



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.

1A Joann L. McClay (Estate)

Case No. 06CEPR00372

Atty Alexander, Thomas M., Jr. (of Beverly Hills, CA, for Former Administrator Jeffrey McClay)
Atty Kruthers, Heather H. (for Public Administrator)
Atty Stevenson, Tracy A. (of Orange, CA, for Surety, American Contractors Indemnity Company)
Probate Status Hearing

DOD: 7/27/05	<p>PUBLIC ADMINISTRATOR was appointed Successor Administrator on 1/20/15. Letters issued 2/5/15.</p> <p>History: JEFFREY MCCLAY, Son, was appointed Administrator with Full IAEA with bond of \$252,000.00 on 5/23/06. Bond was filed and Letters issued 8/31/06. I&A filed 2/7/07 indicated residential real property valued at \$300,000.00.</p> <p>On 5/10/07, a Request for Special Notice was filed by Probate Referee Steven Diebert. On 10/12/07, a Creditor's Claim of \$1,105.65 was filed by Cancer Care Associates of Fresno. There was no further activity in the estate the Court set the matter for status hearing in 2013.</p> <p>On 9/10/14, Attorney Alexander filed a petition for final distribution on behalf of his absconded client pursuant to Probate Code §10953(c). The petition indicated that the Administrator borrowed a sum of money to satisfy obligations and expenses of the estate, secured by the real property, and intended to make a distribution to his sister, make necessary repairs, and assume the loan after closing. The attorney was unaware whether any distribution of loan proceeds was made, whether any payment to the sister was made, or whether any repairs were made on the residence. The attorney requested surcharge of the Administrator to the extent of any breach of fiduciary duty, etc., and also requested statutory and extraordinary attorney's compensation.</p> <p>Minute Order 1/20/15 states: The Court removes Jeffrey McClay and appoints the Public Administrator in order for them to pursue surcharging Mr. McClay on the bond. Tracy Stevenson requests time to have subpoenas issued and gather information. The Public Administrator is to submit a written status report for the 4/21/15 hearing.</p> <p>Status Report Re Estate Assets filed 4/14/15 by Public Administrator states Deputy PA Noe Jimenez spoke with Mr. Alexander, who believed that the only asset, the residence, was lost to foreclosure. He later found out that Mr. McClay may have benefitted from a loan he secured against the residence – a line of credit for \$120,000.00 on the house in 2007. It appears he pulled all the credit line money out, and the residence was sold at a trustee sale in 2010 for \$155,000.00. Mr. Jimenez believes he has found an accurate address for Mr. McClay in Sacramento, CA. The PA and counsel agree that Mr. McClay should be surcharged the full amount of the property listed on the I&A, \$252,100 of which should be paid by the bond company, less any amounts that the company can recover or show were paid to benefit the estate.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Pursuant to Order Regarding Surety's Liability Upon Bankruptcy of Former Personal Representative entered 12/11/15, the Court set hearing on 12/15/15 for argument re the issues of the amount to be paid out on the bond.</p> <p>Minute Order 12/15/15: Ms. Kruthers and Ms. Stevenson will talk and try to resolve the issue of apportionment.</p>	
Cont from 042115, 060915, 081815, 091515, 121515			
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			<p>Reviewed by: skc</p> <p>Reviewed on: 2/3/16</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1A - McClay</p>

Declaration of Tracy A. Stevenson Regarding Discharge of Surety's Liability Upon Bankruptcy of Personal Representative filed 6/5/15 states: Jeffrey M. McClay, the decedent's son, was appointed administrator of the decedent's estate on or about 5/23/06. ACIC filed its administrator's bond on behalf of Jeffrey M. McClay in the penal sum of \$252,100 on or about 8/31/06. In applying for that bond, McClay executed an indemnity agreement wherein he agreed to indemnify and reimburse the surety for all losses, attorney fee, and costs of any nature resulting from issuance of the bond.

