; Conversion; Constructive Trust; Breach of Fiduciary Duty; and Return of Property to Trust.  | <p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Continued from 12/3/13. Minute order states Mr. Forray is appearing by CourtCall. Mr. Moushigian is appearing specially for attorney Donna Standard. Mr. Moushigian requests a continuance.</b></p> <p>1. Need current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p> |
| <b>Cont. from 120313</b> | <b>JOHN WELSH</b> filed a First and Formal Account and Report of Status of the Bartimore Family Trust.  |   |
| Aff.Sub.Wit.             |   |   |
| Verified                 |   |   |
| Inventory                |   |   |
| PTC                      |   |   |
| Not.Cred.                |   |   |
| Notice of Hrg            | <b>VIRGINIA CHENIER, LESLIE BARTIMOR, LORI JOHNSON and LYNN FEATHERSTON</b> filed objections to <b>JOHN WELSH'S</b> First and Formal Account and Report.  |   |
| Aff.Mail                 |   |   |
| Aff.Pub.                 |   |   |
| Sp.Ntc.                  |   |   |
| Pers.Serv.               | <b>A Settlement Conference was held on 11/12/13.</b> Minute Order from the Settlement Conference states the Court notes for the minute order that Mr. Forry has the authority to engage in settlement discussions for Virginia Chenier. Parties engage in settlement discussions with the Court. A proposal is reached by the parties. Offer to remain open for seven days from today's date that being 11/19/13. The Court set this status hearing at that time. |   |
| Conf. Screen             |   |   |
| Letters                  |   |   |
| Duties/Supp              |   |   |
| Objections               |   |   |
| Video Receipt            |   |   |
| CI Report                |   |   |
| 9202                     |   |   |
| Order                    |   |   |
| Aff. Posting             |   |   |
| Status Rpt               |   |   |
| UCCJEA                   |   |   |
| Citation                 |   |   |
| FTB Notice               |   |   |
|                          |   | <b>Reviewed by: KT</b>  |
|                          |   | <b>Reviewed on: 1/17/14</b>   |
|                          |   | <b>Updates:</b>   |
|                          |   | <b>Recommendation:</b>  |
|                          |   | <b>File 5C – Bartimore</b>  |

Petition for Instructions

|               |  |  |
|---------------|--|--|
| Age:          |  | NEEDS/PROBLEMS/COMMENTS:<br><br><u><b>CONTINUED TO 3-12-14</b></u><br>Per attorney request |
| DOD:          |  |  |
|               |  |  |
|               |  |  |
| 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    |  |  |
|               |  | Reviewed by: skc   |
|               |  | Reviewed on: 1-17-14   |
|               |  | Updates:   |
|               |  | Recommendation:  |
|               |  | File 6 – Snider  |

|                                     |                      |   |                                 |
|-------------------------------------|----------------------|---|---------------------------------|
| <b>DOD: 09/26/2013</b>              |                      | <p><b>DENISE FERNANDEZ, THOMAS BEASLEY and MICHAEL BEASLEY</b>, children are petitioners.</p> <p>40 days since DOD</p> <p>No other proceedings</p> <p>I&amp;A - <b>\$37,500.00</b></p> <p>Will dated: 10/15/1992 devises all of the estate in equal shares to her children.</p> <p>Petitioners request Court determination that decedent's 50% interest in real property located at 2255 S. Lewis Lane, Sanger, Ca, pass 1/3 to Denise Fernandez, 1/3 to Thomas Beasley and 1/3 to Michael Beasley pursuant to decedent's will.</p> | <b>NEEDS/PROBLEMS/COMMENTS:</b> |
| <b>Cont. from</b>                   |                      |   |                                 |
| <input type="checkbox"/>            | <b>Aff.Sub.Wit.</b>  |   |                                 |
| <input checked="" type="checkbox"/> | <b>Verified</b>      |   |                                 |
| <input checked="" type="checkbox"/> | <b>Inventory</b>     |   |                                 |
| <input type="checkbox"/>            | <b>PTC</b>           |   |                                 |
| <input type="checkbox"/>            | <b>Not.Cred.</b>     |   |                                 |
| <input checked="" type="checkbox"/> | <b>Notice of Hrg</b> |   |                                 |
| <input checked="" type="checkbox"/> | <b>Aff.Mail</b> w/   |   |                                 |
| <input type="checkbox"/>            | <b>Aff.Pub.</b>      |   |                                 |
| <input type="checkbox"/>            | <b>Sp.Ntc.</b>       |   |                                 |
| <input type="checkbox"/>            | <b>Pers.Serv.</b>    |   |                                 |
| <input type="checkbox"/>            | <b>Conf. Screen</b>  |   |                                 |
| <input type="checkbox"/>            | <b>Letters</b>       |   |                                 |
| <input type="checkbox"/>            | <b>Duties/Supp</b>   |   |                                 |
| <input type="checkbox"/>            | <b>Objections</b>    |   |                                 |
| <input type="checkbox"/>            | <b>Video Receipt</b> |   |                                 |
| <input type="checkbox"/>            | <b>CI Report</b>     |   |                                 |
| <input type="checkbox"/>            | <b>9202</b>          |   |                                 |
| <input checked="" type="checkbox"/> | <b>Order</b>         |   |                                 |
| <input type="checkbox"/>            | <b>Aff. Posting</b>  |   |                                 |
| <input type="checkbox"/>            | <b>Status Rpt</b>    |   |                                 |
| <input type="checkbox"/>            | <b>UCCJEA</b>        |   |                                 |
| <input type="checkbox"/>            | <b>Citation</b>      |   |                                 |
| <input type="checkbox"/>            | <b>FTB Notice</b>    |   |                                 |
|                                     |                      | <b>Reviewed by:</b> LV  |                                 |
|                                     |                      | <b>Reviewed on:</b> 01/17/2014  |                                 |
|                                     |                      | <b>Updates:</b>   |                                 |
|                                     |                      | <b>Recommendation:</b> Submitted  |                                 |
|                                     |                      | <b>File 7 – Beasley</b>   |                                 |

