



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.

CONT'D:

- Furthermore, in related Fresno County Superior Court Case 04CEPR01188 (Decedent's Conservatorship Case –Public Guardian was Conservator of the Estate), the Public Guardian indicated in its final accounting and request for discharge (filed 9/23/10) that a 1999 Federal Individual Income Tax Return balance of \$3,658.00 was owed;
- However, the \$3,658.00 is in fact not owed, nor was it a lien on Decedent's funds at the time of that final accounting because: 1) *Per Declaration of Petitioner Barbara Rivera*, attached to the instant Petition, the IRS had been deducting from Decedent's monthly Social Security payments an amount to cover Decedent's lien due on the 1999 Tax Return; and 2) because as on 4/15/09, the lien was no longer in existence pursuant to U.S. Code Title 26, 6502 and that as such, an Court may not approve such a claim barred by the statute of limitations (see PrC §9253). For these reasons, the lien amount should never have been shown as a liability on the Public Guardian's last account in the Conservatorship case;
- The Estate is now in a position to be closed, except for the payment of the interest due on the pecuniary gifts as mentioned above;
- Finally, the Public Administrator's Commission should be reduced to no dollar amount, because of the Public Administrator's delay or mismanagement of this small estate; per PrC § 12205(a), a court may reduce a personal representative's compensation by an amount the Court determines as appropriate if said court makes 3 determinations: 1) the time taken for the administration exceeds the one-year; 2) that time taken was within the control of the representative, and 3) the delay was not in the best interest of the estate or interested persons.
- **Petitioner requests the Court order:**
 - **That the pecuniary gifts be made to the devisees;**
 - **That the interest (amounts identified above) be paid to devisees by the Administrator personally (including daily interest calculated after 10/31/11); and**
 - **That the Public Administrator to close the Estate.**

Objection by Public Administrator, filed 11/30/11, states:

1. **The Estate could not close before now because of tax issue;**
2. **On 8/20/10, Deputy PA Noe Jimenez receive the 199 tax return for New York State Income Tax and 2004 and 2008 Fed Income Taxes from Accountant Paul Dictos; on 4/1/11, Deputy Jimenez received notice from NY State that all Ms. Boalbey's tax liens were satisfied; then on 8/15/11 received a letter from the Treasury Dept. that a 2008 return was not filed, and that the estate had a \$181.00 tax credit; finally on 10/18/11, Deputy Jimenez received \$181.00 plus \$18.25 interest from the US Treasury (one week before the PA or County Counsel know of a surcharge petition filed by Petitioner – one phone call by either Petitioner or her attorney would have avoided the time and expense of this Petition);**
3. **The PA at all times worked on this case in close connection with his accountant and as a result obtained a refund and interest on federal taxes;**
4. **The PA would additionally like to make 3 specific comments or objections: 1) The PA will pay the devisees the interest that has accrued, but from the estate residue – to reiterate, the PA did not mismanage or delay the administration of the estate and should therefore not be responsible for the interest payments;**
5. **Further, regarding Petitioner's assertion that the PA should have included a federal tax liability on her Final Account, Petitioner's attorney in fact filed a "No Objection to Amended Account."**
P.A. requests the Petition be denied, and that a status hearing be set 45 days from now for the PA to file his final account.

Cont'd:

Reply to Objection, filed 12/1/11, states:

1. P.A.'s Objection was not received in time pursuant to the C.C.P. (9 court days before the hearing);
2. Regarding the "No Objection" filed, there would be no objection in 2010 to a "liability" when the statute had run and that as of 4/16/09, the lien was "out of existence;"
3. Further, no creditor's claim had been filed by the State of New York; and the accountant's advice was in error as of 1/18/09, PA could have officially discontinued his involvement in the estate; and the IRS claim had expired 10 years after the tax return's filing date.

Public Administrator's Response to Reply, filed 12/2/11states: Objection was timely pursuant to Local Rule 7.4.2.

Atty **Matlak, Steven M. (for Petitioner Joseph Pedemonte)**
 Atty **Nina Helgeson, Maria Pedemonte & Autustina Pedemonte, pro per Objectors**