On or about 7/8/08, while still acting as administrator of the estate, Jeffrey M. McClay filed a Voluntary Petition for Bankruptcy in the Eastern District of California, Case Number 2008-14472. That petition disclosed that he was administrator of the estate and as such held titled to the decedent's real property, subject to an encumbrance, and that he was an heir of the estate.

Because he was administrator at the time he filed for bankruptcy protection, the estate is charged with having knowledge of the bankruptcy filing and will failing to take action to seek relief from the bankruptcy court to protect its interests or pursue a claim. As such the estate's claim against McClay has been discharged by the bankruptcy court and the estate is barred from pursuing surcharge against him.

Because a claimant is required by law to obtain a surcharge judgment against a fiduciary before the surety's liability arises, the estate is legally precluded from proceeding against the surety in this matter.

Because McClay is bound by an indemnity agreement to indemnify the surety for all losses and fees and costs in connection with the bond, pursuing the surety would cause post-discharge economic loss to McClay and interfere with the fresh start granted by his bankruptcy discharge. (The surety did not receive notice of the bankruptcy action and the bankruptcy discharge does not preclude the surety from seeking indemnity from McClay, which it would do.) See authority provided.

The declaration concludes that the estate's ability to pursue surcharge against Jeffrey McClay has been discharged by the bankruptcy court, and the estate's ability to pursue the surety on its bond is also discharged for two reasons: 1) a surcharge against McClay is a prerequisite to pursuing the surety, and a surcharge cannot be sought; and 2) pursuit of the surety would violate the fresh start objective of the Bankruptcy Code.

Response of Public Administrator to Declaration of Tracy A. Stevenson was filed 9/10/15.

SEE ADDITIONAL PAGES

Response of Public Administrator filed 9/10/15 states although Ms. Stevenson refers to her document as a declaration, it is in fact an objection to the surcharge of the former Administrator. Her client, American Contractors Indemnity Company, will therefore be referred to as Objector.

According to the Court docket, the former administrator's attorney filed a petition for final distribution on 9/10/14. The petition included surcharge of McClay and for liability on the bond. The hearing on that petition has been continued several times for the attorney to provide notice, surety company to conduct discovery and file an objection, and the PA to file a response to objections.

The PA states McClay's bankruptcy case is irrelevant to the surety's obligation to make good on its bond. See CCP §§ 996.410 and 996.460, which specifically authorize this surcharge action and make Objector's liability independent of McClay's liability. The purpose of a bond for estate administration is to ensure that the estate can be made whole in the event a fiduciary (McClay) absconds with funds, and is unable to make the estate whole. Under the facts of this case, McClay did not faithfully execute his fiduciary duties, but rather violated that duty by stealing assets from the estate. Under the clear terms of the bond, the obligations to remit payment to the estate remain "in full force and effect."

The estate's claim against McClay is NOT discharged because of his knowledge of his bankruptcy filing because his knowledge is NOT imputed to the estate. The estate's claim is not discharged simply because McClay, the fiduciary, was aware of his own bankruptcy. His duty is to the beneficiaries and creditors of the estate. He did not make his bankruptcy known to anyone who had standing to object to his fraudulent taking of estate assets. There is no evidence before this court that he advised the bankruptcy trustee or judge of his fraudulent taking of estate assets. The PA used the case number provided to view the Federal Court's online case information system. The Estate of Joann McClay is not listed among the creditors of this case. This is not surprising since the only way it would be listed would be for McClay to have revealed his theft from the estate to the bankruptcy trustee and judge. Simply put, his knowledge cannot be imputed to the beneficiaries and creditors because of his breach of fiduciary duty and conflict of interest.

The PA states obtaining a surcharge against the personal representative is NOT a prerequisite to pursuing a claim against the surety so the estate CAN pursue the surety. See CCP §§ 996.410 and 996.460, stating that the principal and surety are liable jointly and severally. The PA agrees with Objector that the liability of a surety comes only after entry of judgment; however, Objector provides no basis for her statement that "this is generally taken to mean ...surcharge against the principal." The statute stands on its own and merely states entry of judgment. The PA is doing just that, seeking an entry of judgment against the surety, as authorized by state law.