**Petition for Letters of Administration; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)**

|                        |  |  |
|------------------------|--|--|
| <b>DOD: 10-24-13</b>   | <b>PATRICIA TYLER</b> , Daughter, is Petitioner and requests appointment as Administrator with Full IAEA without bond. | <b>NEEDS/PROBLEMS/COMMENTS:</b><br><br><b>1. Need date of death of deceased spouse pursuant to Local Rule 7.1.1.D.</b> |
|                        | All heirs consent to petition and waive bond.  |  |
| <b>Aff.Sub.Wit.</b>    |  |  |
| ✓ <b>Verified</b>      | Full IAEA – ok   |  |
| <b>Inventory</b>       | Decedent died intestate  |  |
| <b>PTC</b>             |  |  |
| <b>Not.Cred.</b>       | Residence: Fresno  |  |
| ✓ <b>Notice of Hrg</b> | Publication: Fresno Business Journal   |  |
| ✓ <b>Aff.Mail</b>      | Estimated value of estate: w   |  |
| ✓ <b>Aff.Pub.</b>      | Real property: \$200,000.00  |  |
| <b>Sp.Ntc.</b>         |  |  |
| <b>Pers.Serv.</b>      | Probate Referee: Rick Smith  |  |
| <b>Conf. Screen</b>    |  |  |
| ✓ <b>Letters</b>       |  |  |
| ✓ <b>Duties/Supp</b>   |  |  |
| <b>Objections</b>      |  |  |
| <b>Video Receipt</b>   |  |  |
| <b>CI Report</b>       |  |  |
| <b>9202</b>            |  |  |
| ✓ <b>Order</b>         |  |  |
| <b>Aff. Posting</b>    |  |  |
| <b>Status Rpt</b>      |  |  |
| <b>UCCJEA</b>          |  |  |
| <b>Citation</b>        |  |  |
| <b>FTB Notice</b>      |  |  |
|                        |  | <b>Reviewed by:</b> skc  |
|                        |  | <b>Reviewed on:</b> 1-17-14  |
|                        |  | <b>Updates:</b>  |
|                        |  | <b>Recommendation:</b>   |
|                        |  | <b>File 9 – Benincosa</b>  |



**NEEDS/PROBLEMS/COMMENTS:****1. Need clarification regarding additional independent powers requested.**

Pursuant to Local Rule Local Rule 7.15.2, it is the policy of the Court to grant a conservator only those independent powers necessary to administer the estate and a request for all powers described will not be granted by the Court.

Petitioner appears to request all independent powers under Probate Code §§ 2590 and 1873 at #1e; however, Petitioner does not describe specific powers requested or provide any information regarding the necessity of such powers.

Note: Petitioner also requests all powers under Probate Code §2351 (Box 1f); however, all powers are *included* in general conservatorship, and this section allows powers to be *limited* if appropriate.