Petition to Appoint Successor Trustee

		<p>JOSEPH PEDEMONTE, income beneficiary, is Petitioner.</p> <p>Petitioner states during his lifetime he is the sole income beneficiary of the AUGUSTINE J. PEDEMONTE TRUST dated April 13, 1983.</p> <p>Eugene A. Zanardi was the initial trustee of the Trust. Eugene resigned on 7/31/1995. Named successor trustee, Diane Williams declined to act, thereby creating a vacancy. There are no other trustees named in the Trust instrument.</p> <p>On 2/22/1996 Petitioner filed a Petition to Appoint Successor Trustee (Fresno Superior Court case no. 554667). As requested in the petition the court appointed Robert Garavello as successor trustee of the trust.</p> <p>On or about 2/28/11 Robert Garavello signed a Resignation of Trustee, whereby Robert Garavello resigned as Trustee of the trust effective upon the occurrence of the earliest to occur of the following events: (i) the closing of the pending loan in the approximate amount of \$300,000 between Pedemonte Properties Inc., and tri-Counties Bank, which loan will be secured by the real property located at 7520 N. Palm Ave., Fresno. (ii) the appointment of a successor trustee of the Trust and related trust known as the Susan Pedemonte Trust, of which Robert Garavelle is currently serving as trustee, or (iii) September 1, 2011.</p> <p>The Trust requires that a vacancy in the office of trustee be filled. By an instrument in writing, Joseph Pedemonte, the beneficiary of the Trust, has nominated ROBERT S. SWANTON as successor Trustee to fill the vacancy, and said nominee has signed his consent.</p> <p>The Trust waives bond for the persons named as trustee or any person appointed as trustee in the manner specified in the Trust.</p> <p>Petitioner prays for an order:</p> <ol style="list-style-type: none"> Appointing ROBERT S. SWANTON as successor trustee of the Trust, investing with him all the powers vesting in the office of the trustee under the Trust. <p><i>Please see additional page for objections.</i></p>	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>Continued from 11/14/11. Minute order states parties agree to appoint Bruce Bickel as successor trustee. Matter continued to 1/23/12; however, if parties can stipulate to a bond amount and bond is posted, then the matter on 1/23/2012 may be taken off calendar. As of 1/12/12 a bond has not been filed.</p> <p>For Petitioner:</p> <ol style="list-style-type: none"> Probate Code §15602 provides that when an individual who was not named as trustee in the instrument is appointed as trustee, the trustee must be bonded. The court may not excuse the requirement of a bond except under compelling circumstances. <p>For Objectors:</p> <ol style="list-style-type: none"> There is nothing in the file to indicate the amount the bond should be set at.
<p>Cont. from 042511, 060611, 072511, 091211, 111411</p>			
	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		
		<p>Reviewed by: KT</p> <p>Reviewed on: 1/12/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4 - Pedemonte</p>	

4 –additional page (1) - Augustine J Pedemonte Trust (Trust)

Case No. 11CEPR00192

Objections to Petition to Appoint Successor Trustee, filed on 4/18/11 by Nina Helgeson, Maria Pedemonte and Augustina Pedemonte. Objectors state they are the grandchildren of the Trustor and remainder beneficiaries of the Trust. Objectors object to the appointment of the Nominated Successor Trustee (Robert S. Swanton) as the Successor Trustee of the Trust and desire to have someone appointed who will be fair and impartial to all the beneficiaries of the Trust.

Since the Trust only waives bond for the person named in the instrument at Article 6.01, any successor Trustee should be required to post bond in the statutory amount, unless a corporate Trustee or public agency is appointed as trustee of the Trust.

Instead of the Nominated Successor Trustee (Robert S. Swanton), Objectors hereby nominate in the place and stead of the resigning Trustee, either the FRESNO COUNTY PUBLIC GUARDIAN'S OFFICE or EDWIN D. HUFF, CPA of Fresno, California.

Wherefore, Objectors pray for an order of the Court as follows:

1. The appointment of ROBERT S. SWANTON, as Successor Trustee of the Trust be DENIED;
2. The court appoint the FRESNO COUNTY PUBLIC GUARDIAN'S OFFICE as successor Trustee of the Trust or in the alternative, the Court appoint EDWIN D. HUFF, CPA, as the Successor Trustee of the Trust;
3. The Court require that the Successor Trustee so appointed by the Court give bond in the statutory amount, unless appointed Successor Trustee is a corporate Trustee or Public Agency.

Supplemental Objection to Petition to Appoint Successor Trustee filed by Nina Helgeson, Maria Pedemonte and Augustina Pedemonte on 6/3/11 allege that the resigning Trustee was remiss in carrying out his fiduciary duties in the administration of the 1983 Trust in that the 1983 Trust was essentially being administered by the Petitioner rather than the Trustee, in the Petitioner's own interest and not in the interest of the Objectors.

The nominated successor Trustee is already acting Trustee of The Augustine J. Pedemonte Trust of 1990 ("1990 Trust"), which is a separate Trust from the above captioned 1983 Trust, but which about Objectors have not information other than being apprised of its existence in the Settlement Agreement. Objectors believe they are also beneficiaries of the 1990 Trust.