The estate is NOT barred from pursuing the surety bond because it would NOT violate the fresh start objective of the bankruptcy code. First, the fresh start concept is to protect the principal. Second, the concept is not intended to protect the principal from all judgments. See authority. Third, by seeking payment from the surety, the PA is not seeking a judgment against the principal and thus is not violating the principal's right to the fresh start. The surety will do that if it decides to seek indemnification from McClay after paying on its claim to the estate.

Conclusion: There being no argument that McClay embezzled from the estate, the PA requests the Court deny the objections and surcharge the surety company, ACIC, the amount of \$252,100, to be paid to the PA as successor administrator of the estate of Joann McClay.

Note: Tracy A. Stevenson, attorney for Surety, American Contractors Indemnity Company, filed a Reply on 9/14/15. The reply cites authority and concludes that to pursue recovery, one must first obtain a surcharge judgment against McClay. However, surcharge cannot be pursued because the estate's claim has been discharged by the bankruptcy court. It is respectfully requested that the Court deny the request to surcharge.

SEE ADDITIONAL PAGES

Status Report Regarding Estate Assets filed 12/2/15 by Public Administrator states at the status hearing on 9/15/15, the Court took this matter under submission as to the issue of whether or not the surety company is liable for full surcharge based on the bankruptcy issue. If the Court rules in favor of the Public Administrator, the matter will be set for further status regarding the apportionment of the surcharge. The underlying petition for final distribution was continued to 12/15/15.

To date, the Court has not issued a ruling regarding the surcharge. The 90th day will run on the date of this status hearing. Therefore, the Public Administrator requests that this matter not be set again before 60 days.

(1) Petition for Final Distribution and (2) for Final Accounting, and (3) for Allowance of Statutory Attorney's Compensation and (4) for Extraordinary Attorney's Compensation, and (5) to Surcharge Personal Representative, and (6) for Liability on Probate Bond

DOD: 7/27/2005		<p>THOMAS ALEXANDER, JR., attorney for Jeffrey McClay, Administrator, is Petitioner.</p> <p>JEFFREY MCCLAY was appointed Administrator on 5/23/06 with full IAEA authority and bond set at \$252,100.00. Bond was filed on 8/31/06 and Letters issued.</p> <p>I & A, part. 1, filed on 2/5/07 with a value of \$300,000.00.</p> <p>Creditor's Claims filed:</p> <ul style="list-style-type: none"> Cancer Care Associates - \$1,105.65 <table> <tr> <td>Attorney fees</td> <td>-</td> <td>\$9,000.00</td> </tr> <tr> <td>Attorney x/o</td> <td>-</td> <td>\$1,500.00 (for the filing of this petition)</td> </tr> <tr> <td>Costs</td> <td>-</td> <td>\$435.00 (filing fee)</td> </tr> </table> <p>Petitioning attorney states that it is his belief that the Administrator borrowed a sum of money (probably in excess of \$15,000) for the purpose of satisfying obligations and expenses of the estate. It is petitioner's belief that the loan was secured by the estate's real property. The intention of the Administrator that he would (1) distribute a portion of the loan to satisfy an assignment of interest of his sister and co-heir of the estate, Melanie McClay, (2) make necessary repairs to the estate real property, and (3) assume the loan, in his individual capacity, after the close of the probate proceedings. Petitioner states he is unaware (1) whether any distribution of the loan proceeds was made, (2) whether any payment to Melanie McClay or any repairs were made, or (3) whether any payments on the loan were made.</p> <p>Please see additional page</p>	Attorney fees	-	\$9,000.00	Attorney x/o	-	\$1,500.00 (for the filing of this petition)	Costs	-	\$435.00 (filing fee)	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 12/15/15: Trailing the status hearing regarding apportionment of the surcharge.</p> <p>Status Report of the Public Administrator filed on 12/2/15 states the court took the matter under submission as to the issue of whether or not the surety company is liable for full surcharge based on the bankruptcy issue. To date the court as not issue a ruling regarding the surcharge. Therefore the Public Administrator requests this matter not be set again before 60 days.</p> <ol style="list-style-type: none"> Need proof of service of the Notice of Hearing along with a copy of the petition on: <ol style="list-style-type: none"> Steven Diebert – pursuant to his Request for Special Notice. American Contractors Indemnity Company (bond) – pursuant to their Request for Special Notice. <p>Please see additional page.</p>
Attorney fees	-		\$9,000.00									
Attorney x/o	-		\$1,500.00 (for the filing of this petition)									
Costs	-		\$435.00 (filing fee)									
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Reviewed by: KT		<p>File 1B – McClay</p>										
Reviewed on: 2/3/16 (skc)												
Updates:												
Recommendation:												