**2. Need estimate of annual income for bond purposes.**

Note: Current bond filed is \$11,000.00, based on personal property estimate only. However, according to the Court Investigator's report, income sources include a 20% share of income from her late husband's estate as well as her Social Security and a VA pension (amount not specified). Pursuant to Cal. Rules of Court 7.204, the Conservatee has a duty to request increased bond immediately upon facts making such increase necessary. See also Probate Code §2320 and Cal. Rules of Court 7.207.

**3. The Court Investigator's report indicates that Mrs. Baker will be receiving a VA pension annuity.** Therefore, need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing on the Office of the Veterans Administration per Probate Code §1822(d).

Atty Sanoian, Joanne L. (for Petitioner Eileen Sutterfield)  
 Atty Burnside, Leigh (for Respondent/Cross Petitioner Ronald Gray)  
 Atty Sharbaugh, Catherine (court appointed for principal Lois Gray)

Status Hearing Re: Settlement Agreement

|                           |  |  |   |
|---------------------------|--|--|---|
|                           |  | <p><b>A Settlement Conference as held on 9/25/13. Minute order states the parties reach a resolution as set forth by Ms. Burnside. Upon inquiry the by the Court, each party individually agrees to the terms and conditions of the agreement. Ms. Burnside is directed to prepare the agreement.</b></p> <p><b>Background:</b></p> <p><b>EILEEN SUTTERFIELD</b>, child and co-agent pursuant to the Durable Power of Attorney, filed a Petition to Compel Agent to Act.</p> <p>The Petition states the matter concerned the co-agent, Ronald Gray's, lack of cooperation in regard to the Power of Attorney and therefore detrimentally affecting the Settlor's property, assets and intent behind drafting the documents.</p> <p>Petitioner alleges Lois Gray, on or about 4/8/2009, executed The Durable Power of Attorney for Management of Property and Personal Matters. Petitioner states she is aware of the terms of the POA. Based on her firsthand knowledge and having read the POA, the Petitioner contends that she and her Co-Agent were designated to pay all necessary debts including the power to sell ownership of the property.</p> | <p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Continued from 11/20/13. Minute order states Counsel informs the court that she will be submitting an ex parte in the trust matter.</b></p> <p><b>Note:</b> A Stipulation for Appointment of Neutral Fiduciary and For Settlement of Dispute was submitted to the Court ex parte on 10/16/2013. Order signed by Judge Robert Oliver on 10/17/13 states the Lois Gray Living Trust, dated April 8, 2009 is not properly before the court. For the court to make an order regarding the appointment of a successor trustee for the Lois Gray Living Trust a new action must be commenced for the Lois Gray Living Trust. The Court declines to sign an order regarding the Lois Gray Living Trust until it is properly before the court. – A copy of the order was mailed to attorney Leigh Burnside on 10/17/13.</p> <p>1. Need current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p> |
| Cont. from 101613, 112013 |  |  |   |
| 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                |  |  |   |
|                           |  | Reviewed by: KT  |   |
|                           |  | Reviewed on: 1/17/14   |   |
|                           |  | Updates:   |   |
|                           |  | Recommendation:  |   |
|                           |  | File 11 – Gray   |   |

Lois Gray is currently residing at Cottonwood Retirement facility. The Settlor recently suffered from a stroke and is now diagnosed with dementia. The cost of living at Cottonwood is approximately \$4,720 each month with additional medical incidental costs of \$1,250.00.

Petitioner contends that pursuant to Section 2.A.(1) the Co-Agents are capable of taking any action necessary regarding the Settlor's real and personal property. This would include the Settlor's mobile home she is no longer residing in and will not be able to reside in at any future date. To keep the vacant mobile home costs the Settlor approximately \$700.00 per month for rental of the land within a complex and insurance.

Petitioner stated she has requested of the Co-Agent, Ronald Gray, on several occasions to agree to sell the mobile home owned by the Settlor to allow for additional funds to be provided to the assisted living facility. Ronald Gray refuses to participate in the sale unless the funds are provided to a joint trust account. A trust account is not necessary as the proceeds of the sale can be directly provided to Cottonwood for the monthly expenses.

**Petitioner requested the Court enter an order that:**

1. Lois Gray established the Lois Gray Durable Power of Attorney, on or about April 8, 2009;
2. The Co-Agents named by the Settlor are Eileen Sutterfield and Ronald Gray;
3. Co-Agent Ronald Gray be ordered to participate in the facilitation of the sale of the mobile home owned by the Settlor;
4. For all other relief as the Court deems proper under the circumstances.

