1 Anna Funk Goins (Estate) **Case No. 06CEPR01000**

Atty Donaldson, Larry A. (of Madera for Marie E. Donaldson & Maynard E. Goins, Executors)

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution; Failure to File Inventory and Appraisal (Prob. C. 12200, et seq)

DOD: 2/28/16		
Cont. from 072511, 102411, 120511		
	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	

MARIE E. DONALDSON and **MAYNARD E. GOINS**, were appointed Co-Executors with full IAEA authority and without bond on 11/21/06.

Letters issued on 11/27/06.

Inventory and appraisal was due on 3/27/07.

First account or petition for final distribution was due on 11/27/07.

This status hearing was set for the filing of the inventory and appraisal and for the filing of the first account or petition for final distribution.

NEEDS/PROBLEMS/COMMENTS:

Continued from 12/5/11. Minute order states Mr. Donaldson states he has not received documents.

1. **Need current status report or inventory and appraisal and first account or petition for final distribution.**

Reviewed by: KT
Reviewed on: 1/20/12
Updates:
Recommendation:
File 1 - Goins

Dept. 303, 9:00 a.m. Monday, January 30, 2012

2 **Ronald Franco (CONS/PE)** **Case No. 08CEPR00300**

Atty **Kruthers, Heather H. (for Public Guardian – Conservator/Petitioner)**

(1) Second and Final Account and Report of Conservator, (2) Petition for Allowance of Compensation to Conservator and Attorney (3) and Distribution [Prob. C. 1860, 2620, 2623, 2630, 2631, 2942, 11850(a)]

DOD: 05/01/11

Cont. from 112911

	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	w/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
✓	CI Report	
	2620(c)	n/a
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

PUBLIC GUARDIAN, Conservator, is Petitioner.

Final Account period: **09/04/10 – 05/01/11**

Accounting	-	**$114,425.80**
Beginning POH	-	**$113,441.80**
Ending POH	-	**$64,342.13**

Subsequent to the Final Account period: **05/02/11 – 08/29/11**

Accounting	-	**$68,076.84**
Beginning POH	-	**$64,342.13**
Ending POH	-	**$56,745.98**

Conservator - **$877.20** (3.20 Deputy hours @ $96/hr. and 7.50 Staff hours @ $76/hr.)

Attorney - **$1,000.00** (per Local Rule)

Bond fee - **$145.55** (ok)

Costs - **$395.00** (filing fees)

Petitioner requests to distribute the remaining assets of the estate as follows:

Roy Franco	-	$27,164.11
Roberta Franco Moreno	-	$27,164.12

Petitioner prays for an order:

1. Determining that the conservatorship terminated upon the death of the conservatee;
2. Approving, allowing and settling the final account and subsequent to final account;
3. Authorizing the Conservator and Attorney fees and commissions;
4. Authorizing payment of the bond fee;
5. Authorizing disbursement of remaining estate assets to Roy Franco & Roberta Franco Moreno.

NEEDS/PROBLEMS/COMMENTS:

CONTINUED FROM 11/29/11

As of 01/24/12, no additional documents have been filed.

Reviewed by: JF

Reviewed on: 01/24/12

Updates:

Recommendation:

File 2 - Franco

3 Michael John Collins (CONS/PE) Case No. 09CEPR00983

Atty LeVan, Nancy J. (for Petitioner Tim Collins, Conservator of the Person and Estate)

(1) First Account and Report of Conservator and (2) Petition for Allowance of Fees for Attorney

Age: 19 years		
DOB: 1/15/1992		
Cont. from 081111, 092711, 102411, 121411		
	Aff.Sub.	
✓	Verified	
✓	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	W/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/S	
	Objection	
	Video Receipt	
✓	CI Report	
	9202	
✓	Order	
	Aff. Post	
	Stat Rpt	
	UCCJEA	
	Citation	
	FTB Notc	

TIM COLLINS, father and Conservator of the Person and Estate, is Petitioner.

Account period: 3/4/2010 – 3/31/2011

Accounting	-	**$214,899.55 ?**
Beginning POH	-	**$182,358.84**
Ending POH	-	**$178,789.44 ?**

($56,017.94 or $47,717.24 is cash?)

Conservator	-	***not addressed***
Attorney	-	**$4,000.00**

(per Declaration filed 6/24/2011; please see Note on additional page)

Bond	-	**$61,000.00**

(sufficient)

Petitioner prays for an Order:

1. Approving, allowing and settling the First account, and confirming and approving all acts and transactions of the Conservator set forth in the account;
2. Authorizing the Conservator to pay himself **$1,328.00** per month for Conservatee's room and board; and
3. Authorizing the attorney fees and costs.

Court Investigator Jo Ann Morris' *Report* filed 2/1/2011 recommends the conservatorship continue with the current conservator.

***Status Report Re: Corrections to First Accounting* filed on 12/12/2011 by Attorney Nancy LeVan states:**

- She had triple lumbar disc fusion on 10/25/2011, the day after the last hearing;
- She was hoping she could address all questions put forth by the Probate Examiner; however, it is taking longer than she expected to recover from this major surgery;
- She seeks the Court's indulgence and **requests a 45-day continuance**, as she is starting to work this week 4 hours per day and she will focus on getting the corrections to the Court as soon as possible.

NEEDS/PROBLEMS/COMMENTS:

<u>Continued from 12/14/11</u>. *Minute Order* states matter is continued to 12/14/11 at the request of counsel.

<u>*NOTE: THIS MATTER HAS BEEN CONTINUED 4 TIMES AT COUNSEL'S REQUEST.</u>**

The following issues from the last hearing remain:

1. ***Schedule C, Disbursements* does not include any entry for the <u>$122,771.50</u> cash withdrawal dated 7/1/2010 which is indicated on the Bank of the West statement filed 6/24/2011. The schedule of disbursements should reflect the payment of this sum, which appears to be for purchase of a condominium for the Conservatee per Court authorization on 7/1/2010. Further, the *Summary of Account* is also inaccurate as it does not list this $122,771.50 disbursement. *(Note: First Account pleadings do not contain any narrative information regarding this condominium purchase for the Conservatee, nor the approved rental agreement and the $850.00 rent the Court authorized to be charged; information has been obtained from previous pleadings filed with the Court.)***
2. ***Summary of Account* lists cash assets on hand as <u>$56,017.94</u> while *Schedule E, Property on Hand* lists cash assets as <u>$47,717.24</u>. Need correct amount of cash on hand at the end of the account period.**
3. ***Schedule A, Receipts* contains entry dated 1/19/2011 indicating an SSI check in the amount of <u>$13,280.00</u> was received. This amount appears to be incorrect, as the SSI check amounts in the receipts schedule are typically for <u>$1,328.00</u>. Therefore, the total amount of receipts indicated in *Schedule A, Receipts* is incorrect (should be $20,588.71) and the accounting does not balance.**

~Please see additional page~

Reviewed by:	LEG/NRN
Reviewed on:	1/23/12
Updates:	
Recommendation:	
File	**3 – Collins**

Dept. 303, 9:00 a.m. Monday, January 30, 2012

NEEDS/PROBLEMS/COMMENTS, continued:

4. ***Petition* requests a flat fee of $1,328.00, which is the amount of the Conservatee's monthly disability benefits, be allowed to be paid monthly to the Conservator for room and board and food, and therefore Petitioner "will not have to charge 25% of all expenses and will make the accounting process much easier." *Petition* does not explain this statement regarding charging 25% of expenses to the Conservatee, and it is unclear from the *Petition* whether the Conservatee resides with other household members requiring all expenses to be apportioned at 25% among them. (Conservatee is charged 25% of expenses for cable, cell phone, utilities, pool service, pest control, homeowner's insurance, gardening, electricity, etc.)**

5. ***Schedule A, Receipts* contains entries dated 10/4/2010 and 10/28/2010 for "deposit of rent check for condo" in the amount of $850.00 each, and *Schedule C Disbursements* shows a deposit refund of $300.00 was made on 12/13/2010 to the renter of the condominium. There are no prior entries for rent received (condominium was purchased in July 2010) nor any subsequent entries for receipt of rent for the condominium during this account period. *Petition* does not mention the Conservatee's condominium nor explain its current status. Court may require information as to the current rental status of the condominium and as to the lack of monthly rent receipts from November 2010 to the ending date of this account of 3/31/2011. *Schedule C Disbursements* shows the Conservatee pays $199.00 in monthly association dues (totaling $1,393.00 during this account period), $586.00 in condominium insurance, and $1,008.09 in property taxes, which now may be considered liabilities to the Conservatorship estate given that the property is not earning rental income; additionally, Conservatee expended $800.00 on 12/22/2010 for condominium property management.**

6. ***Schedule C Disbursements* includes the following expenditures for which the Court may require explanation, justification, and further information:**
   - **$200.00 cash withdrawal dated 10/12/2010 for which no purpose is identified;**
   - **$1,116.54 dated 2/23/2010 for which no payee or purpose is identified;**
   - **$5,982.02 in payments to GMAC Mortgage; *Petition* does not state whether these mortgage payments are for the condominium which Conservatee just purchased or for the Conservator's own mortgage, and if for the latter, whether Conservatee will have partial ownership in Conservator's residence for making a portion of such mortgage payments.**
   - **$1,542.00 in payments to Toyota with the explanation of "25% of monthly transportation costs." It is unclear whether this refers to fuel expenses, or to purchase of a vehicle, and if for the latter, whether Conservatee has partial ownership in the vehicle for making such payments *(Schedule E, Property on Hand* does not list any interest in a vehicle as an asset of the Conservatorship);**
   - **$6,187.04 in Costco expenses that are <u>not</u> apportioned at 25%; descriptions state food and supplies, sometimes designated "for Conservatee" and sometimes without such designation;**
   - **$471.43 to Travelers Insurance for "home" - 25% of monthly charge (payments made to DiBudio & Defendis Insurance are designated as for the condominium);**
   - **$105.00 in overdraft bank charges; it appears the Conservatee has paid these charges when he is not the person responsible for managing his money.**