Petitioning attorney states he is unaware whether any proceeds remain available for distribution. Petitioner is also unaware of the existence of any executed assignment of interest by Melanie McClay.

Petitioner request surcharge of the Personal Representative (1) to the extent of any breach of fiduciary duty or to the extent that estate funds have, through negligence or otherwise, become unavailable to the estate, (2) to the extent of any loss of her estate shares of the estate property by Melanie McClay, (3) of any monies that are due to the Probate Referee or any creditors of the estate, and (4) to the extent of any statutory compensation that are due this petitioning attorney, and for extraordinary services rendered in preparing this petition.

Wherefore Petitioning Attorney prays:

1. That the administration be brought to a close;
2. That this Final Account and Petition for Final Distribution and for Statutory and Extraordinary Attorney Fees and for Surcharge on the Personal Representative's Bond be approved as filed;
3. That the acts and proceedings of Petitioner as Administrator be confirmed and approved;
4. That this Petitioning attorney, be authorized and directed to pay himself \$9,000 in statutory and \$1,500 as extraordinary fees and \$435.00 for reimbursement of costs;
5. That the Administrator be surcharged in an amount calculated to pay the statutory and extraordinary fees and reimbursement of costs in the sum of \$10,935, and that Cancer Care Associated in the amount of \$1,105.65, and that distribution of on half of the remaining trust estate be paid to Melanie McClay to make her whole as the Administrator's co-heir. That any remaining estate property after proper payments of costs of administration and the ½ interest of his co-heir be paid to Jeffrey McClay, Administrator.

NEEDS/PROBLEMS/COMMENTS (Cont.):

2. Petition is signed and verified by the attorney using a cursive computer font. Need original signature.
3. Petition states that it is the attorney's belief that fees remain due to probate referee Steven Diebert. However the petition does not indicate the balance of the fees due nor does it request payment of said fees.
4. Petition does not contain a statement regarding Probate Code §216 and 9202(b) re: notice to the Director of Victims Compensation and Government Claims Board
5. Petition alleged Jeffrey McClay absconded with the estate. However the petition does not indicate what efforts were made to locate Jeffrey McClay.

NEEDS/PROBLEMS/COMMENTS (Cont.):

6. Attorney Thomas Alexander is requesting extra ordinary fees for the filing of this petition. The request for extraordinary fees does not comply with California Rules of Court, Rule 7.702. In addition,

Probate Code § 12205 indicates the court may reduce the compensation of the personal representative or attorney for the personal representative by an amount the court determines appropriate if the court makes all of the following determinations:

- 1) The time taken for administration of the estate exceeds the time required by this chapter or prescribed by the court.
- 2) The time taken was within the control of the personal representative or attorney whose compensation is being reduced.
- 3) The delay was not in the best interest of the estate or interested persons.

Probate Code § 12200 states the personal representative shall either petition for an order for final distribution of the estate or make a report of the status of administration not later than the following times:

- a) In an estate for which a federal estate tax return is not required, within one year after the date of issuance of letters.