**Status Report of Leigh W. Burnside filed on 10/9/13** states on 9/25/13 the parties to this proceeding Ronald Gray ("Ronald") and Eileen Sutterfield ("Eileen"), and their respective attorneys participated in a further settlement conference with the Honorable Robert H. Oliver. Also present at the commencement of the settlement conference was Catherine Sharbaugh, attorney for Lois Gray.

The proceeding arose out of a dispute between Ronald and Eileen over the management of their mother's financial and personal affairs. Both Ronald and Eileen are nominated and acting co-agents under a durable power of attorney executed by their mother, Lois Gray, in April 2009, and are the successor co-trustees of a revocable trust established by Mrs. Gray in April 2009. Ronald and Eileen are also co-agents under an Advanced Health Care Directive signed by Mrs. Gray.

The parties were able to resolve their differences at the settlement conference, and the terms of the settlement were recited in open court and verbally assented to by Ronald and Eileen.

The day following the settlement conference, counsel for the parties spoke (in independent conversations) with the proposed successor trustee, Rick Leas of Central Valley Professional Fiduciary Services, who is based in Fresno. Mr. Leas has agreed to serve as sole successor trustee of Mrs. Gray's Trust, and to Ms. Burnside's knowledge, both Ronald and Eileen agree to resign as co-trustees in favor of Mr. Leas.

Since then, Eileen's attorney, Natalie Nuttall, and Ms. Burnside have been working on a formal written stipulation that sets forth the terms of the parties' settlement. Ms. Burnside believes that they are close to finishing the stipulation.

|                                     |               |  |   |     |
|-------------------------------------|---------------|--|---|-----|
| Seleste Age: 17                     |               | <p align="center"><b><u>TEMPORARY EXPIRES 01/22/2014</u></b></p> <p><b>JESSE GUAJARDO</b>, maternal grandfather is petitioner.</p> <p>Father: <b>JUAN M. RODRIGUEZ</b>, Deceased</p> <p>Mother: <b>ANGELA M. GUAJARDO</b>, consents and waives notice</p> <p>Paternal Grandfather: Mike Rodriguez<br/>Paternal Grandmother: Maria Rodriguez</p> <p>Maternal Grandmother: Sylvia Rodriguez</p> <p>Minors: Seleste Guajardo, Anesia Rodriguez and Juan Rodriguez, all consent and waive notice</p> <p><b>Petitioner states:</b> the mother is not fit to care for the children, she is addicted to drugs and does not care very much for them. She has been evicted twice in the past 2 years, she neglects the children and misuses their money that was left to them by their father. The mother does not provide clothing for the children. Petitioner states that he provides for the children's needs. Petitioner states that the children need guidance, support and someone who will always be there and he can provide that to them.</p> <p><b>Court Investigator Dina Calvillo's recommendation filed 01/14/2014.</b></p> | <p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>Need Notice of Hearing.</li> <li>Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with the a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> <li>Mike Rodriguez (Paternal Grandfather)</li> <li>Maria Rodriguez (Paternal Grandmother)</li> <li>Sylvia Rodriguez (Maternal Grandmother)</li> </ul> </li> <li>UCCJEA does not provide the children's residence for the past five years as required.</li> </ol> |     |
| Anesia Age: 15                      |               |  |   |     |
| Juan Age: 14                        |               |  |   |     |
| <b>Cont. from</b>                   |               |  |   |     |
| <input type="checkbox"/>            | Aff.Sub.Wit.  |  |   |     |
| <input checked="" type="checkbox"/> | Verified      |  |   |     |
| <input type="checkbox"/>            | Inventory     |  |   |     |
| <input type="checkbox"/>            | PTC           |  |   |     |
| <input type="checkbox"/>            | Not.Cred.     |  |   |     |
| <input type="checkbox"/>            | Notice of Hrg |  |   | x   |
| <input type="checkbox"/>            | Aff.Mail      |  |   | x   |
| <input type="checkbox"/>            | Aff.Pub.      |  |   |     |
| <input type="checkbox"/>            | Sp.Ntc.       |  |   |     |
| <input type="checkbox"/>            | Pers.Serv.    |  |   | n/a |
| <input checked="" type="checkbox"/> | Conf. Screen  |  |   |     |
| <input checked="" type="checkbox"/> | Letters       |  |   |     |
| <input checked="" type="checkbox"/> | Duties/Supp   |  |   |     |
| <input type="checkbox"/>            | Objections    |  |   |     |
| <input type="checkbox"/>            | Video Receipt |  |   |     |
| <input checked="" type="checkbox"/> | CI Report     |  |   |     |
| <input type="checkbox"/>            | 9202          |  |   |     |
| <input checked="" type="checkbox"/> | Order         |  |   |     |
| <input type="checkbox"/>            | Aff. Posting  |  |   |     |
| <input type="checkbox"/>            | Status Rpt    |  |   |     |
| <input checked="" type="checkbox"/> | UCCJEA        |  |   |     |
| <input type="checkbox"/>            | Citation      |  |   |     |
| <input type="checkbox"/>            | FTB Notice    |  |   |     |
|                                     |               | <p><b>Reviewed by:</b> LV</p> <p><b>Reviewed on:</b> 01/17/2014</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 13 – Guajardo &amp; Rodriguez</b></p>  |   |     |