Objectors continue to object to the appointed of the Nominated Trustee and hereby nominate the Fresno County Public Guardian's Office or Edwin D. Huff, C.P.A. Objectors believe that the nominated successor Trustee no longer wished to act as trustee of the Trusts.

Wherefore, Objectors continue to pray for an order of the Court as follows:

4. The appointment of ROBERT S. SWANTON, as Successor Trustee of the Trust be DENIED;
5. The court appoint the FRESNO COUNTY PUBLIC GUARDIAN'S OFFICE as successor Trustee of the Trust or in the alternative, the Court appoint EDWIN D. HUFF, CPA, as the Successor Trustee of the Trust;
6. The Court require that the Successor Trustee so appointed by the Court give bond in the statutory amount, unless appointed Successor Trustee is a corporate Trustee or Public Agency.

Dept. 303, 9:00 a.m. Monday, January 23, 2012

Atty Matlak, Steven M. (for Petitioner Joseph Pedemonte)
 Atty Nina Helgeson, Maria Pedemonte & Autustina Pedemonte pro per Objectors
 Petition to Appoint Successor Trustee

		JOSEPH PEDEMONTE , income beneficiary, is Petitioner.	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>Continued from 11/14/11. Minute order states parties agree to appoint Bruce Bickel as successor trustee. Matter continued to 1/23/12; however, if parties can stipulate to a bond amount and bond is posted, then the matter on 1/23/2012 may be taken off calendar. As of 1/12/12 a bond has not been filed.</p> <p>For Petitioner:</p> <p>2. Probate Code §15602 provides that when an individual who was not named as trustee in the instrument is appointed as trustee, the trustee must be bonded. The court may not excuse the requirement of a bond except under compelling circumstances.</p> <p>For Objectors:</p> <p>2. There is nothing in the file to indicate the amount the bond should be set at.</p>
		Petitioner states during his lifetime he is the sole income beneficiary of the SUSAN PEDEMONTE TRUST dated April 13, 1983.	
Cont. from 042511, 060611, 072511, 091211, 111411		Eugene A. Zanardi was the initial trustee of the Trust. Eugene resigned on 7/31/1995. Named successor trustee, Diane Williams declined to act, thereby creating a vacancy. There are no other trustees named in the Trust instrument.	
	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		
		On 2/22/1996 Petitioner filed a Petition to Appoint Successor Trustee (Fresno Superior Court case no. 554665). As requested in the petition the court appointed Robert Garavello as successor trustee of the trust.	
		On or about 2/28/11 Robert Garavello signed a Resignation of Trustee, whereby Robert Garavello resigned as Trustee of the trust effective upon the occurrence of the earliest to occur of the following events: (i) the closing of the pending loan in the approximate amount of \$300,000 between Pedemonte Properties Inc., and tri-Counties Bank, which loan will be secured by the real property located at 7520 N. Palm Ave., Fresno. (ii) the appointment of a successor trustee of the Trust and related trust known as the Susan Pedemonte Trust, of which Robert Garavello is currently serving as trustee, or (iii) September 1, 2011.	
		The Trust requires that a vacancy in the office of trustee be filled. By an instrument in writing, Joseph Pedemonte, the beneficiary of the Trust, has nominated ROBERT S. SWANTON as successor Trustee to fill the vacancy, and said nominee has signed his consent.	
		The Trust waives bond for the persons named as trustee or any person appointed as trustee in the manner specified in the Trust.	
		Petitioner prays for an order:	
		2. Appointing ROBERT S. SWANTON as successor trustee of the Trust, investing with him all the powers vesting in the office of the trustee under the Trust.	
		<i>Please see additional page for objections.</i>	
		Reviewed by: KT	
		Reveiwed on: 1/12/12	
		Updates:	
		Recommendation:	
		File 5 - Pedemonte	

Objections to Petition to Appoint Successor Trustee, filed on 4/18/11 by Nina Helgeson, Maria Pedemonte and Augustina Pedemonte. Objectors state they are the grandchildren of the Trustor and remainder beneficiaries of the Trust. Objectors object to the appointment of the Nominated Successor Trustee (Robert S. Swanton) as the Successor Trustee of the Trust and desire to have someone appointed who will be fair and impartial to all the beneficiaries of the Trust.

Since the Trust only waives bond for the person named in the instrument at Article 6.01, any successor Trustee should be required to post bond in the statutory amount, unless a corporate Trustee or public agency is appointed as trustee of the Trust.

Instead of the Nominated Successor Trustee (Robert S. Swanton), Objectors hereby nominate in the place and stead of the resigning Trustee, either the FRESNO COUNTY PUBLIC GUARDIAN'S OFFICE or EDWIN D. HUFF, CPA of Fresno, California.