In this matter there was no activity by the attorney or the personal representative from 2/5/07 until the matter was set for a status hearing by court staff on 3/7/14. The attorney and the personal representative did not appear at the status hearing on 3/7/14. An Order to Show Cause was issued and the matter continued to 5/2/14. On 5/2/14 the attorney and the personal representative again did not appear. The court imposed sanctions on the attorney for \$500 and continued the matter to 5/23/14. On 5/23/14 the attorney appeared (but did not file a written status report as required by Local Rule 7.5C). The attorney made representations to the court and the court rescinded the previously issued sanctions. The status hearing was continued to 8/7/14. On 8/7/14 the attorney appeared (but again did not file a written status report as required by Local Rule 7.5C) and the status hearing was continued to 9/25/14. On 9/10/14 this Petition was filed. There is no explanation as to why the estate was delayed for over 7 years.

7. Need Order.

**Second Amended Account Current and Report of Conservator; Petition of Conservator
Petition for its Settlement, for Allowance of Attorneys Compensation and for its Termination**

		<p>DEBRA PASLEY, Mother and Conservator of the Person and Estate with bond of \$15,000.00, is Petitioner. <i>(Not verified.)</i></p> <p>Account period: 3/28/13 – 10/17/14 Accounting: <u>Not provided</u> Beginning POH: \$13,438.31 Ending POH: \$70,195.61 (\$1,715.61 plus a 1/5 interest in real property in Virginia valued at \$68,480.00)</p> <p>Petitioner states: Inventory and Appraisal was filed 6/5/13 showing the value of the estate to be \$13,438.31. Summary of account and supporting schedules are provided at Exhibit B. (See #1.)</p> <p>As reflected in prior pleadings, the Conservator and Conservatee moved out of state. The Conservator was appointed Guardian of the Conservatee in Oklahoma by Court order and Letters issued on 8/13/14.</p> <p>Petitioner does not request compensation for her services.</p> <p>Petitioner requests attorney's compensation as set forth in Exhibit "C." (See #3.)</p> <p>Petitioner prays:</p> <ol style="list-style-type: none"> 1. That this account and report be approved and settled; 2. That the acts of the Conservator shown in the account and report be approved; 3. That, upon settlement of this account, the Conservator be directed to pay her attorneys, McCormick Barstow, LLP, compensation for services rendered and, as yet, unpaid; 4. That the Conservatorship in California be terminated; and 5. That the Court grant such other and further relief as it deems just and proper. 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 1/5/16: Counsel requests an additional 30 days.</p> <p><u>SEE ADDITIONAL PAGES</u></p>
<p>Cont. from 042315, 060215, 081815, 091515, 102015, 120115, 010516</p>			
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	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		x
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			<p>Reviewed by: skc</p> <p>Reviewed on: 2/3/16</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 3 – Pasley</p>

Page 2 – NEEDS/PROBLEMS/COMMENTS:

1. This petition does not provide any accounting in the form required by Probate Code §§ 2620, 1060, or any mandatory schedules on the required Judicial Council forms.

Need amended petition with accounting, schedules, including required mandatory form for summary. Although Petitioner has been appointed Guardian in Oklahoma, this Court retains jurisdiction for settling accounts pursuant to Probate Code §2630.

The only schedule provided at Exhibit B is a statement of property on hand, labeled as “receipts,” but which does not show any account summary, receipts, disbursements, etc., and further indicates that the conservatorship estate cash has been reduced by \$11,722.70 without explanation.

Note: The Conservatee’s interest in the Virginia real property is not an asset of this conservatorship estate, but should be referenced in its own schedule pursuant to §1063(h).