7. ***Petition* does not address whether the Conservator is waiving commissions.**

8. **Need Revised Order.**

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS, continued:

Note: *Declaration of Attorney Nancy J. LeVan in Support of Request for Attorney Fees* filed on 6/24/2011 includes a fee itemization identified as *Statement Date 6/24/2011* totaling fees of $4,690.00, which contains entries dated 7/30/2011, 8/2/2010 and 8/27/2010 for fees totaling $440.00 that are identical in the fees charged and in the descriptions of services to the entries contained on Attorney LeVan's itemization identified as *Statement Date 8/27/2010* submitted in support of Attorney LeVan's *Petition for Approval of Rental Agreement* filed 9/8/2010; attorney fees of $2,700.00 were granted to Attorney LeVan on 10/26/2010 in that matter covering these duplicate itemizations such that it appears these fees of $440.00 have already been paid. Therefore, the total of the itemized fees for this account period should be $4,250.00, and since Attorney LeVan requests due to the limited funds of the Conservatorship that she be paid only $4,000.00 as compensation for her legal services, no deduction is necessary from the amount of attorney fees requested by Attorney LeVan for overpayment due to the duplicate entries.

Note: The *Petition* and the *Declaration of Attorney Nancy J. LeVan in Support of Request for Attorney Fees* filed on 6/24/2011 do not specifically request reimbursement of costs advanced for the filing fee of $395.00; however, it appears this request is being made, as the amount of $4,395.00 for legal services and costs is included in the proposed order.

4 **Jack Elmon Grimes (Estate)** **Case No. 10CEPR00482**

Atty **Chester, Bruce C. (for Christene Ann Raven and Jackelyn Collette Willhite – Co-Executors)**

(1) Waiver of Accounting and (2) Petition for Allowance of Compensation to Attorney, and for (3) Final Distribution

DOD: 9-27-09		
	Aff.Sub.Wit.	
✓	Verified	
✓	Inventory	
✓	PTC	
✓	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	W/O
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✓	Letters	7-13-10
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	FTB Notice	

CHRISTENE ANN RAVEN and JACKELYN COLLETTE WILLHITE, Daughters and Co-Executors with Full IAEA without bond, are Petitioners.

Accounting is waived.

I&A: $1,034,868.56
POH: $1,034,868.56 ($747,639.01 is cash)

Co-Executors: Waived

Attorney (Statutory): $23,348.69

Distribution pursuant to Decedent's will:

Christene Ann Raven and Jackelyn Collette Willhite, as Co-Trustees of the Grimes Survivor's Trust of 2006: Residue of estate ($724,280.32 cash plus securities)

NEEDS/PROBLEMS/COMMENTS:

Reviewed by:

Reviewed on:

Updates:

Recommendation: SUBMITTED

File 4 - Grimes

Dept. 303, 9:00 a.m. Monday, January 30, 2012

5 **Trinity Khylie Renee Lusk (GUARD/P)** **Case No. 11CEPR00075**

Atty **Rusca, Rose Marie (for Colleen Lusk/Colleen Carlson – Petitioner)**

Atty **Lusk, Katie (pro per – mother/objector)**

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

Age: 2	
DOB: 07/23/08	
Cont. from 032811, 050211, 062011, 091911, 120511	
	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

TEMPORARY EXPIRES 01/30/12

COLLEEN CARLSON, paternal grandmother, is Petitioner.

Father: **RYAN LUSK,** *consent and waiver of notice filed 02/04/11*.
Mother: **KATIE LUSK,** *personally served 02/06/11*.

Paternal Grandfather: STEVE LUSK, *consent and waiver of notice filed 02/04/11*.
Maternal Grandfather: RANDALL LEON FACKLAM, *Declaration of Due Diligence filed 02/04/11*.
Maternal Grandmother: KIM ANAYA, *served by mail 02/07/11*

Petitioner states that minor's mother is using illegal prescription drugs regularly, not taking her medication for bi-polar disorder, and living with her boyfriend in a shed without proper heat, running water or a bathroom. Minor's father is currently deployed in Afghanistan and therefore cannot care for minor.

Court Investigator Jennifer Young's report was filed 03/21/11.

Declaration of mother, Katie Lusk dated 03/28/11 chronicles her visits and efforts to have contact with minor, and provides pictures of her current and previous living arrangements.

Court Investigator Jennifer Young's supplemental report was filed 04/27/11.

Please see additional page

NEEDS/PROBLEMS/COMMENTS:

CONTINUED FROM 09/19/11
Minute Order from 12/05/11 states: Per Counsel Rose Marie Rusca, the father, Ryan Lusk, is returning to the area on or around 12/17/11, and mediation is currently set. A decision in the Family Court should be made on 01/13/12. The Probate Court extends the temporary letters to 01/30/12 with the exception of a Family Law Court Order addressing issues of custody being signed. The latter order would take precedence over, and nullify, issued Probate letters and/or orders.

Reviewed by:	JF
Reviewed on:	01/24/12
Recommendation:	
Updates:	
File 5 - Lusk	

Dept. 303, 9:00 a.m. Monday, January 30, 2012

Declaration of Petitioner, Colleen Carlson, filed 04/29/11 states that since the last court appearance on 03/28/11, she has enrolled minor in a licensed day-care/pre-school. Petitioner also states that she administered drug tests to mother on two occasions before visits. Petitioner states that she had mother go through a witnessed collection and she had the mother watch as she sealed the sample and they both watched as the results showed positive. Further, she states that she then sent the samples to the lab for written results. The first drug test was administered on 04/03/11 and the mother tested positive for marijuana. The second test was administered on 04/10/11 and the mother tested positive for marijuana and methamphetamines. Attached to the declaration are the lab results of both drug tests. On the evening of 04/10/11 after the mother's visit, police arrived at Petitioners home for a "wellness check". Officers came into her home and left shortly after arriving stating, "there is nothing wrong here". According to the police department, the mother called and reported to police that Petitioner and her husband were high. Petitioner states that she then advised mother that all future visits would have to be through an agency. Petitioner states that the mother has not visited with minor since that time. Petitioner states that mother has threatened to kill her in the past and has threatened that if things do not go well for her, she will claim that Petitioner's husband molested minor. Petitioner also attached print outs from mother's facebook page showing that the mother's family is also concerned about mother's drug use. Finally, Petitioner states that the minor is thriving under her care and loves daycare.

Declaration of mother, Katie Lusk, filed 04/29/11 states that she feels it is in the child's best interest for the child to be in her care as she has been the minor's caretaker since birth and that she has a safe, clean and healthy home for minor. She states that she has heard that the minor's behavior has been affected by all of the changes. Mother further declares that she and her boyfriend, Anthony Stewart, are on the waiting list to start a 15 week parenting class through Exceptional Parents Unlimited. Mother also states that she has been seeing her psychiatrist with her last visit being 04/26/11. She further states that she has signed a consent form for the Court Investigator to obtain information from her doctor. Mother states that she feels that the court may have been misled by statements made by Petitioners and wants her daughter returned to her care.

Declaration of Anthony Stewart, mother's boyfriend, filed 04/29/11 states that he has been falsely accused of selling drugs and that he has a spotless criminal record. He further states that he has a wonderful family and would never do anything to jeopardize losing them.

Declaration of Colleen Carlson, filed 06/17/11 states that the mother, Katie Lusk, tested positive for marijuana on 05/25/11, suffered a miscarriage on 06/06/11, was kicked out of beauty school for not attending and did not attend the ordered supervised visits until early June 2011. Ms. Carlson further states that the minor is doing great and loves attending her pre-school.

6 Arthur Hermosillo (CONS/PE) Case No. 11CEPR00214

Atty LeVan, Nancy J., sole practitioner (for Katrina Leal, daughter, and Jason Hermosillo, son)
Atty Magness, Marcus, of Gilmore Wood Vinnard & Magness (for Arthur Hermosillo, proposed Conservatee, and for Jessica Hermosillo, daughter)
Atty Kruthers, Heather H., of County Counsel (for Public Guardian, Temporary Conservator)

Notice of Motion and Motion of Arthur Hermosillo to Consolidate Proceedings

Age: 53 years		
DOB: 1-1-1958		
Cont. from 110711, 112911		
	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	

ARTHUR HERMOSILLO moves the Court pursuant to Code of Civil Procedure § 1048(a) and CA Rule of Court 3.350 for an order granting consolidation of Case No. 11CEPR00214 with Case No. 11CEPR00777 (In Re Durable Power of Attorney), on the following grounds:

- The two cases involve common questions of law and fact; Petitioners **KATRINA LEAL** and **JASON HERMOSILLO** allege their father, Arthur Hermosillo, is incapacitated and their sister, **JESSICA HERMOSILLO**, with whom Arthur resides and who serves as his attorney-in-fact, is taking advantage of Arthur and diverting her funds to her own uses; to allow both cases to proceed separately would result in Arthur incurring duplicative costs and attorneys' fees in conducting discovery, retention of expert witnesses, and trial;
- Judicial economy will be served by consolidation; issues present in both cases include whether Arthur has capacity, whether Jessica breached her fiduciary duty under the *Durable Power of Attorney*, and whether Arthur requires the appointment of a conservator; percipient witnesses will be the same, the same experts will testify at trial in both actions, and the evidence presented will be substantially the same; and
- No other party to either action will be prejudiced by consolidation.