Wherefore, Objectors pray for an order of the Court as follows:

7. The appointment of ROBERT S. SWANTON, as Successor Trustee of the Trust be DENIED;
8. The court appoint the FRESNO COUNTY PUBLIC GUARDIAN'S OFFICE as successor Trustee of the Trust or in the alternative, the Court appoint EDWIN D. HUFF, CPA, as the Successor Trustee of the Trust;
9. The Court require that the Successor Trustee so appointed by the Court give bond in the statutory amount, unless appointed Successor Trustee is a corporate Trustee or Public Agency.

Supplemental Objection to Petition to Appoint Successor Trustee filed by Nina Helgeson, Maria Pedemonte and Augustina Pedemonte on 6/3/11 allege that the resigning Trustee was remiss in carrying out his fiduciary duties in the administration of the 1983 Trust in that the 1983 Trust was essentially being administered by the Petitioner rather than the Trustee, in the Petitioner's own interest and not in the interest of the Objectors.

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Objectors continue to object to the appointed of the Nominated Trustee and hereby nominate the Fresno County Public Guardian's Office or Edwin D. Huff, C.P.A. Objectors believe that the nominated successor Trustee no longer wished to act as trustee of the Trusts.

Wherefore, Objectors continue to pray for an order of the Court as follows:

10. The appointment of ROBERT S. SWANTON, as Successor Trustee of the Trust be DENIED;
11. The court appoint the FRESNO COUNTY PUBLIC GUARDIAN'S OFFICE as successor Trustee of the Trust or in the alternative, the Court appoint EDWIN D. HUFF, CPA, as the Successor Trustee of the Trust;
12. The Court require that the Successor Trustee so appointed by the Court give bond in the statutory amount, unless appointed Successor Trustee is a corporate Trustee or Public Agency.

DOD: 2/13/11		JUDITH LYNN ASHLEY, Executor, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Accounting is waived.	
Cont. from		I & A - \$416,150.20	
	Aff.Sub.Wit.		
✓	Verified	POH - \$416,150.20	
✓	Inventory	Executor - waives	
✓	PTC		Attorney - waives
✓	Not.Cred.	Distribution pursuant to Decedent's Will and Codicil is to:	
✓	Notice of Hrg		Judith Lynn Ashely - Merrill Lynch account with a balance of \$412,882.30 and cash in the sum of \$3,267.90
✓	Aff.Mail	W/	
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
✓	Letters	6/6/11	
Duties/Supp			
Objections			
Video Receipt			
CI Report			
✓	9202		
✓	Order		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
✓	FTB Notice		
			Reviewed by: KT
			Reviewed on: 1/12/12
			Updates:
			Recommendation: SUBMITTED
			File 6 - Lewis

Atty Lambert, Arthur (pro per – maternal great-uncle/Petitioner)

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

Windell, 11 DOB: 3/2/00	<p align="center"><u>TEMPORARY EXPIRES 01/23/12</u></p> <p>ARTHUR LAMBERT, maternal great-uncle, is petitioner.</p> <p>Windell and Windaisha's father: WINDELL LIGHTLE, SR. – <i>declaration of due diligence filed 12/20/11</i></p> <p>Daveeon's father: KENNETH COLTER – <i>declaration of due diligence filed 12/20/11</i></p> <p>Mother: JACQUELLA ELEY - <i>deceased</i></p> <p>Windell & Windaisha's paternal grandparents: UNKNOWN Daveeon's paternal grandfather: UNKNOWN Daveeon's paternal grandmother: JOYCE THOMAS – <i>declaration of due diligence filed 12/20/11</i> Maternal grandfather: DENNIS ELEY – <i>declaration of due diligence filed 12/20/11</i> Maternal grandmother: DECEASED</p> <p>Petitioner states on 8/14/11 the children's mother called him and asked if he could become the guardian of her children in the event she died. Mom died on 8/21/11. The father of the youngest child was incarcerated when he was born and is currently on parole. The youngest child's father has a mental disability and is on SSI and may not be able to take care of the child. The older children have not seen their father for the last 6-7 years. Neither of the fathers has financially supported the children.</p> <p>Court Investigator Samantha Henson's report was filed 11/10/11</p> <p>Court Investigator Samantha Henson's report filed - WAITING FOR UPDATED REPORT.</p>	NEEDS/PROBLEMS/COMMENTS:	
Windaisha, 8 DOB: 3/21/03		<p>CONTINUED FROM 11/21/11 Temporary was granted as to Windell & Windaisha only.</p> <p>As of 01/12/12, the following remains outstanding:</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of personal service of Notice of Hearing with a copy of the Petition at least 15 days before the hearing <u>or</u> Consent and Waiver of Notice for: <ul style="list-style-type: none"> - Windell Lightle, Sr. (father of Windell & Windaisha) - Kenneth Colter (father of Daveeon) <i>Declarations of Due Diligence filed 12/20/11 state that Petitioner has been unable to make contact with either father.</i> 3. Need proof of service by mail of Notice of Hearing with a copy of the Petition at least 15 days before the hearing <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence for: <ul style="list-style-type: none"> - Paternal grandparents (unknown) - Dennis Eley (maternal grandfather) <i>Declarations of due diligence filed 12/20/11 state that the Petitioner has been unable to locate contact information for Joyce Thomas (Daveeon's paternal grandmother), and that the maternal grandfather, Dennis Eley, resides out of state and the Petitioner has not had contact with him.</i> 	
Daveeon, 4 DOB: 6/26/07			
Cont. from 112111			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg		X	
Aff.Mail		X	
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.		X	
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
CI Report		X	
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
		Reviewed by: JF	
		Reviewed on: 01/12/12	
		Updates:	
		Recommendation:	
		File 8 – Lightle & Colter	