2. This petition is not verified by the Conservator as required by Probate Code §§ 1021, 1023. (Note: §1023 provides that an attorney may sign or verify on a client’s behalf if he or she is absent from the county unless the person is a fiduciary appointing in the proceeding.)
3. Petitioner requests attorney’s compensation pursuant to Exhibit C, but no Exhibit C is attached.
4. Need Notice of Hearing.
5. Need proof of service of Notice of Hearing at least 15 days prior to the hearing pursuant to Probate Code §1460(b)(6) on:
 - Morgan Elizabeth Pasley (Conservatee)
 - Debra Pasley (Conservator/Fiduciary, since the petition is not verified by her)
 - David Hal Jones (Father)
6. *The Court may also require notice to the surety of any continued or future hearings.*

Probate Status Hearing RE: Next Account

DOD: 10/7/12	<p>PAUL T. CHAMBERS was appointed Practice Administrator on 10-16-13 pursuant to Probate Code §9764.</p> <p>Bond of \$47,000.00 was filed 3-17-14 pursuant to Probate Code §9764(d).</p> <p>The First Account of IOLTA Trust Funds by Court-Appointed Practice Administrator was settled on 2-3-15, and the Court set this status hearing for the filing of the next account.</p> <p><u>Note:</u> Minute order 3/3/15 (status re bond renewal) states: Based on the circumstances, the Court is not inclined to require a bond. The Court notes that no probate is open, and there appears to be no assets in the estate. The request for no bond is granted, subject to change.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need second account or written status report per Local Rule 7.5.</p> <p>Note: Requests for Special Notice have been filed by Attorney J. Patrick Sullivan and also by Walter Wentz.</p>
Aff.Sub.Wit.		
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	<p>Reviewed on: 2/3/16</p>	
	<p>Updates:</p>	
	<p>Recommendation:</p>	
	<p>File 5- St. Louis</p>	

6A Additional Page, Gary F. Morris, Sr. 2013 Trust Case No. 13CEPR01104

Petitioner prays the Court Order:

1. An accounting from **WALTER A. MORRIS** from the period when he was Successor Trustee of the **GARY F. MORRIS, SR., 2013 TRUST** from 4/1/2014 until 8/31/2015;
2. **WALTER A. MORRIS**, Successor Trustee of the **GARY F. MORRIS, SR., 2013 TRUST**, [shall] distribute all of the remaining assets in the **GARY F. MORRIS, SR., 2013 TRUST** to **DOUG STANDING**, Trustee of the **GARY F. MORRIS, JR., TRUST** within 30 days of the signed of the order approving this *Petition*;
and
3. Allowing attorney fees and costs to Petitioner to be paid by Walter Morris for failure to file accounting and distribute assets pursuant to **GARY F. MORRIS, SR., 2013 TRUST** terms.

Notes:

- *Petition* was filed using a fee waiver, which is currently pending. The **\$435.00** filing fee is appropriately payable from Trust assets. *Declaration of Clerical Error and Omissions* filed 10/2/2015 states Petitioner agrees that a filing fee should be paid by Walter Morris, Trustee of the **GARY F. MORRIS, SR., 2013 TRUST**; however, Walter Morris is not communicating with the beneficiary, Gary Morris, Jr., his attorney, nor the Successor Trustee of the **GARY F. MORRIS, JR., TRUST**; the beneficiary has no access to funds of the Trust.
- *Order Setting Bond Amount* filed 4/25/2015 set bond at **\$286,000.00**, proof of which was filed on 5/9/2014. *Order Reducing Bond Amount* filed 5/13/2015 finds that the bond amount for **WALTER A. MORRIS**, as Trustee of the **GARY F. MORRIS, SR., 2013 TRUST** is reduced to **\$152,137.88**, which is the amount of net proceeds [distributed to the seller of the Trust real property] plus 10%.
- *Declaration of Clerical Error and Omissions* filed 10/2/2015 attaches as *Exhibit B* a copy of the bond renewal that was mailed to Walter Morris, and states it is unknown what Walter Morris did with it.

Attorney Nancy J. LeVan (for Petitioner Gary Morris, Jr.)