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

<u>Please refer to the following related pages:</u>

<u>Page 7A</u> is Katrina Leal's and Jason Hermosillo's *Petition to Compel Formal Accounting from Jessica Hermosillo*.

<u>Page 7B</u> is Arthur Hermosillo's *Motion to Consolidate Proceedings* in Case #11CEPR00777 (Power of Attorney case).

<u>Page 7C</u> is Jessica Hermosillo's *Motion to Strike Portions of Petition to Compel*.

<u>Continued from 11/29/2011</u>. *Minute Order* states: By stipulation of the parties, the matter is continued to 1/30/2012 and the trial date of 2/14/2012 [which was set by *Minute Order* dated 10/3/2011 from the hearing on the *Petition for Appointment of Probate Conservator*] is vacated and rescheduled for <u>4/24/2012</u>. Discovery to be calculated from the new trial date. Parties further stipulate to having a settlement conference on <u>2/21/2012</u>.

<u>Note</u>: *Second Extended Letters of Temporary Conservatorship* issued to the Public Guardian were filed 12/27/2011 and are set to expire on <u>4/24/2012</u>.

Reviewed by: LEG
Reviewed on: 1/23/12
Updates:
Recommendation:
File 6 - Hermosillo

Movant states:

- Petitioners **KATRINA LEAL** and **JASON HERMOSILLO** are represented by Nancy J. LeVan in both case numbers;
- **ARTHUR HERMOSILLO**, who has appeared in Case No. 11CEPR0021, is represented by the law firm of Gilmore, Wood, Vinnard & Magness;
- Concurrently with this *Motion*, **JESSICA HERMOSILLO** is filing a *Motion to Strike* in Case No. 11CEPR00777, which is her first appearance in that case, and she is represented by the law firm of Gilmore, Wood, Vinnard & Magness;
- This *Motion* is based on the *Notice of Motion*, the *Memorandum of Points and Authorities*, the *Declaration of Marcus D. Magness*, all of the pleadings, files and records in this proceeding, all other matters of which the Court may take judicial notice, and any argument or evidence that may be presented to or considered by the Court.

***Declaration of Marcus D. Magness in Support of Motion of Arthur Hermosillo to Consolidate Proceedings* filed on 10/13/2011 states:**

- On 3/23/2011, Arthur Hermosillo appointed Jessica Hermosillo as his attorney-in-fact under a Durable Power of Attorney for Management of Property and Personal Affairs; as his agent, Arthur is obligated to defend and indemnify Jessica from any costs and attorneys' fees incurred as a result of her carrying out her duties;
- For that reason, subject to Court approval under the temporary conservator, Arthur will pay Jessica's attorneys' fees and costs incurred in defending against the *Petition to Compel*;
- The allegations in the *Petition for Appointment of Probate Conservator* are essentially the same as those alleged in the *Petition to Compel*; Petitioners allege that Arthur lacks capacity and he lacked capacity at the time he signed the *Durable Power of Attorney* at issue; that Jessica is not providing adequate care of Arthur; and that Jessica is using her undue influence on Arthur and is diverting his assets to her own personal uses;
- The trial on the *Petition for Appointment* has been set for three days beginning on 2/14/2012; a trial on the *Petition to Compel* would also likely take three days if permitted to proceed separately due to the number of witnesses involved and the issues at hand;
- Arthur and Jessica intend to depose the same witnesses and to conduct the same discovery in both cases and have retained the same expert witnesses to testify at trial in both cases; it is anticipated that Petitioners will also call the same witnesses and expert witnesses at trial in both cases;
- Arthur and Jessica will both be presenting the same documents, accountings and other evidence at trial in both cases.

***Request for Judicial Notice in Support of Motion of Arthur Hermosillo to Consolidate Proceeds* filed on 10/13/2011 requests the Court take judicial notice pursuant to Evidence Code § 452 of the following:**

- *Petition to Compel Formal Accounting from Jessica Hermosillo* filed on 9/1/2011 *(copy attached as Exhibit A)*; and
- *Objection to Accounting Presented* filed on 9/26/2011 *(copy attached as Exhibit B)*.

***Objection to Accounting Presented* filed on 9/26/2011 by Katrina Leal and Jason Hermosillo, Co-Petitioners for Conservatorship of Arthur Hermosillo, states:**

- Objectors have filed a Petition to Compel an accounting from **JESSICA HERMOSILLO**, daughter;
- Objectors were told in Court that the licensing and bonding information from Beatrice Jiminez, who received over **$1,900.00** for the care of Arthur, would be provided to Objectors; no documentation was provided to Objectors;
- Objectors would like an explanation for several withdrawals totaling **$17,600.89** from EECU;
- Objectors request an accounting regarding the **$3,000.00** cash taken from Wells Fargo account; there are several withdrawals of **$1,200.00**, the amount of Jessica's rent, and Jessica also appears to be charging Arthur **$400.00** rent for staying in her residence;
- Jessica has used her influence over Arthur to begin divorce proceedings against Sandie, spouse, based on lies, and she has incurred significant attorneys' fees;
- The entire accounting is inaccurate and does not add up to the amount spent out of the account nor explain the low remaining balance, and there is no accounting for Arthur's income received for the 5 months covered;

~Please see additional page~

***Objection to Accounting Presented* filed on 9/26/2011, continued:**

- No documentation has been provided as to Elizabeth Rouse's qualifications to act as Arthur's caregiver, and Ms. Rouse has gained substantial financial benefit from placing Jessica in charge of Arthur's financial matters; Ms. Rouse has a conflict of interest as Arthur's caregiver and as the Notary of Arthur's Durable Power of Attorney signed 1/4/2011 while Arthur was in the hospital; there is no statement from an Ombudsman to indicate that Arthur signed the documents knowingly and without coercion;
- Objectors question why furniture and clothing was purchased for Arthur when he has these at his former residence and could have moved them to Jessica's house without cost.

Objectors request a formal accounting of <u>all</u> of Arthur's income and a complete detailed accounting of the funds spent from the $82,000.00 deducted from Wells Fargo Bank.

***Declaration of Deputy Public Guardian Renee Garcia Regarding Objection to Account Presented* filed on 11/23/2011 states:**

- Arthur Hermosillo's case is assigned to her as a part of her caseload of individuals under conservatorship of the Public Guardian's Office; the Public Guardian was appointed temporary conservator of the estate of Mr. Hermosillo on 6/27/2011 by *Minute Order* and has been acting in that capacity since that date;
- There is a companion Case (11CEPR00777) entitled *In Re Durable Power of Attorney of Arthur Hermosillo*; Katrina Leal and Jason Hermosillo, represented by Attorney Nancy J. LeVan, filed a petition to compel an accounting from Jessica Hermosillo, who is represented by Attorney Marc Magness; Ms. Hermosillo has objected to the petition to compel an accounting;
- This declaration is to serve as her response to the *Objection to Accounting Presented* filed by Ms. LeVan on behalf of her clients; the Court requested the Public Guardian to investigate the financial allegations made in the objection, and this declaration serves as the deputy's report;
- The Public Guardian's responses are as follows:
  1. Page 1, Paragraph 2: The Public Guardian has no information about comments made in Court regarding bonding;
  2. Page 1, Paragraph 2: The total withdrawals made on the account from 4/30 to 5/31/2011 amount to **$17,600.90**; **$1,200.00** was paid to a property management company; **$8,968.14** was paid to attorneys representing Mr. Hermosillo; **$1,600.00** was paid to care providers; these amounts were determined from copies of cashiers' checks;
  3. Page 2, Paragraph 5: All of Mr. Hermosillo's social security in the sum of **$1,205.00** is spent solely for him; it is a coincidence that this is also the amount of Jessica's rent; she only charges him 1/3 of the rent, and the remaining **$800.00**/month is spent on his care and personal needs; it should be noted that Mr. Hermosillo has additional income from a pension that he has not received in several months which is not available for his care; it is reportedly deposited into a joint checking account with his wife, Sandie Hermosillo;
  4. Page 2, Paragraph 6: The Public Guardian has no comment regarding Mr. Hermosillo's capacity or allegations of undue influence; her role is to report on the disbursement of Mr. Hermosillo's funds, which in the Public Guardian's opinion, have been properly managed;

~Please see additional page~

***Declaration of Deputy Public Guardian Renee Garcia Regarding Objection to Account* filed 11/23/2011, continued:**

5. Page 2, Paragraph 7: Jessica only received Mr. Hermosillo's Social Security income of **$1,205.00**, not his pension; this is verified by bank statements; Mr. Hermosillo's expenses exceed the monthly amount Jessica receives, shown in the following breakdown *[please refer to Page 3 of Declaration indicating itemized expenses; balance is **negative $1,840.00** remaining after deducting expenses from income]*; the Public Guardian asserts that the amounts shown above are reasonable expenses; in addition, if Jessica were not caring for Mr. Hermosillo in her home with the care providers she utilizes, she would be paying the average charge of **$75.00**/day for an adult day health care center; even if he was also receiving his monthly pension of **$549.46**/month, he could still not afford the monthly cost of **$2,200.00**;
6. Page 2, Paragraph 8: The Public Guardian has no comment regarding the care provider's qualifications or conflict of interest; Mr. Hermosillo receives more care than he could normally afford without the care providing arrangements that have been made;
7. Page 3, Paragraph 9: Jessica reported that her father was given a mattress that was soiled and she did not know where it came from; she also stated that she had to buy furniture and clothing for Mr. Hermosillo because her mother, Sandie, would not let her take his property; the Public Guardian has verified that the items purchased are in Mr. Hermosillo's room and are being used by him for his benefit only; in addition, as temporary conservator the Public Guardian will obtain all of Mr. Hermosillo's personal items, including clothing, furniture and a gun as soon as Sandie will allow her to do so;
8. Page 2, Paragraph 4 <u>and</u> Page 3 Paragraph 10: The following is an "accounting" the Public Guardian has been able to put together for the **$82,000.00** line of credit; This information supports her assertion that all of Mr. Hermosillo's funds are properly accounted for; **$35,511.61** was turned over to the Public Guardian on 7/1/2011, which leaves **$46,488.39** [*please refer to Page 4 of Declaration itemizing all expenditures starting from the $46,488.39 that was not turned over to the Public Guardian; remaining balance unaccounted for from the total $82,000.00 calculates as **$2,575.67***.]