|   |   |  |
|---|---|--|
|   | <b>NO TEMP REQUESTED</b>  | <b>NEEDS/PROBLEMS/COMMENTS:</b>  |
|   | <b>ROBERT J. GALINDO</b> , Maternal Grandmother, is Petitioner.   | <b>Note:</b> This petition pertains to minor Azariah only. Petitioner was previously granted guardianship of minor George on 5-7-13.   |
| <b>Cont. from 112013</b>                          | Father: <b>GEORGE RAMIREZ</b>   | <b>Note:</b> Melissa Bonilla (Mother) filed a Petition for Termination of Guardianship of <u>both minors</u> on 1-10-14 that is set for hearing on 3-13-14.  |
| <input type="checkbox"/> Aff.Sub.Wit.             | - Consent and Waiver of Notice filed 1-10-14  | <p>1. Need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing per Probate Code §1511 <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on:</p> <ul style="list-style-type: none"> <li>- George Ramirez (Paternal Grandfather)</li> <li>- Lisa Ramirez (Paternal Grandmother)</li> </ul> |
| <input checked="" type="checkbox"/> Verified      |   |  |
| <input type="checkbox"/> Inventory                |   |  |
| <input type="checkbox"/> PTC                      |   |  |
| <input type="checkbox"/> Not.Cred.                |   |  |
| <input checked="" type="checkbox"/> Notice of Hrg | Mother: <b>MELISSA BONILLA</b>  |  |
| <input type="checkbox"/> Aff.Mail                 | - Consent and Waiver of Notice filed 4-8-13   |  |
| <input type="checkbox"/> Aff.Pub.                 | - Petition for Termination of Guardianship filed 1-10-14 is set for hearing on 3-13-14  |  |
| <input type="checkbox"/> Sp.Ntc.                  | Paternal Grandfather: George Ramirez  |  |
| <input checked="" type="checkbox"/> Pers.Serv.    | Paternal Grandmother: Lisa Ramirez  |  |
| <input checked="" type="checkbox"/> Conf. Screen  | Maternal Grandfather: Sergio Bonilla  |  |
| <input checked="" type="checkbox"/> Letters       | - Notice found per minute order 5-7-13  |  |
| <input checked="" type="checkbox"/> Duties/Supp   |   |  |
| <input type="checkbox"/> Objections               | <b>Petitioner states</b> the child was taken from the mother at the hospital by CPS. She was under the influence of drugs/meth. |  |
| <input type="checkbox"/> Video Receipt            |   |  |
| <input checked="" type="checkbox"/> CI Report     | <b>Court Investigator Jennifer Young filed a report on 11-13-13.</b>  |  |
| <input checked="" type="checkbox"/> Clearances    |   |  |
| <input checked="" type="checkbox"/> Order         |   |  |
| <input type="checkbox"/> Aff. Posting             |   |  |
| <input type="checkbox"/> Status Rpt               |   |  |
| <input checked="" type="checkbox"/> UCCJEA        |   |  |
| <input type="checkbox"/> Citation                 |   |  |
| <input type="checkbox"/> FTB Notice               |   |  |
|   |   | Reviewed by: skc   |
|   |   | Reviewed on: 1-16-14   |
|   |   | Updates:   |
|   |   | Recommendation:  |
|   |   | File 14 – Bonilla-Ramirez  |