Fee Waiver Review

DOD: 10/19/2013		CONFIDENTIAL	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 1/5/2016.</u> <i>Minute Order</i> states this request is trailing the Petition to Compel Accounting; the Court indicates denial of the fee waiver if there are monies in the Trust.
Cont. from 100615, 111715, 010516			
Aff.Sub.Wit.			
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PTC			
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Notice of Hrg			
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FTB Notice			
		Reviewed by: LEG	
		Reviewed on: 2/3/16	
		Updates:	
		Recommendation:	
		File 6B – Morris	

Probate Status Hearing RE: First Acct and Final Dist

DOD: 6/15/14	<p>ABIGAIL SERRATO, Daughter, was appointed Executor with Full IAEA without bond on 12/9/14. Letters issued on 12/10/14.</p> <p>At the hearing on 12/9/14, the Court set this status hearing for the filing of the first account or petition for final distribution.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need first account or petition for final distribution pursuant to Probate Code §12200 or written status report pursuant to Local Rule 7.5.</p>
Aff.Sub.Wit.		
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	<p>Reviewed by: skc</p>	
	<p>Reviewed on: 2/3/16</p>	
	<p>Updates:</p>	
	<p>Recommendation:</p>	
	<p>File 7A- Serrato</p>	

Ex Parte Request for Order Depositing Proceeds into a Blocked Account; and Request for Partial Distribution

DOD: 6/15/14	ABIGAIL SERRATO , Daughter, was appointed Executor with Full IAEA without bond on 12/9/14. Letters issued on 12/10/14.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> This petition was made as an ex parte motion; however, because it requires noticed hearing, the Court may require payment of the regular \$435.00 filing fee. The petition is not verified by the Executor pursuant to Probate Code §1020. Need Notice of Hearing and proof of service of Notice of Hearing on all interested parties and their attorney(s). Petitioner makes no allegations as to whether distribution may be made without loss to creditors or injury to the estate pursuant to Probate Code §11621. For example, has notice been given to the appropriate agencies as required by Probate Code §9202? Petitioner also makes no statement as to why preliminary distribution is necessary at this time, when the first account or petition for final distribution is now due pursuant to Probate Code §12200. Is the estate not in a condition to close? Why or why not? <p style="text-align: center;">SEE PAGE 2</p>
	I&A filed 6/11/15 reflects a total estate value of \$400,000.00 consisting of insurance proceeds (cash) of \$100,000.00 plus real property in Madera valued at \$300,000.00.	
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/Supp		
Objections		
Video Receipt		
CI Report		
9202		
✓ Order	<p>On 12/24/15, Attorney Criego filed this Ex Parte Request for Order Depositing Proceeds into Blocked Account; and Request for Partial Distribution.</p> <p>The Court's order of 1/5/16 set the matter for noticed hearing on 2/9/15, which is the same date as the status hearing for the filing of the first account or petition for final distribution, which was set at appointment on 12/9/14. The order was mailed to Mr. Criego on 12/7/15.</p> <p>Mr. Criego's Ex Parte Petition (not verified by Ms. Serrato) states: Mr. Criego requests an ex parte order allowing the executor deposit a check in the sum of \$119,769.31, which was secured by the attorney on behalf of the estate from Transamerica Life Insurance Company, into a blocked account at Bank of the West.</p> <p>There is a partial dispute as to the distribution remains as to the proceeds; however, all parties have agreed and consented to a partial distribution to the non-disputed amount of \$48,000.00 as set forth below:</p> <ol style="list-style-type: none"> Payment to Rick Smith, Probate Referee, in the amount of \$320.00 Reimbursement for publication to attorney Criego in the amount of \$480.00 Reimbursement for filing fees to Attorney Criego in the amount of \$435.00 Partial distribution to the heirs as follows: <ul style="list-style-type: none"> - Genaro Serrato, Jr.: \$12,000.00 - David Serrato: \$12,000.00 - Javier Serrato: \$12,000.00 - Abigail Serrato: \$12,000.00 <p style="text-align: center;">SEE PAGE 2</p>	
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
Reviewed by: skc		
Reviewed on: 2/3/16		
Updates:		
Recommendation:		
File 7A-Serrato		

Attached to the petition is a letter dated 12/9/15 from Mr. Criego to all interested parties. Mr. Criego states he is in possession of the final insurance proceeds issued on behalf of the decedent.