- This "accounting" does not include the purchase of a train ticket, out of town spending money, or other spending money that Mr. Hermosillo may have received;
- The Public Guardian has spent many hours researching and explaining the above expenditures; she is concerned that Mr. Hermosillo's money will be wasted having to pay for her time; if further inquiry is made that appears to the Court to be unreasonable, it is requested that the objectors pay for their investigative services.

7A In Re Durable Power of Attorney of Arthur Hermosillo Case No. 11CEPR00777

Atty LeVan, Nancy J., sole practitioner (for Katrina Leal, daughter, and Jason Hermosillo, son)
Atty Magness, Marcus, of Gilmore Wood Vinnard & Magness (for Arthur Hermosillo, proposed Conservatee, and for Jessica Hermosillo, daughter)
Atty Kruthers, Heather H., of County Counsel (for Public Guardian, *former* Temporary Conservator)

Petition to Compel Formal Accounting from Jessica Hermosillo, Attorney-in-Fact, and Declaring Fiduciary has Violated or is Unfit to Perform the Fiduciary Duties Under Power of Attorney; Revocation of Current Power of Attorney Because of Incapacity of Principal and Invalid Notarization and for Attorney Fees and Costs (Prob. C. 4541, 4545)

Age: 53 years		
DOB: 1-1-1958		
Cont. from 110711, 112911		
	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	

KATRINA LEAL, daughter, and JASON HERMOSILLO, son, are Petitioners.

Petitioners state:

- **ARTHUR HERMOSILLO**, Principal under a *General Durable Power of Attorney for Healthcare and Finance* executed 1/4/2011 naming his daughter, **JESSICA HERMOSILLO**, as attorney-in-fact, is currently separated from his wife, **SANDIE HERMOSILLO**, and he resides with Jessica after filing for divorce based upon lies by Jessica alleging Sandie was attempting to steal all of the community property for herself;
- Arthur executed a previous *Durable Power of Attorney* on 8/6/2006, after he and Sandie's separation in the summer of 2005, which named Sandie as attorney-in-fact, giving Sandie full power to receive, disburse, manage and control all of Arthur's property; neither Sandie's nor Jessica's *Power of Attorney* eliminate Petitioners' rights to bring this *Petition*;
- At the advice of an attorney and for the benefit of Arthur's and Sandie's children, Sandie as Trustee transferred all community property into the **HERMOSILLO FAMILY TRUST**, naming all three children as beneficiaries, to avoid probate and because of the circumstances of Arthur's erratic behavior;
- Following Arthur's strokes in 2006 and 2007, Sandie moved into Arthur's residence and took care of Arthur and his finances as agreed upon by him; Sandie hired a caregiver from 8 am to 5 pm six days a week while Sandie handled all financial matters;
- At a family meeting it was agreed that Jessica would take Arthur into her home to care for him and would be paid **$350.00** per month for rent, which was raised to **$600.00** upon Jessica's request and family agreement; Jessica continued to ask for more money to care for Arthur and to pay for her **$6,000.00** school loan;
- Jessica began to have financial problems in October 2010, which coincides with her refusal to bring Arthur to family functions and her isolation of him from the family;

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

Continued from 11/7/2011.

Please refer to related Page 6 for Arthur Hermosillo's *Motion to Consolidate Proceedings* in Case #11CEPR00214 (Conservatorship case).

Page 7B is Arthur Hermosillo's *Motion to Consolidate Proceedings*.

Page 7C is Jessica Hermosillo's *Motion to Strike Portions of Petition to Compel*.

Continued from 11/29/2011. *Minute Order* states: By stipulation of the parties, the matter is continued to 1/30/2012.

Reviewed by:	LEG
Reviewed on:	1/23/12
Updates:	
Recommendation:	
File 7A - Hermosillo	

Petitioners state, continued:

- In December 2010, Jessica demanded more money for the care of Arthur, and following Sandie's refusal Jessica began acting strangely by sending the care provider away from the home and leaving the house when the caretaker or family members would visit Arthur;
- Arthur was diagnosed with a brain bleed on 1/7/2011 following an MRI and was immediately taken to the emergency room; Sandie brought her Power of Attorney for Health Care but could not get any information because Arthur signed a Revocation of Power of Attorney and a new Power of Attorney for Health Care and Finance naming Jessica as agent; Arthur signed these documents while suffering a brain bleed and he was not competent to sign any legal document;
- On 1/28/2011, Jessica took Arthur to Wells Fargo Bank and withdrew **$82,000.00** from a home line of equity which was tied to a joint account belonging to Arthur and Sandie; Jessica had no authority to do this from Sandie nor justification for her actions; Jessica stated she and Arthur were going to make payments but not payments have been made and Arthur only gets **$1,205.00** from Social Security, and Jessica makes a $1,200.00 per month withdrawal, leaving nothing left to make a payment on the home equity line of credit;
- Per the 3/29/2011 Court order, Attorney Marcus Magness provided Petitioners with a list of deposits and withdrawals Jessica made from Arthur's account; however, the list did not include reasons for hundreds of dollars in withdrawals and does not address what happened to the **$3,000.00** cash given to Jessica when she took Arthur to Wells Fargo;
- Petitioners request the Jessica provide a full accounting pursuant to Probate Code §§ 4540 and 4541(c), following the form of accountings in estate and conservatorship matters; the receipts provided along with the informal accounting does not total the amounts withdrawn or spent;
- Petitioners also request the revocation of the Durable Power of Attorney naming Jessica as agent under Probate Code § 4541(d)(1), as the notary used for both the revocation and the power of attorney is **ELIZABETH ROUSE**, who was hired as Arthur's caregiver on 3/25/2011 and is also Jessica's landlord, and would have a financial interest in the document she notarized; Government Code § 8224 provides "a notary public who has a direct financial or beneficial interest in a transaction shall not perform any notarial act in connection with such transaction" and the documents allow Ms. Rouse beneficial interests for payment of rent and payment as caregiver;
- Jessica has violated her fiduciary duty to Arthur by obtaining a loan without a plan to repay, spending the money for her own benefit, attempting to justify fees paid to caregivers by preparing and submitting false receipts, and used her friendship with Ms. Rouse to have documents notarized that put Jessica in charge of Arthur's finances;
- Jessica is unfit to fulfill he office of power of attorney because she currently has three pending judgments against her for breach of contract for failure to pay attorney fees in other matters; she has been reported to the Welfare Fraud Division for falsely receiving benefits for her children that do not reside full time with Jessica and she has fraudulently received over **$4,000.00** from welfare; Jessica and her husband Joe previously took out a **$30,000.00** line of credit on a house purchased by Arthur and Sandie, which was taken in 2002 and Sandie did not learn about until 2003;
- Arthur did not have capacity when he executed the Revocation of Power of Attorney and signed the new Power of Attorney naming Jessica, and under Probate Code § 4541(d)(2), the Court can make this determination.

Petitioners pray that the Court order:

1. Jessica Hermosillo must provide a complete accounting from the period when she was attorney-in-fact from 1/4/2010 until 6/27/2011;
2. The current Durable Power of Attorney naming Jessica Hermosillo as attorney-in-fact is void because of the lack of capacity of Arthur to sign legal documents on the day they were executed and were notarized by a financially interested party;
3. That Jessica Hermosillo breached her fiduciary duty to Arthur and should be held liable for twice the amount of loss the estate has suffered.