|  |                      |   |   |
|--|----------------------|---|---|
| <b>DOD: 12/09/12</b>                     |                      | <b>RICHARD RAMOS</b> , son/named co-Executor without bond, is Petitioner. | <b>NEEDS/PROBLEMS/COMMENTS:</b><br><b><u>CONTINUED FROM 12/11/13</u></b>  |
|  |                      | Full IAEA – ok  |   |
| <b>Cont. from 100713, 111813, 121113</b> |                      | Will dated 10/11/12   | <b>Note: If the Petition is granted, status hearings will be set as follows:</b><br>1. <b>Friday, 06/20/14 at 9:00 am in Dept. 303</b> for filing of the Inventory & Appraisal;<br>2. <b>Friday, 03/20/15 at 9:00 am in Dept. 303</b> for filing of the Accounting/Report of Executor and Petition for Final Distribution |
| <input type="checkbox"/>                 | <b>Aff.Sub.Wit.</b>  | s/p   |   |
| <input checked="" type="checkbox"/>      | <b>Verified</b>      |   |   |
| <input type="checkbox"/>                 | <b>Inventory</b>     |   |   |
| <input type="checkbox"/>                 | <b>PTC</b>           |   |   |
| <input type="checkbox"/>                 | <b>Not.Cred.</b>     |   |   |
| <input checked="" type="checkbox"/>      | <b>Notice of Hrg</b> |   |   |
| <input checked="" type="checkbox"/>      | <b>Aff.Mail</b>      | w/  |   |
| <input checked="" type="checkbox"/>      | <b>Aff.Pub.</b>      |   |   |
| <input type="checkbox"/>                 | <b>Sp.Ntc.</b>       |   |   |
| <input type="checkbox"/>                 | <b>Pers.Serv.</b>    |   |   |
| <input type="checkbox"/>                 | <b>Conf. Screen</b>  |   |   |
| <input checked="" type="checkbox"/>      | <b>Letters</b>       |   |   |
| <input checked="" type="checkbox"/>      | <b>Duties/Supp</b>   |   |   |
| <input type="checkbox"/>                 | <b>Objections</b>    |   |   |
| <input type="checkbox"/>                 | <b>Video Receipt</b> |   |   |
| <input type="checkbox"/>                 | <b>CI Report</b>     |   |   |
| <input type="checkbox"/>                 | <b>9202</b>          |   |   |
| <input checked="" type="checkbox"/>      | <b>Order</b>         |   |   |
| <input type="checkbox"/>                 | <b>Aff. Posting</b>  |   |   |
| <input type="checkbox"/>                 | <b>Status Rpt</b>    |   |   |
| <input type="checkbox"/>                 | <b>UCCJEA</b>        |   |   |
| <input type="checkbox"/>                 | <b>Citation</b>      |   |   |
| <input type="checkbox"/>                 | <b>FTB Notice</b>    |   |   |
|  |                      | Residence: Clovis   | <b>Estimated Value of the Estate:</b><br>Personal property - \$ 11,500.00<br>Real property - 142,328.00<br><b>Total - \$153,828.00</b>  |
|  |                      | Publication: The Business Journal   |   |
|  |                      | Probate referee: <b>STEVEN DIEBERT</b>                                    |   |
|  |                      |   | <b>Reviewed by:</b> JF  |
|  |                      |   | <b>Reviewed on:</b> 01/16/14  |
|  |                      |   | <b>Updates:</b>   |
|  |                      |   | <b>Recommendation:</b> SUBMITTED  |
|  |                      |   | <b>File 16 - Melgoza</b>  |

Pro Per Eberhardt, Bette L. (Pro Per Petitioner, niece)  
 Pro Per Smith, III, Robert L. (Pro Per Petitioner, nephew)