Petition for Order Confirming Trust Assets; Petition for Instructions [Prob. C. §850 (a)(3); Prob. C. §17200, et seq.]

<p>Edward Dorothy Salazar DOD: 6-23-11</p>	<p>RUDOLFO DIEGO SALAZAR, acting Trustee of the Edward Dorothy Salazar Living Trust dated 10-11-10 (the "2010 Trust"), is Petitioner.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>		
	<p>Petitioner states Settlor was a resident of Sacramento County, but the principal place of administration of the trust is Fresno County. Petitioner is acting trustee of the 2010 Trust, and is also the named trustee under a prior trust of Settlor (the "1996 Trust") and named executor of Settlor's 1996 pour-over will (the "1996 Will").</p>	<p>1. In addition to the assets specifically referenced in "Annex A" of the 2010 Trust, Petitioner requests the order include unspecified assets "inadvertently omitted" or "now known or unknown and/or acquired after the date of this Petition."</p>		
<table border="1"> <tr> <td>Aff.Sub.Wit.</td> <td></td> </tr> </table>	Aff.Sub.Wit.		<p>Petitioner states the 1996 Trust and 1996 Will were prepared by an attorney, but that Settlor used an estate planning website to create the 2010 Trust. The 2010 Trust does not specifically revoke the 1996 Trust; however, Petitioner is informed and believes it was Settlor's intent at the time he created the 2010 Trust that any property which was in his possession during his lifetime and after his death be transferred into the 2010 Trust and that the 1996 Trust be revoked. Petitioner states the 1996 Trust includes certain heirs that predeceased the Settlor, and additional heirs.</p>	<p><u>The Court cannot confirm unspecified assets not included in the trust schedule. Such assets may be subject to probate estate administration.</u></p>
Aff.Sub.Wit.				
<table border="1"> <tr> <td>✓ Verified</td> <td></td> </tr> </table>	✓ Verified		<p>Petitioner states that shortly before his death, Settlor was in the process of transferring all of his assets into the 2010 Trust; however, Petitioner believes Settlor was personally ignorant of the fact that he needed to have new deeds and account designations created to properly transfer the property to his 2010 Trust, and that Settlor thought that by signing the Transfer and Assignment document, he had properly transferred all of his property into the 2010 Trust.</p>	<p><i>Examiner notes that if the Court orders that the 1996 documents are revoked as requested, and there are assets later discovered that cannot be confirmed to the 2010 Trust per above, such assets may be subject to <u>intestate probate estate administration.</u></i></p>
✓ Verified				
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9202				
<table border="1"> <tr> <td>✓ Order</td> <td></td> </tr> </table>	✓ Order		<p>Petitioner prays for an Order that:</p> <ol style="list-style-type: none"> 1. Notice of this Petition was given as prescribed by law; 2. The 1996 Trust and 1996 Will are revoked and of no effect; 3. The 2010 Trust is the sole valid dispositive instrument of Edward Dorothy Salazar; 4. The 2010 Trust is the operative trust for administration of the estate of Edward Dorothy Salazar; 5. Certain real property, bank accounts and personal property are subject to the management and control of Petitioner as trustee of the 2010 Trust; 6. Petitioner, as trustee of the 2010 Trust, shall distribute all assets held by the 2010 Trust as Settlor intended in the 2010 Trust; and 7. Any and all assets inadvertently omitted from Annex A of the 2010 Trust or the Transfer and Assignment, now known or unknown and/or acquired after the date of this Petition, are deemed to be included in the 2010 Trust and distributed according to its terms. 	<p><i>Examiner notes alternatively that if the 1996 documents are not revoked by the Court, it appears that such potential estate could be administered as testate, but would have a slightly different heir structure than the 2010 Trust.</i></p>
✓ Order				
<table border="1"> <tr> <td>Aff. Posting</td> <td></td> </tr> </table>	Aff. Posting			<p>Reviewed by: skc</p>
Aff. Posting				
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UCCJEA				
<table border="1"> <tr> <td>Citation</td> <td></td> </tr> </table>	Citation			<p>Recommendation:</p>
Citation				
<table border="1"> <tr> <td>FTB Notice</td> <td></td> </tr> </table>	FTB Notice			<p>File 11 - Salazar</p>
FTB Notice				