~Please see additional page~

***Respondent Jessica Hermosillo's Opposition to Petition to Declare Fiduciary Has Violated or is Unfit to Perform Fiduciary Duties under Power of Attorney, Etc.* filed on 11/2/2011 states:**

- Arthur Hermasillo and Sandie Hermosillo have been separated since the summer of 2005 and have made no attempts to reconcile their marriage since that time; Arthur had set up an appointment to initiate divorce proceedings but suffered his first stroke before he was able to meet with the attorney, and following his strokes in 2006 he was dependent upon others to provide assistance with daily activities; caregivers were hired by Sandie who never actually provided Arthur with any care, and Arthur's dependence on others precluded him from filing divorce proceedings as he would not go anywhere without Sandie's approval;
- Contrary to Petitioner's allegations that Jessica unduly influence Arthur to file for divorce, in truth Arthur filed for divorce after he discovered that Sandie, without his knowledge, transferred title to two of their rental properties and title to their personal residence into her own name, and from her own name into a revocable trust that she controls under a power of attorney that Arthur purportedly signed in 2006 immediately after his first stroke;
- Sandie purportedly transferred her and Arthur's community property into a revocable trust for the benefit of Arthur and their children; however, Arthur is not a beneficiary of the trust, and if Sandie were to die before Arthur, he would be almost penniless and dependent upon the mercy of his children;
- Sandie has taken complete control of Arthur's assets and the only person Sandie intended to benefit from transferring Arthur's assets into the trust was herself; had Arthur not discovered Sandie's action, she would have taken all of his property;
- Even if the 2006 Durable Power of attorney was valid, which is questionable, this document did not authorize Sandie to transfer Arthur's assets to a trust without his knowledge or consent; Sandie's conduct was in clear violation of her fiduciary duties to Arthur including her duties of loyalty, to keep him informed, and to hold his property separate and identifiable;
- After Sandie moved back into the couple's residence in 2007, Arthur's living situation became intolerable; he was forced to stand by as Sandie spent their money on lavish vacation while he was left home and brought her boyfriends home to their residence to spend the night;
- In 2010, after Sandie took two month-long vacations and one three-week vacation, Arthur told his family that he did not want to continue living with Sandie, and Jessica offered to have Arthur live with her;
- After Arthur moved in with Jessica, Sandie only gave Jessica **$350** per month for Arthur's food, rent, prescriptions and other expenses, which was Arthur's only money, and even his Social Security check was automatically deposited into a checking account that Sandie controlled; Arthur's expenses averaged at least **$800** per month and the money from Sandie did not even cover half of his expenses; after a family meeting, Sandie and Petitioners agreed Sandie would pay Jessica **$500** per month and the Petitioners would donate **$50** per month, but the **$600** per month still did not cover Arthur's expenses and Jessica continued to spend $300 of her own money each month to cover the difference;
- Petitioners' allegation that Jessica asked Sandie to pay off her student loan is a complete fabrication; rather, Jessica talked to Sandie about different payment options on student loans since Sandie is a college counselor and has personal experience with student loans;
- Jessica denies that she began having financial problems in October 2010; she has been able to timely pay her bills and financially maintain her household; she has been using her own money to help pay Arthur's monthly expenses;
- Jessica did not refuse to bring Arthur to 2010 Thanksgiving and Christmas celebrations, as Arthur makes his own decisions as to his holidays and he prefers to spend them with his 87-year-old mother and his siblings;
- Petitioner (Katrina) arranged with Arthur on 10/3/11 after the Court hearing to pick up Arthur on 10/7/11 to spend the night with her family, after Arthur packed and was prepared to go on 10/7, Katrina never showed up; Jessica has at no time prevented Arthur from visiting Petitioners, and she has never refused to answer the door nor purposely left the house to avoid their visits; it is Petitioners who have failed to come and visit when they told Arthur they would;
- Jessica requested more money in 12/2010 to assist with Arthur's care; the caregiver Sandie hired was unreliable and would often not show up or would leave early without advance notice, and Jessica had to continually take time off work without advance notice to her employer to stay home and assist Arthur;

~Please see additional page~

- Arthur was diagnosed with a subdural hematoma (brain bleed) before his MRI and was admitted to the hospital as a precautionary measure but was released after two days; Jessica never withheld any information about Arthur's medical condition because neither Sandie, Katrina nor Jason (Petitioner) ever asked her for any such information;
- Petitioners' contention that Arthur revoked Sandie's power of attorney and she could not get medical information at the hospital [on 1/7/2011] is a sham, as Arthur did not revoke it until 2/2011; more important, the purpose of Sandie's visit to the hospital was not to check on Arthur's medical condition but to try to talk the hospital social worker into releasing Arthur into her car without Arthur or Jessica's knowledge; Arthur became extremely upset upon learning that he was going to be released into Sandie's care, and the social worker found Arthur was able to make his own decision on where he wanted to go upon release; Arthur was adamant he did not want to go with Sandie and wanted to go home with Jessica;
- It is not so, as Petitioners contend, that Arthur was not competent when he signed the 1/4/2011 Durable Power of Attorney naming Jessica as his attorney in fact because he was suffering a brain bleed, as the subdural hematoma/brain bleed had no effect on Arthur's cognitive abilities and Petitioners have produced no evidence to the contrary; Arthur was fully able to communicate and understand what he was signing and the consequences of signing it; even so, this contention is moot as Jessica never exercised her powers under that document and it has since been revoked;
- It is incorrect, as Petitioners content, that Jessica was responsible for the **$82,000** line of credit on Arthur's account, as Arthur is co-owner of the account and signed and submitted the application on his own volition and the bank accepted it; there was no need for Jessica to exercise her powers under the Durable Power of Attorney; Arthur was fully justified in taking out the line of credit because Sandie has been keeping all of this money and property from him for years; until 1/2011 Sandie was keeping Arthur's **$1,205** monthly Social Security check from him, and until 7/2011 Sandie was also keeping Arthur's pension benefits for herself after she filed an application with the City of Azusa for his pension benefits, without Arthur's knowledge, and Arthur became aware only after the Public Guardian discovered they were being deposited into an account over which Sandie had control; because Sandie refuses to turn over the joint bank account statements to Arthur's divorce attorney and the Public Guardian, it is not clear how long the City of Azusa has been paying these benefits but it is clear Sandie received and kept them from at least 1/2011 through 6/2011; ultimately, the responsibility for the **$82,000** debt will be decided in Arthur's divorce proceeding; the **$3,000** retained from the **$82,000** line of credit was used to partially reimburse Jessica for the expenses she paid on behalf of Arthur from 3/2010 through 12/2010;
- Jessica's previous drug addiction has no bearing on her ability to serve as Arthur's attorney-in-fact, but to clarify the situation, she went through a painful divorce and found herself involved in the wrong crown and became addicted to methamphetamine; in 12/2005 Jessica admitted herself to a rehabilitation facility and she has been drug-free since then;
- As Arthur's temporary conservator, the Public Guardian has standing to seek the Court's authorization to revoke the 3/25/2011 Durable Power of Attorney but it has not done so, and there is no reason to do so because it has found no wrongdoing by Jessica;
- The true purpose behind these proceedings is to stop Arthur from going through his divorce so Sandie can retain control over his money and property; Jessica alleges that Petitioners are using Arthur's own funds to pursue this proceeding and the related conservatorship action filed against Arthur; **Sandie is paying the attorney fees and costs and is using community property funds to do so, and as a result Arthur is entitled to a surcharge against Petitioners; this proceeding was brought by Petitioners without reasonable cause and Jessica is entitled to an award of attorney's fees and costs pursuant to Probate Code §§ 1002 and 4545 (a).**

7B In Re Durable Power of Attorney of Arthur Hermosillo Case No. 11CEPR00777

Atty LeVan, Nancy J., sole practitioner (for Katrina Leal, daughter, and Jason Hermosillo, son)
Atty Magness, Marcus, of Gilmore Wood Vinnard & Magness (for Arthur Hermosillo, proposed Conservatee, and for Jessica Hermosillo, daughter)
Atty Kruthers, Heather H., of County Counsel (for Public Guardian, *former* Temporary Conservator)

Notice of Motion and Motion of Arthur Hermosillo to Consolidate Proceedings

Age: 53 years		
DOB: 1-1-1958		
Cont. from 110711, 112911		
	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	

ARTHUR HERMOSILLO moves the Court pursuant to Code of Civil Procedure § 1048(a) and CA Rule of Court 3.350 for an order granting consolidation of Case No. 11CEPR00214 with Case No. 11CEPR00777, on the following grounds:

- The two cases involve common questions of law and fact; Petitioners **KATRINA LEAL** and **JASON HERMOSILLO** allege their father, Arthur Hermosillo, is incapacitated and their sister, **JESSICA HERMOSILLO**, with whom Arthur resides and who serves as his attorney-in-fact, is taking advantage of Arthur and diverting her funds to her own uses; to allow both cases to proceed separately would result in Arthur incurring duplicative costs and attorneys' fees in conducting discovery, retention of expert witnesses, and trial;
- Judicial economy will be served by consolidation; issues present in both cases include whether Arthur has capacity, whether Jessica breached her fiduciary duty under the *Durable Power of Attorney*, and whether Arthur requires the appointment of a conservator; percipient witnesses will be the same, the same experts will testify at trial in both actions, and the evidence presented will be substantially the same; and
- No other party to either action will be prejudiced by consolidation.

Movant states:

- Petitioners **KATRINA LEAL** and **JASON HERMOSILLO** are represented by Nancy J. LeVan in both case numbers;
- ARTHUR HERMOSILLO, who has appeared in Case No. 11CEPR0021, is represented by the law firm of Gilmore, Wood, Vinnard & Magness;
- Concurrently with this *Motion*, **JESSICA HERMOSILLO** is filing a *Motion to Strike* in Case No. 11CEPR00777, which is her first appearance in that case, and she is represented by the law firm of Gilmore, Wood, Vinnard & Magness;
- This *Motion* is based on the *Notice of Motion*, the *Memorandum of Points and Authorities*, the *Declaration of Marcus D. Magness*, all of the pleadings, files and records in this proceeding, all other matters of which the Court may take judicial notice, and any argument or evidence that may be presented to or considered by the Court.