**Amended Petition to Determine Succession to Real Property and Personal Property (Prob. C. 13151)**

|  |   |  |
|--|---|--|
| <b>DOD: 6/10/2013</b>                                | <b>BETTE EBERHARDT</b> , niece, and <b>ROBERT L. SMITH, III</b> , nephew, are Petitioners.  | <b>NEEDS/PROBLEMS/COMMENTS:</b><br><br><b>Note:</b> The <i>Amended Petition</i> filed 12/2/2013 is not complete in itself, nor is the <i>Inventory and Appraisal</i> filed 12/2/2013 in support of the <i>Amended Petition</i> . However, the <i>Amended Petition</i> has been reviewed in conjunction with the <i>Petition</i> previously filed on 10/2/2013, such that the <i>Amended Petition</i> can proceed using the entirety of the supporting documents filed, which when considered together allow for the pre-approval of this matter.<br><br><b>Note: CAROL MANCINI</b> , sister, filed on 10/2/2013 an <i>Assignment of Interest in Estate</i> , stating she assigns her interest or title to any and all property accruing to her as a result of being an heir to this estate as follows: <b>50%</b> to her daughter, <b>BETTE EBERHARDT</b> , and <b>50%</b> to her nephew, <b>ROBERT L. SMITH</b> . |
|  | 40 days since DOD.  |  |
| <b>Cont. from</b>                                    |   |  |
| <input type="checkbox"/> <b>Aff.Sub.Wit.</b>         | No other proceedings.   |  |
| <input checked="" type="checkbox"/> <b>Verified</b>  |   |  |
| <input checked="" type="checkbox"/> <b>Inventory</b> |   |  |
| <input type="checkbox"/> <b>PTC</b>                  | I & A - <b>\$142,100.00</b>   |  |
| <input type="checkbox"/> <b>Not.Cred.</b>            |   |  |
| <input type="checkbox"/> <b>Notice of Hrg</b>        | N/A   |  |
| <input type="checkbox"/> <b>Aff.Mail</b>             | Decedent died intestate.  |  |
| <input type="checkbox"/> <b>Aff.Pub.</b>             |   |  |
| <input type="checkbox"/> <b>Sp.Ntc.</b>              |   |  |
| <input type="checkbox"/> <b>Pers.Serv.</b>           | <b>Petitioners request</b> Court determination that Decedent's <b>100%</b> interest in real property located at 5056 E. Madison, Fresno, and <b>100%</b> interest in personal property, passes to the Petitioners as transferees under the <i>Assignment of Interest in Estate</i> filed 10/2/2013, as follows: |  |
| <input type="checkbox"/> <b>Conf. Screen</b>         |   |  |
| <input type="checkbox"/> <b>Letters</b>              |   |  |
| <input type="checkbox"/> <b>Duties/Supp</b>          |   |  |
| <input type="checkbox"/> <b>Objections</b>           |   |  |
| <input type="checkbox"/> <b>Video Receipt</b>        |   |  |
| <input type="checkbox"/> <b>CI Report</b>            |   |  |
| <input type="checkbox"/> <b>9202</b>                 |   |  |
| <input checked="" type="checkbox"/> <b>Order</b>     | <ul style="list-style-type: none"> <li>• <b>BETTE EBERHARDT</b> – 50% of Petitioner's 100% interest;</li> <li>• <b>ROBERT L. SMITH</b> – 50% of Petitioner's 100% interest.</li> </ul>  |  |
| <input type="checkbox"/> <b>Aff. Posting</b>         |   |  |
| <input type="checkbox"/> <b>Status Rpt</b>           |   |  |
| <input type="checkbox"/> <b>UCCJEA</b>               |   |  |
| <input type="checkbox"/> <b>Citation</b>             |   |  |
| <input type="checkbox"/> <b>FTB Notice</b>           |   |  |
|  |   | <b>Reviewed by:</b> LEG  |
|  |   | <b>Reviewed on:</b> 1/17/14  |
|  |   | <b>Updates:</b>  |
|  |   | <b>Recommendation:</b> SUBMITTED   |
|  |   | <b>File 17 – Smith</b>   |

Pro Per Armas, Lisa Woods (Pro Per Petitioner, non-relative/friend)

Petition for Appointment of Temporary Guardianship of the Person

|                          |               |  |
|--------------------------|---------------|--|
|                          |               | <p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p style="text-align: center;"><b>OFF CALENDAR</b></p> <p style="text-align: center;">Dismissal entered 1/16/2104 as requested by Petitioner.</p> |
|                          |               |  |
|                          |               |  |
|                          |               |  |
| Cont. from               |               |  |
| <input type="checkbox"/> | Aff.Sub.Wit.  |  |
| <input type="checkbox"/> | Verified      |  |
| <input type="checkbox"/> | Inventory     |  |
| <input type="checkbox"/> | PTC           |  |
| <input type="checkbox"/> | Not.Cred.     |  |
| <input type="checkbox"/> | Notice of Hrg |  |
| <input type="checkbox"/> | Aff.Mail      |  |
| <input type="checkbox"/> | Aff.Pub.      |  |
| <input type="checkbox"/> | Sp.Ntc.       |  |
| <input type="checkbox"/> | Pers.Serv.    |  |
| <input type="checkbox"/> | Conf. Screen  |  |
| <input type="checkbox"/> | Letters       |  |
| <input type="checkbox"/> | Duties/Supp   |  |
| <input type="checkbox"/> | Objections    |  |
| <input type="checkbox"/> | Video Receipt |  |
| <input type="checkbox"/> | CI Report     |  |
| <input type="checkbox"/> | 9202          |  |
| <input type="checkbox"/> | Order         |  |
| <input type="checkbox"/> | Aff. Posting  |  |
| <input type="checkbox"/> | Status Rpt    |  |
| <input type="checkbox"/> | UCCJEA        |  |
| <input type="checkbox"/> | Citation      |  |
| <input type="checkbox"/> | FTB Notice    |  |
|                          |               | Reviewed by: LEG   |
|                          |               | Reviewed on: 1/17/14   |
|                          |               | Updates:   |
|                          |               | Recommendation:  |
|                          |               | File 18 – Barrett  |