**Probate Status Hearing Re: Filing of First Account or Petition for Final Distribution
(Prob. C. §12200, et seq.)**

DOD: 8/31/2010	<p>PAUL A. FILLION was appointed as Executor of the Estate with full IAEA Authority and without bond on 11/15/10.</p> <p>Corrected I & A filed on 9/23/11 showing the estate value as \$125,000.00</p> <p>First account or petition for final distribution was due 11/15/11.</p> <p>This status hearing was set for the filing of the first account or petition for final distribution.</p> <p>A copy of the Notice of Status Hearing was mailed to Paul A. Fillion on 9/26/11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need current status report, first account or petition for final distribution.</p> <p><u>Note:</u> Paul A. Fillion was formerly represented by Attorney John Barrus. Mr. Barrus filed a substitution of attorney on 9/22/11.</p>
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
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	<p>Reviewed by: KT</p> <p>Reviewed on: 1/12/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 15 - Fillion</p>	

Status Hearing Re: Proof of Guardianshp in Arizona and Termination of the California Guardianship

Age: 15 years DOB: 1/18/1997	<p>IRENE SHREFFLER, maternal grandmother/guardian, petitioned the court to fix the residence outside of California to Kingman, Arizona.</p> <p>Irene Shreffler was appointed guardian of the person on 9/20/06.</p> <p>Father: GEORGE PLESH</p> <p>Mother: DENISE LEMEN</p> <p>On 7/25/11 the Court granted the petition to move the minor to Arizona ordered that a guardianship or its equivalent would be commenced in Arizona within four months of the order.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need status of guardianship proceedings in Arizona.</p>
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	Reviewed by: KT	
	Reviewed on: 1/12/12	
	Updates:	
	Recommendation:	
	File 16 - Shreffler	

Pro Per **Rodriguez, Rigoberto (Pro Per Petitioner, paternal grandfather)**
 Pro Per **De Rodriguez, Araceli Morales (Pro Per Petitioner, paternal grandmother)**

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

Age: 12 years	<p align="center"><u>General Hearing set for 3/7/2012</u></p> <p>RIGOBERTO RODRIGUEZ and ARACELI MORALES DE RODRIGUEZ, paternal grandparents, are Petitioners.</p> <p>Father: SAID RODRIGUEZ</p> <p>Mother: JUDITH RAMOS</p> <p>Maternal grandfather: <i>Not listed</i> Maternal grandmother: <i>Sofia Ramos</i></p> <p>Petitioners state:</p> <ul style="list-style-type: none"> The mother removed the child from school maliciously and has absconded to Palm Springs with the child without the knowledge of the paternal relatives; They are afraid for the welfare of the child, and they need immediate guardianship to protect the child, as the mother abuses medications and drinks alcohol and she has not been stable; The mother's live-in boyfriend is a known felon, was just released from prison, and was paroled to Riverside County; The mother has kept the child from the paternal family since prior to the holidays; they received a call on 1/2/2012 from the child crying and distraught saying he wants to come home and his mother was hitting him; The child lived with them for half of his life and he stayed with them every weekend, and they have played an active role in raising the child until he was 6 years old. 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: <i>UCCJEA</i> filed 1/5/2012 states that as of 11/31/2011, the child lives with the mother in Palm Springs, CA.</p> <p>1. Need Notice of Hearing, and proof of five (5) court days' notice by personal service of the Notice of Hearing with a copy of the Petition for Appointment of Temporary Guardian, or Consent to Appointment of Guardian and Waiver of Notice, or a Declaration of Due Diligence, for:</p> <ul style="list-style-type: none"> Judith Ramos, mother; Said Rodriguez, father; Isaiah Rodriguez, proposed ward. 	
DOB: 6/20/1999			
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		<p>Reviewed by: LEG</p> <p>Reviewed on: 1/12/11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 21 - Rodriguez</p>	