NEEDS/PROBLEMS/ COMMENTS:

<u>Continued from 11/29/2011</u>. ***Minute Order*** **states: By stipulation of the parties, the matter is continued to 1/30/2012.**

Reviewed by: LEG
Reviewed on: 1/23/12
Updates:
Recommendation:
File 7B - Hermosillo

Dept. 303, 9:00 a.m. Monday, January 30, 2012

7C In Re Durable Power of Attorney of Arthur Hermosillo Case No. 11CEPR00777

Atty LeVan, Nancy J., sole practitioner (for Katrina Leal, daughter, and Jason Hermosillo, son)
Atty Magness, Marcus, of Gilmore Wood Vinnard & Magness (for Arthur Hermosillo, proposed Conservatee, and for Jessica Hermosillo, daughter)
Atty Kruthers, Heather H., of County Counsel (for Public Guardian, *former* Temporary Conservator)

Respondent Jessica Hermosillo's Notice of and Motion to Strike Portions of Petition to Compel Formal Accounting, etc.; Memorandum of Points and Authorities in Support Thereof

Age: 53 years		
DOB: 1-1-1958		
Cont. from 110711, 112911		
	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	

JESSICA HERMOSILLO (Respondent) moves the Court pursuant to Code of Civil Procedure § 436 for an order granting her *Motion to Strike* the following portions from the *Petition to Compel Formal Accounting from Jessica Hermosillo*:

- Portion of *Petition* requesting that Jessica provide a full accounting pursuant to Probate Code § 4540 and 4541(c) following the format of accountings required in estate and conservatorship matters; and
- Portion of *Petition* requesting a complete accounting from Jessica for the period she was attorney-in-fact for Arthur from 1/4/2010 until 6/27/2010.

Movant states Petitioners are not entitled to receive a formal accounting from Respondent for the following reasons:

1. Petitioners have failed to comply with Probate Code § 4541(c) as they have not and cannot allege that they made a written request to Respondent to submit an accounting and the Respondent failed to comply with such written request within 60 days from date of the request;
2. There has been no finding by the Court that Petitioners are parties entitled to a formal accounting; even assuming Petitioners have standing to bring this Petition, the only party who is entitled to a formal accounting is the Public Guardian, Arthur's Temporary Conservator;
3. Petitioners have failed to show good cause for this Petition, as Respondent has submitted two timely informal accountings to the Public Guardian, who has found them satisfactory; as such, Petitioners' request is not reasonably necessary for the protection of Arthur or his estate.

This *Motion* is based on the *Notice of Motion*, the *Memorandum of Points and Authorities*, the *Declaration of Marcus D. Magness*, all of the records, pleadings, and papers on file with the Court, and upon such further oral and documentary evidence which may be presented at the hearing.

~Please see additional page~

NEEDS/PROBLEMS/ COMMENTS:

<u>Continued from 11/29/2011</u>. *Minute Order* states: By stipulation of the parties, the matter is continued to 1/30/2012.

Reviewed by: LEG
Reviewed on: 1/23/12
Updates:
Recommendation:
File 7C - Hermosillo

***Memorandum of Points and Authorities* [sans citations] attached to the *Motion to Strike* states:**

- Petitioners are requesting the Court appoint them as conservators of Arthur Hermosillo's person and estate [in Case No. 11CEPR00214], and the evidence demonstrates that the purpose behind these related proceedings is not to protect Arthur or his estate, but is instead a blatant attempt to prevent Arthur from divorcing Sandie Hermosillo and retaining control of his ½ of the community property assets;
- Since Petitioners have so far been unsuccessful in being appointed conservators, they are now resorting to vicious and unfounded personal attacks against Respondent to challenge the Durable Power of Attorney naming her as Arthur's attorney-in-fact;
- Petitioners' request for an accounting is simply a ruse to diver the Court's attention from the fact that Sandie Hermosillo is continuing to steal Arthur's ½ of the community property assets, consisting of 18 residential properties earning ~**$20,000.00** in rental income each month, while Arthur is forced to live on his **$1,205.00** monthly Social Security check and Respondent's financial assistance;
- Petitioners did not file any objections to Respondent's two information accountings before they filed the instant *Petition*, and they never asked for additional information or explanation; Petitioners filed an *Objection to Accounting* on 9/26/2011 in the conservatorship proceedings 5 months after the information accountings were voluntarily provided;
- The Public Guardian has requested and been provided with all backup documents and explanation, and Public Guardian submitted to this Court under penalty of perjury that it found no wrongdoing;
- Petitioners' request for an accounting fails to comply with the requirements of Probate Code § 4541(c) and was brought in bad faith, and as such, the request to compel a formal accounting should be stricken from the *Petition*;
- Respondent is entitled to her attorney's fees incurred in filing this *Motion* since the *Petition* was filed without any reasonable cause.

***Request for Judicial Notice in Support of Respondent Jessica Hermosillo's Motion to Strike Portions of Petition to Compel Formal Accounting, etc.*, filed on 10/13/2011 requests the Court take judicial notice pursuant to Evidence Code § 452 of the following document:**

- *Declaration of Deputy Public Guardian Renee Garcia-Widjaja Regarding Conservatee's Finances* [filed on 8/11/2011] *(copy attached as Exhibit A).*

8 Shirley A. Pratt Living Trust dated 3-19-10 Case No. 11CEPR00882

Atty Erlach, Mara M. (for Peggy Morse Holland – acting successor trustee)

Atty Turner, Naomi (pro per – former trustee)

Probate Status Hearing Re: Accounting Prepared by Naomi Turner

DOD: 05/25/10	**PEGGY MORSE HOLLAND,** is the acting successor trustee of the **SHIRLEY A. PRATT LIVING TRUST,** dated 03/19/10. **NAOMI TURNER,** became a successor co-trustee on May 25, 2010 and then, upon resignation of co-trustee, **DEBORAH DIANNE EDMUNDS** on 07/16/10, served as the sole trustee until resigning on or about 04/28/11. **Petition for Order Compelling Trustee to Account and Report, for Surcharge, and for Return of Trust Property** was filed by Peggy Morse Holland on 09/30/11. **Minute Order from hearing on 11/14/11** granted the Petition Compelling Trustee to Account and set this matter for status on 01/30/12.	**NEEDS/PROBLEMS/COMMENTS:** 1. **Need Account and Report of Trustee (Naomi Turner).**
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		**Reviewed by:** JF
Status Rpt		**Reviewed on:** 01/24/12
UCCJEA		**Updates:**
Citation		**Recommendation:**
FTB Notice		**File 8 - Pratt**

9 **Rosemary A. Lawrence Revocable Trust (Trust)** **Case No. 11CEPR01067**

Atty **Sullivan, Robert L., Jr. (for Patricia E. Johnson – Successor Trustee – Petitioner)**

Petition by Trustee for an Order Establishing Claim to Personal Property, Title to of Possession of Which is Held by Another [Prob. C. §§ 850(a)(3)(B) and 17200.1)

DOD: 8-15-11		
	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	

PATRICIA E. JOHNSON, Successor Trustee of the ROSEMARY A. LAWRENCE REVOCABLE TRUST dated 9-22-05, is Petitioner.

Petitioner states Exhibit A of the Trust Agreement reflects transfer of Trustor's interest in a certain Securities Account to the Trust. In addition, Trustor Rosemary A. Lawrence also executed an Assignment of the Securities Account from herself individually to herself as Trustee of the Trust.

However, the Trustor failed to request that the institution (Wachovia, then Wells Fargo Advisors) formally change title to the Securities Account to the name of the Trust, and at her death, account records reflect that the Securities Account remained in her name individually.

Wells Fargo Advisors has refused to accede to the Successor Trustee's demand, in spite of proof, and requires an Order of the Court to transfer the Securities Account out of Decedent's name.

The market value of the Securities Account is approximately $607,853.70.

Petitioner states that further, according to Trustor's will, the Trust is the sole beneficiary of the estate; therefore, if the will were formally administered, the result would be the exact relief sought here.

Petitioner references legal precedent established by Estate of Heggstad [20 Cal.Rptr. 2d 433; 16 Cal. App. 4th 943].

Petitioner prays for an Order that the Securities Account has been assigned and belongs to Petitioner as Trustee of the Trust, and that the account and all individual investments held therein be transferred and immediately conveyed to Petitioner as Trustee of the Trust.

NEEDS/PROBLEMS/ COMMENTS:

Reviewed by: skc

Reviewed on: 1-20-12

Updates:

Recommendation:

File 9 - Lawrence

Dept. 303, 9:00 a.m. Monday, January 30, 2012

10 Odell Moultrie (Estate) **Case No. 0650750**

Atty **Motsenbocker, Gary L (for Administrator Dale Bolden)**
Atty **Stokes, G. Cat (for beneficiary Gwendolyn McKeller)**

Status Hearing

DOD: 12/5/1999		
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	

DALE BOLDEN was appointed Administrator with Limited IAEA authority and bond set at $10,000.00 on 8/25/2000.

Order dated 3/14/02 authorized full IAEA authority with additional bond of $119,500.00

Current bond is $120,000.00

First Account for the account period ending 7/17/09 was approved on 8/27/09 showing a property on hand balance of $119,148.94.

Beneficiary Gwendolyn McKeller filed a Petition for Preliminary Distribution. The Petition was heard on 9/28/11. Minute Order states the Court notes for the record that neither Mr. Stokes or his client Gwendolyn McKeller are present. Counsel advises the Court that he had been trying to work with an unorganized church group and they have been unable to get financing. He further advises that they have been evicted. The Court denied the petition [for preliminary distribution] noting that there may not be sufficient assets for a preliminary distribution and set this status hearing.

NEEDS/PROBLEMS/COMMENTS:

1. **Need current status report**

Reviewed by: KT
Reviewed on: 1/20/12
Updates:
Recommendation:
File 10 - Moultrie

11 Andrea Gaucin (Estate) **Case No. 08CEPR00838**

Atty **Gaucin, Steven R (pro per former Administrator)**

Atty **Kruthers, Heather H (for the Public Administrator, current Administrator of the Estate)**

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 7/2/08		
Cont. from		
	Aff.Sub.Wit.	
	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

STEVEN GAUCIN, son, was appointed Administrator of the Estate with full IAEA and without bond on 9/16/08.