|                      |               |   |  |
|----------------------|---------------|---|--|
| <b>DOD: 10-11-04</b> |               | <b>MALKIA DILLARD</b> , Administrator with Full IAEA without bond, is Petitioner.   | <p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p style="text-align: center;"><u><b>SEE PAGE 2</b></u></p> <hr/> <p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 1-17-14</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b><br/>File 23A – Gainous</p> |
|                      |               | Petitioner states she is the sole heir and waives accounting.   |  |
|                      | Aff.Sub.Wif.  | I&A: \$42,565.84  |  |
| ✓                    | Verified      | POH: \$42,565.84 (cash)   |  |
| ✓                    | Inventory     | Administrator (Statutory): Waived   |  |
| ✓                    | PTC           | Attorney (Statutory): Waived  |  |
| ✓                    | Not.Cred.     |   |  |
| N/A                  | Notice of Hrg | Petitioner states during administration of the estate, counsel for Petitioner was able to receive a \$3,000.00 settlement in a civil action on behalf of the estate, as well as a full refund of \$29,000.00 from the IRS on a levy served on the Fresno County Federal Credit Union against the decedent in 2006 after his death, for the sale of stocks that were held in a Morgan Stanley account and income earned in 2002. The settlement included the recovery of the decedent's personal property, papers, and coins which were contained in a safe deposit box transferred into the name of Erin Ormonde as joint tenants. A receipt for the contents was filed on 11-3-08.   |  |
|                      | Aff.Mail      |   |  |
|                      | 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      |   |  |
| N/A                  | FTB Notice    | <p><b>Petitioner requests an order:</b></p> <ol style="list-style-type: none"> <li>1. That administration of this estate be brought to a close without an accounting;</li> <li>2. That all acts and proceedings of Petitioner as personal representative be confirmed and approved;</li> <li>3. That the waiver of statutory attorney fees be approved;</li> <li>4. That distribution of the estate to petitioner and any other property of the decedent not now known or discovered be made to the person entitled to it as set for the hereinabove; and</li> <li>5. That any further orders be made as the Court considers proper.</li> </ol> <p><i>Note: Petitioner states property on hand is \$42,565.84, but does not specifically request distribution of this amount and no proposed order is provided.</i></p> |  |

## NEEDS/PROBLEMS/COMMENTS Continued:

1. The various declarations in the file contain conflicting information regarding the administration and status of the estate and property on hand. Need clarification.

Petitioner originally estimated that the estate contained personal property valued at \$280,000.00 at date of death (10-11-04) and pursued a civil action on behalf of the estate as well as reimbursement from the IRS.

Status Report filed 9-5-13 states that the estate assets recovered were actually paid directly to Ms. Dillard *individually*, hence the reason for filing to terminate proceedings *ex parte*, which was denied.

Status Report filed 11-6-13 states there are no assets in the estate.

However, on 12-2-13, the I&A was filed indicating cash of \$42,565.84 at DOD in various forms, including the settlement and IRS refund, as assets of the estate.

Further, this verified petition states that the cash of \$42,565.84 is the current property on hand.

Need clarification regarding the receipt of assets by the estate, the property on hand, and the discrepancy between the amount alleged here (\$42,565.84 or \$0?) and the amount originally alleged (\$280,000).

The Court may also require clarification as to the Administrator's failure to close the estate within a reasonable time frame.

2. Regardless of what is on hand at the present time, the estate did have assets that were distributed, appropriately or not, to the Petitioner as the sole heir. Therefore, the filing fee of \$435 is due.
3. Receipt filed 11-3-08 indicates receipt of various personal property items that were not inventoried or valued, including jewelry, antique coins, other). Personal property must be appraised by the probate referee. Probate Code §8900 et seq.
4. Need proof of service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing pursuant to Probate Code §1252 and Request for Special Notice filed 12-8-06 on County of Fresno Revenue Reimbursement Division.
5. Petitioner States the creditor's claim of \$24.32 was paid from her own personal funds; however, no allowance was filed by the petitioner, and no withdrawal was filed by the claimant (County of Fresno).
6. Petitioner does not address notice to the Director of Health Care Services pursuant to Probate Code §9202(a). If notice was required but not completed, continuance for proper notice and time for response is necessary. DHS has four months to respond.
7. Need order.