Atty Roberts, Youngae "Ann" (pro per – maternal grandmother/Petitioner)

Atty Roberts, Kenneth Jr. (pro per – maternal grandfather/Petitioner)

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

Saede, 5 DOB: 11/17/06	<p><u>TEMPORARY GRANTED EX PARTE;</u> <u>EXPIRES 01/19/12</u></p> <p><u>GENERAL HEARING 03/07/12</u></p> <p>KENNETH ROBERTS and YOUNGAE ROBERTS, maternal grandparents, are Petitioners.</p> <p>Father (Saede): MARCOS GALVAN Father (Jaeden): OSIRIS PULIDO – <i>declaration of due diligence filed 01/05/12</i></p> <p>Mother: SARAH ROBERTS – <i>deceased</i></p> <p>Paternal grandparents: UNKNOWN</p> <p>Petitioners state that the children’s mother was murdered 01/01/12. Neither child’s father has been involved in the children’s lives. The Petitioners state that they have an ongoing loving relationship with the children and the children are familiar and comfortable in their home. Petitioners state that Jaeden’s father agrees that it is best for Jaeden to be with them during this difficult time, but Saede’s father removed her from their home. Petitioners state that Saede does not know her father as he has had no contact with her for over two years. Petitioners state that Saede expressed fear and discomfort at having to leave Petitioners home.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i>. 2. Need proof of personal service of <i>Notice of Hearing</i> with a copy of the <i>Petition for Temporary Guardianship or Consent and Waiver of Notice or Declaration of Due Diligence</i> for: <ul style="list-style-type: none"> - Marcos Galvan (Saede’s father) - Osiris Pulido (Jaeden’s father)* * A Declaration of Due Diligence was filed 01/05/12 regarding Mr. Pulido stating that the petitioners have not seen him since before Jaeden was born. 3. The General Guardianship Petition is missing a Child Information Attachment for Jaeden.
Jaeden, 3 DOB: 08/09/08		
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<p>Reviewed by: JF</p> <p>Reviewed on: 01/12/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 22 – Galvan & Roberts</p>		

Pro Per Lehman, Lorilla Fonda (Pro Per Petitioner, great aunt)

Petition for Appointment of Probate Conservator of the Person (Prob. C. 1820, 182 2680-2682)

Age: 27 years	<p style="text-align: center;">NO TEMPORARY REQUESTED</p> <p>LORILLA FONDA LEHMAN, great aunt, is Petitioner and requests appointment as Conservator of the Person with medical consent powers.</p> <p>Need Capacity Declaration</p> <p>Petitioner states the proposed Conservatee is developmentally disabled and diagnosed with severe mental retardation, cerebral palsy, and has the mental capacity of two to three-year-old child due to her mother abusing drugs during pregnancy. Petitioner states the proposed Conservatee has been under Petitioner’s care for ~14 years. Petitioner states she only recently learned that the proposed Conservatee is currently five months pregnant, as she has hidden her pregnancy well, and she is in desperate need of prenatal care, to which she has thus far refused to consent and has not received. Petitioner states the proposed Conservatee’s mental status prevents her from understanding the repercussions of her refusal to consent to prenatal care for the baby, she is unable to understand what the doctor is trying to explain about an exam for checking the viability of the baby, and the doctor has been unable to perform any type of procedure due to proposed Conservatee’s refusal. Petitioner states the proposed Conservatee needs to have someone to watch her daily for the remainder of her life.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Court Investigator Samantha Henson to provide <i>Advisement of Rights</i> and <i>CI Report</i>.</p> <ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i> and proof of service by mail of the notice with a copy of the <i>Petition</i> showing notice was mailed at least 15 days before the hearing pursuant to Probate Code § 1822 for the following persons: <ul style="list-style-type: none"> • Violet Morrow, mother; • Brandon Morrow, brother; • Joyce Ferrero, grandmother. 2. Need <i>Citation for Conservatorship</i> pursuant to Probate Code § 1823, and proof of personal service of the <i>Citation</i> pursuant to Probate Code § 1824. 3. Need proof of mailed service of the <i>Notice of Hearing</i> with a copy of the petition for the regional center pursuant to Probate Code § 1822(e). 4. Petition requests medical consent powers. Need <i>Medical Capacity Declaration</i> (Judicial Council form GC-335). 5. Need <i>Video Viewing Certificate</i> pursuant to Local Rule 7.15.9(A). 	
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Reviewed by: LEG			
Reviewed on: 1/12/12			
Updates:			
Recommendation:			
File 22 - Morrow			