Letters did not issue.

At a status hearing on 9/29/11 for failure to file the inventory and appraisal and first account or petition for final distribution the court appointed the Public Administrator to represent the Estate and set this status hearing for the filing of the inventory and appraisal.

NEEDS/PROBLEMS/COMMENTS:

1. **Need inventory and appraisal or current status report.**

Reviewed by: KT
Reviewed on: 1/20/12
Updates:
Recommendation:
File 11 - Gaucin

Dept. 303, 9:00 a.m. Monday, January 30, 2012

Atty Hemb, Richard E. (for David D. Graber, Executor, son)
Pro Per Nelson, Michele M. (Pro Per Contestant, daughter)

Probate Status Hearing Re: Filing of Petition for Final Distribution

DOD: 2/24/2010	
Cont. from 071111, 092611, 103111	
Aff.Sub.Wit	
Verified	X
Inventory	
PTC	
Not.Cred.	
Notice of Hrg	X
Aff.Mail	X
Aff.Pub.	
Sp.Ntc.	
Pers.Serv.	
Conf. Screen	
Letters	
Duties/Sup	
Objections	
Video Receipt	
CI Report	
9202	
Order	
Aff. Posting	
✓ Status Rpt	
UCCJEA	
Citation	
FTB Notice	

DAVID D. GRABER, son, was appointed Executor with full IAEA with bond of **$564,000.00** and Decedent's undated Holographic Will was admitted to probate on 9/13/2010. Bond was filed on 10/22/2010 and *Letters* issued 11/15/2010.

MICHELE M. NELSON, daughter, filed a *Contest and Grounds of Opposition to Probate of Will* on 9/13/2010.

Executor filed on 2/25/2011 a *Petition for Approval of Settlement of Will Contest/Revocation*, which was granted per *Minute Order* dated 4/11/2011, and *Contest and Grounds of Opposition to Probate of Will* was denied and dismissed. *Minute Order* dated 4/11/2011 set a status hearing on 7/11/2011 for the filing of a petition for final distribution.

***Status Conference Statement* filed by David D. Graber on 7/7/2011 states in brief sum:** Petitioner's unlawful detainer action and trial against Ms. Nelson resulted in a judgment in favor of the Petitioner and the sheriff's department evicted Ms. Nelson on 5/9/2011; since gaining access to the personal residence of Decedent, the personal representative has now conducted an exhaustive inventory of the personal property, and an inventory and appraisal has recently been submitted to the probate referee appointed by this Court [Rick Smith].

***Status Conference Statement* filed by David D. Graber on 9/21/2011 states in brief sum:** Petitioner contracted with an estate auction firm to handle disposition of certain personal property items, with the exception of those directed in the Will and agreed to under the settlement agreement; a real estate professional has been selected to market certain real property; the estate has proceeded slowly considering the contest, settlement discussions and obtaining unrestricted access to Decedent's real property; the personal representative does not foresee any additional delays other than the normal marketability under current real estate conditions for the two parcels of real property owned by Decedent.

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

<u>Continued from 10/31/2011</u>. Minute Order states: Examiner notes are provided to counsel.

1. ***Status Conference Statement* filed 10/26/2011 is not verified by the personal representative as required by Probate Code §§ 1021(b)(2) and 1023, CA Rule of Court 7.103, and Local Rule 7.5.**
2. **Need *Notice of Hearing* and proof of service of notice with a copy of the *Status Report* filed on 10/26/2011 on all interested parties pursuant to Local Rule 7.5(B), and Probate Code § 12201(b), as follows:**

- **James Graber, son;**
- **Robin Graber, daughter;**
- **Laura Luster, daughter;**
- **Michele Nelson, daughter;**
- **Michael Nelson, grandchild;**
- **Gregory Rieth, grandchild;**
- **Caitlin Graber, grandchild;**
- **Robert Graber, daughter;**
- **Mason Graber, grandchild;**
- **Madison Graber, grandchild;**
- **Zola DeLuca, friend.**

Note: *Final Inventory and Appraisal* filed on 8/25/2011 shows an estate value of $430,386.03.

Reviewed by: LEG/NRN
Reviewed on: 1/23/12
Updates:
Recommendation:
File 12 – Graber

Status Conference Statement* filed by David D. Graber on 10/26/2011 states** *[sans information contained in the previous statements]:** The personal representative has conducted an estate sale for the personal property of the Decedent and has transferred possession of items devised in the Will and agreed to in the settlement agreement; the remaining item to resolve is the sale of two parcels of real property, namely, Decedent's personal residence in Fresno and vacant land in Madera County.

13 Noah Vang & Christian Vang (GUARD/P) **Case No. 06CEPR00894**

Atty Carrasco, Chue Vang (pro per Petitioner/paternal aunt)
Atty Carrasco, Octavio (pro per Petitioner/paternal uncle)

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

Noah age: 7 years DOB: 1/13/2005		
Christian age: 2 years DOB: 11/18/2009		
Cont. from		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	W/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
✓	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
✓	Objections	
	Video Receipt	
✓	CI Report	
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

TEMPORARY AS TO <u>NOAH ONLY</u> EXPIRES ON 1/30/12.

CHUE VANG CARRASCO, paternal aunt and **OCTAVIO CARRASCO,** paternal uncle, are petitioners.

Father: **YEE YANG** – *consents and waives notice as to Noah only.*

Mother: **MICHELLE MOUA** – *consents and waives notice as to Noah only.*

Paternal grandfather: VaCha Vang – *deceased.*
Paternal grandmother: Neng Lee – *consents and waives notice.*
Maternal grandfather: Terry Moua – *served by mail on 12/28/2011*.
Maternal grandmother: Cynthia Moua – *served by mail on 12/28/2011*.

Petitioners state the minor has been living with them since August 2011. Petitioners allege that Noah did not attend the first day of school because the parents did not have clothes for him. The prior year Noah missed many days of school and did not turn in his homework. The parents agreed to let Noah live with the Petitioners so that they could send him to school and provide for his day to day needs.

Objections of Terry Moua and Cynthia Moua, maternal grandparents filed on 1/19/2012.
Objector's state they have taken care of Noah for the last 5 years as his father was in and out of jail for domestic violence and the mother was financially and emotionally unstable. Currently Noah's younger siblings, Christian and Jacob are living with the maternal grandparents. Objectors state they do not agree with separating the children from each other. Objector's feel that they have the right to have legal guardianship of all three children. Noah will have a more stable life if he lives with them. Objectors state their English speaking and comprehension skills are not fluent and they would like to have a Hmong interpreter represent them during the hearing. If an interpreter cannot be provided they hope that this letter will be more than enough to help them succeed in gaining custody of their grandson Noah.

Please see additional page

NEEDS/PROBLEMS/ COMMENTS:

For Objectors:

1. **There is not proof of service indicating the Objections of the maternal grandparents were served on the Petitioners.**

Reviewed by: KT
Reviewed on: 1/23/12
Updates: 1/24/12
Recommendation:
File 13 - Vang

Dept. 303, 9:00 a.m. Monday, January 30, 2012

Court Investigator Charlotte Bien's Report filed on 1/24/12.

14 **Shirley Ann McCray (Estate)** **Case No. 10CEPR00305**

Atty **Johnson, Kevin (Pro Per Adminstrator)**

Order to Show Cause Re: Failure to File a First Account or Petition for Final Distribution (Probate Code 12200, et seq)

DOD: 6/25/09		
Cont. from 092611, 110711		
	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	

KEVIN JOHNSON, son, was appointed Administrator without Bond with Limited IAEA Authority on 5/20/2010 and *Letters* issued on that date.

Final Inventory and Appraisal filed on 7/14/2010 shows an estate value of **$45,000.00** consisting of real property.

Notice of Status Hearing filed on 7/7/2011 set a status hearing for failure to file a first account or petition for final distribution. *Clerk's Certificate of Mailing* shows notice of this status hearing was mailed on 7/7/2011 to Kevin Johnson.

At the hearing on 8/15/11 there were no appearances and the Court issued this Order to Show Cause and ordered Kevin Johnson to be present in court on 9/26/11. *Clerk's Certificate of Mailing* shows notice of this Order to Show Cause hearing was mailed on 8/19/11 to Kevin Johnson.

Minute order dated 11/7/11 indicates there were no appearances. Matter continued to 1/30/12. There is no proof of service showing a copy of the minute order was mailed to Kevin Johnson.

NEEDS/PROBLEMS/COMMENTS:

Continued from 11/7/11.

Petition for Final Distribution filed and set for hearing on 3/8/2012.

Note: *Substitution of Attorney* filed 3/14/2011 shows Attorney Joanne Sanoian formerly represented Kevin Johnson, who is now self-represented.

Reviewed by: KT

Reviewed on: 1/20/12

Updates: 1/24/12

Recommendation:

File 14 - McCray

Dept. 303, 9:00 a.m. Monday, January 30, 2012

15 Angelina Gonzales & Manuel Gonzales (GUARD/P) Case No. 11CEPR00475

Atty Gonzales, Monique Marie (pro per Petitioner/paternal aunt)

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

Angelina age: 1 year DOB: 10/17/09		
Manuel age: 4 mo. DOB: 5/24/11		
Cont. from 080111, 103111		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
✓	Pers.Serv.	W/
✓	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
	Objections	
	Video Receipt	
✓	CI Report	
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

Temporary Expires 1/31/2012

MONIQUE GONZALES, paternal aunt, is petitioner.

Father: **ANGEL GONZALES** – *personally served on 8/3/11*.

Mother: **MIRANDA HIJAREDA** – *declaration of due diligence filed on 8/10/11*

Paternal grandfather: Angel Gonzales, Jr. – *deceased.*
Paternal grandmother: Jeanette Ball – *personally served on 8/3/11*.
Maternal grandfather: Johnny Higureda – *deceased.*
Maternal grandmother: Lisa Valdez – *declaration of due diligence filed on 8/10/11*

Petitioner states mom is not stable. She is on drugs. Manuel tested positive for meth when he was born.

Court Investigator Julie Negrete's Report filed on 7/21/11.

Objections of Tony Torres filed on 11/22/12 states he believes he is the father of both minors. Mr. Torres states he had an affair with the mother while she was the live in girlfriend of Angel Gonzales. When mom became pregnant Mr. Torres states mom told him that she believed he was the father. Mr. Torres then advised the mother that he would be seeking a DNA test to confirm if he was the father. Mr. Torres states he then lost contact with the mother. In mid-2010 mom made contact with him and again claimed that Angelina was his child. When he saw Angelina he noticed that she did have facial resemblance to him. Mr. Torres states he again had a sexual relationship with the mother. In March 2011 Mr. Torres states he received a call from the mother stating that she was on the run from the law and that she had been impregnated by him again. **Mr. Torres requests that he be given guardianship/custody of the minors if he did indeed father them.**

NEEDS/PROBLEMS/COMMENTS:

Continued from 10/31/11. Minute order states Petitioner informs the Court that the mother was in the Utah County Jail and she is uncertain whether the mother was sent to prison as her sentencing was pending.

1. **Need proof of personal service of the *Notice of Hearing* along with a copy of the Petition or consent and waiver of notice on:**
   a. **Miranda Hijareda (mother)**

Reviewed by: KT
Reviewed on: 1/20/12
Updates:
Recommendation:
File 15 - Gonzales

16 **Debra Kay Hawkins (Estate)** **Case No. 11CEPR00513**

Atty **Hawkins, Randy (Pro Per – Son – Administrator)**

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 1-7-11	**RANDY HAWKINS**, Son, was appointed Administrator with Full IAEA without bond on 10-24-11. On 10-24-11, the Court set this status hearing for filing of the Inventory and Appraisal and advised the Administrator of the hearing date.	**NEEDS/PROBLEMS/COMMENTS:** **1. Need Inventory and Appraisal.** **<u>Note</u>: Administrator's original petition stated the estate contains real property with an estimated value of $62,550.00.**
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		**Reviewed by:** skc
Status Rpt		**Reviewed on:** 1-20-12
UCCJEA		**Updates:**
Citation		**Recommendation:**
FTB Notice		**File 16 - Hawkins**

Dept. 303, 9:00 a.m. Monday, January 30, 2012

17 Elijah Noah Peter Medina (GUARD/P) **Case No. 11CEPR00553**

Atty Zamarripa, Mary (pro per – maternal great grandmother/Petitioner)

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

Age: 5 months		
DOB: 03/30/11		
Cont. from 082911		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	n/a
✓	**Conf. Screen**	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
✓	**CI Report**	
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

TEMPORARY EXPIRES 01/30/12

MARY ZAMARRIPA, maternal great-grandmother, is petitioner.

Father: **MARTIN MEDINA** – *consents and waives notice.*

Mother: **CASSANDRA CONTRERAS** – *consents and waives notice.*

Paternal grandfather: ANGEL GOMEZ – *declaration of due diligence filed 07/01/11*
Paternal grandmother: MARY MENDOZA – *declaration of due diligence filed 07/01/11*

Maternal grandfather: LEONARD CONTRERAS – *declaration of due diligence 07/01/11*
Maternal grandmother: EVELYN ZAMARRIPA – *consent and waiver of notice filed 07/01/11*

Siblings: KRISLYN CONTRERAS (3), JAZZLYN MEDINA (2), JOSIAH MEDINA (18 months)

Petitioner states CPS feels that she needs to get guardianship of her great-grandson so that she can get help for him.

Court Investigator Jennifer Young's report was filed 08/22/11.

Court Investigator Jennifer Young's supplemental report was filed 01/24/12.

NEEDS/PROBLEMS/COMMENTS:

CONTINUED FROM 08/29/11
Minute order from 08/29/11 hearing states:
Mother, Cassandra Contreras advises the Court that she believes the CPS matter will be over in November. The Court directs that a court investigator conduct another investigation before 01/30/12 to see how things are going with mother and the guardian.

As of 01/24/12, the following problems remain:

1. **Need *Notice of Hearing.***
2. **Need proof of service by mail at least 15 days before the hearing of *Notice of Hearing* with a copy of the *Petition for Appointment of Guardian of the Person* or Consent & Waiver of Notice for:**
   - Angel Gomez (paternal grandfather)
   - Mary Mendoza (paternal grandmother)
   - Leonard Contreras (maternal grandfather)
   Unless diligence is found. Declarations of due diligence filed 07/01/11 states that their whereabouts are unknown.
3. **UCCJEA is incomplete at item #4 is petitioner aware of another case involving custody or visitation concerning this child? And at #6 is petitioner aware of someone else how is not a party to these proceedings who has physical custody or claims to have custody or visitation rights with this child?**

Reviewed by: JF
Reviewed on: 01/24/12
Recommendation:
Updates: 01/25/12
File 17 - Medina

18 Cameron Bartlow & Todd J Bartlow (GUARD/P) Case No. 11CEPR00916

Atty Zink, Buddie (pro per – maternal grandmother/Petitioner)

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

Todd, 5		
DOB: 09/22/06		
Cameron, 4		
DOB: 10/02/07		
Cont. from 121211		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
	Aff.Mail	x
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	n/a
✓	**Conf. Screen**	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
✓	**CI Report**	
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

TEMPORARY EXPIRES 01/30/12

BUDDIE ZINK, maternal grandmother, is Petitioner.

Father: **BLAINE BARTLOW** – *consent & waiver of notice filed 10/21/11*

Mother: **CHRISTY LEE LONG** – *consent & waiver of notice filed 11/04/11*

Paternal grandfather: UNKNOWN – *declaration of due diligence filed 11/04/11*
Paternal grandmother: LYNN BARTLOW

Maternal grandfather: KENNETH LONG, JR.

Petitioner states that the parents are homeless and abusing drugs. Their priority has not been caring for the children. Todd, who is of school age was never placed in school. Petitioner states that the mother placed the children in her care on 10/01/11. Petitioner states that temporary guardianship is necessary so that she can enroll Todd in school and Cameron in pre-school and also to seek medical attention. Further, petitioner states that she fears that the mother will change her mind and remove the children from her home.

Court Investigator Charlotte Bien's report was filed 11/28/11.

Court Investigator Charlotte Bien's Supplemental report was filed 01/10/12.

NEEDS/PROBLEMS/COMMENTS:

CONTINUED FROM 12/12/11

Minute order from 12/12/11 hearing states: Matter is continued to 01/30/12. The Court orders Christy Long to bring a program representative from the Spirit of Women to the next hearing if in fact she is in the program at that time. The Court further orders that a court investigator contact Christy Long. Christy Long is directed to provide her contact information to the Clerk's office forthwith.

As of 01/24/12, the following items remain outstanding:

1. **Need proof of service by mail at least 15 days before the hearing of *Notice of Hearing* with a copy of the *Petition for Guardianship* or Consent and waiver of notice or Declaration of Due Diligence for:**
   - Kenneth Long, Jr. (maternal grandfather)
   - Lynn Bartlow (paternal grandmother)
   - Paternal grandfather (unknown) – *unless diligence is found, declaration of due diligence filed 11/04/11*

Reviewed by: JF
Reviewed on: 01/24/12
Updates:
Recommendation:
File 18 - Bartlow

19 Nathan Jones (GUARD/P) **Case No. 11CEPR01061**

Atty Woods, Virginia (Pro Per – Maternal Grandmother – Petitioner)

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

Age: 6		
DOB: 5-12-05		
	Aff.Sub.Wit.	
✔	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✔	**Conf. Screen**	
✔	**Letters**	
✔	**Duties/Supp**	
	Objections	
	Video Receipt	
✔	**CI Report**	
✔	**Clearances**	
	Order	
	Aff. Posting	
	Status Rpt	
✔	**UCCJEA**	
	Citation	
	FTB Notice	

TEMPORARY EXPIRES 1-30-12

VIRGINIA WOODS, Maternal Grandmother, is Petitioner.

Father: **RODNEY MARCUS**
- Notice dispensed per Minute Order 12-14-11 until whereabouts become known

Mother: **LEATHA JONES**

Paternal Grandfather: Unknown
Paternal Grandmother: Unknown

Maternal Grandfather: Claude Jones

Sibling: Ernest Collins (age not provided)

Petitioner states the child has lived with her since he was two years old. The mother lives in an apartment complex for the elderly and disabled persons and children are not allowed to live there.

Court Investigator Jennifer Young filed a report on 1-24-12.

NEEDS/PROBLEMS/COMMENTS:

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 prior to the hearing per Probate Code §1511 or consent and waiver of notice on:**
   - Leatha Jones (Mother)
3. **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 or consent and waiver of notice on:**
   - Claude Jones (Maternal Grandfather)
   - Ernest Collins (Sibling)
   (if age 12 or older, with a copy to the adult he lives with)
   - Paternal Grandparents
   (if notice not dispensed pursuant to dispensation of notice to the father)

Reviewed by: skc
Reviewed on: 1-20-12
Updates:
Recommendation:
File 19 - Jones