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

Age: 8	<p>MARIA ALVAREZ-GARCIA, Maternal Grandmother, Guardian and Trustee of the Special Needs Trust, is Petitioner.</p> <p>Account period: 6-4-10 through 10-18-11</p> <p>Accounting: \$208,497.05 Beginning POH: \$100,000.00 Ending POH: \$142,460.82 (cash only)</p> <p>Reimburse Conservator: \$1,897.09 for expenses associated with a vehicle (maintenance, registration, insurance) and expenses associated with travel to UCLA Medical Center.</p> <p>Attorney: \$3,249.00 (11 hours @ \$295.00/hr)</p> <p>Costs: \$555.00 (filing fees)</p> <p>Petitioner requests that further reports and accounts be waived since trust funds are invested in a blocked account and annuity payments are made directly to that account. The trustee is not receiving any fees.</p> <p>Petitioner states that special needs include insurance and gasoline for vehicles and travel needs, and requests reimbursement for expenses associated with a vehicle and with travel to UCLA Medical Center.</p> <p>Petitioner requests an order:</p> <ol style="list-style-type: none"> 1. Settling, allowing and approving this first report and account; 2. Ratifying and approving all acts and transactions of the trustee as set forth in this account; 3. Authorizing payment of the attorney fees and costs; 4. Authorizing reimbursement to herself per above; 5. Waiving future accountings because funds are held in a blocked account. 	NEEDS/PROBLEMS/COMMENTS:
DOB: 10-31-03		<u>SEE PAGE 2</u>
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		Reviewed on: 12-23-11
		Updates: 1-11-12
		Recommendation:
		File 23 - Carbajal

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

NEEDS/PROBLEMS/COMMENTS (Continued):

1. The trust was originally funded with cash and with an annuity that pays approx. \$1,150.00 monthly. Schedule E Property on Hand lists only the cash held in the trust account. The annuity and its value should also be listed as an asset of the trust.

Declaration of Attorney Herold filed 1-10-12 states that the trust receives payments but is not the owner of the annuity. The owner is a third party administrator – Assigned Settlement Services Corporation.

Examiner notes that this is not a typical situation (that the trust does not own the annuity, and that the owner is a third party administrator). Why does a third party administrator own the annuity? Was there another transaction involving the annuity separate from the civil settlement from which it was received, such as a sale of the annuity to a settlement company? The Court may require further clarification.

2. It appears major purchases/disbursements were made and attorney fees paid without prior authorization from this Court. The trust was brought under the jurisdiction of this Probate Court on 8-30-10. Petitioner refers to court orders dated 10-27-10 and 5-17-11 authorizing withdrawal for certain items; however, there is no documentation in this file regarding such authorization. Were these items authorized by another Court? If so, it appears that such petition and authorization may be inappropriate.

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

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

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

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

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

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

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

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

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

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

SEE PAGE 3

Dept. 303, 9:00 a.m. Monday, January 23, 2012

23 Adam Carbajal Special Needs Trust Case No. 10CEPR00612

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

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

NEEDS/PROBLEMS/COMMENTS (Continued):

#2 (Continued):

Declaration of Attorney Herold filed 1-10-12 states that the parties were unaware that a probate case had been opened for the trust because a website search returned only the civil case. Accordingly, requests for disbursements were made to and approved by the civil Court. Attached to the Declaration are the civil Court orders authorizing the distributions.

The Declaration states the vehicle (with audio system) is owned by Maria Alvarez-Garcia. The distribution was made personally to her because it is difficult to obtain car insurance if the owner is the trust, and also to avoid any liability to the trust in the event of an accident and/or lawsuit. The TV and computer are likewise owned by Maria Alvarez-Garcia and are located in the beneficiary's bedroom.

The Declaration states the residence is owned by Maria Alvarez-Garcia and her husband. The distributions for the second mortgage and screen door were to assist them in maintaining a residence for the beneficiary and to provide a screen door for the beneficiary's bedroom for fresh air when he is unable to be out of bed. The distribution to the second mortgage paid off that mortgage, which reduced the family's monthly burden of taking care of the beneficiary. The trust does not have an ownership interest in the residence.

The civil Court approved the \$1,985.00 for a vacation to Legoland. The trust specifically allows for distributions for a vacation and the details of the vacation were set forth on the ex parte petition.

Examiner notes that the Declaration attaches the civil Court orders, but does not provide copies of the petitions to the civil Court. The Court may require copies of the corresponding petitions for a more complete file.

Examiner notes that disbursements for items that the trust would not hold title to is not typical for special needs trusts. The Court may require further clarification.

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

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

Declaration states that since the only assets are blocked, waiver of account would reduce attorney fees and court costs payable by the trust.