Because there is no agreement between the heirs, he proposes to deposit the proceeds into a blocked account, pay the obligation relating to the Probate Referee, filing and publication fees, and request preliminary distribution of \$50,000.

The letter also states: "Additionally, that the legal description/address to the **MADERA** property be corrected and that the Executor be authorized to prepare a corrected deed **and each heir received a divisible interest in the property**" (emphasis in original); "That the Executor be authorized to correct the APN and legal description as to the unrecorded **FRESNO** property."

Attached to the letter are Consents to Notice of Proposed Action signed by all four heirs.

NEEDS/PROBLEMS/COMMENTS (Cont'd):

- 6. The above-referenced letter appears to imply that the executor may have or may be planning to distribute the estate real property to the heirs prior to Court authorization. Need clarification.**

Also note: If there are changes to the legal description as provided in the Inventory and Appraisal, this should be explained in the petition for final distribution.

- 7. The Final I&A filed 6/11/15 includes the insurance proceeds and real property in Madera. The above-referenced letter also indicates additional real property in Fresno that is not inventoried in this estate. The Court may require clarification.**

Probate Status Hearing RE: Filing of the First and Final Account

DOD: 6/18/14		<p>ALESHA J. JENSEN, Daughter, was appointed Administrator with Full IAEA without bond on 12/9/14. Letters issued on 12/10/14.</p> <p>At the hearing on 12/9/14, the Court set this status hearing for the filing of the first account or petition for final distribution.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need first account or petition for final distribution pursuant to Probate Code §12200 or written status report pursuant to Local Rule 7.5.</p>
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
			Reviewed on: 2/3/16
			Updates:
			Recommendation:
			File 9- Bergen

Petitioner Laurie Lee Cardoza (Pro Per, maternal cousin)
 Objector MaryAnne Wilson (Pro Per, mother)

Probate Status Hearing Re: Visitation

		<p>LAURIE LEE CARDOZA, maternal cousin, was appointed Guardian of the Person on 10/13/2015. <i>Letters issued on 11/10/2015.</i></p>	<p>NEEDS/PROBLEMS/COMMENTS: <u>Continued from 12/15/2015.</u> <i>Minute Order [Judge Snauffer]</i> states Mary Ann Wilson, mother, states that she was unaware of the Guardianship being granted despite being in attendance at the hearing on 10/13/2015 when the petition was granted. Ms. Wilson is directed to file an actual visitation petition for the Court's consideration and a petition to terminate, if so desired.</p>
<p>Conf. from 080415, 090115, 102715, 121515</p>			
	Aff.Sub.Wit.	<p>MARY ANN WILSON, mother, filed on 8/31/2015 a Declaration of MARYANNE WILSON, containing objections and proposed resolution to the Court.</p>	
	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		
	Clearances		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			<p>Reviewed by: LEG</p>
			<p>Reviewed on: 2/3/16</p>
			<p>Updates:</p>
			<p>Recommendation:</p>
			<p>File 10 – Nitti</p>

Petitioner: Luis J. Flores (pro per)

Petition for Appointment of Guardian of the Person

		THERE IS NO TEMPORARY. Temporary was denied.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 12/8/15. Minute order states examiner notes and ICWA forms provided in open court. As of 2/3/16 the following issues remain:</p> <ol style="list-style-type: none"> 1. Mother's objections state the minor has Native American ancestry. Therefore, a <i>Notice of Child Custody Proceeding for Indian Child</i> (Form ICWA-030), must be completed and returned to the probate clerk for service. (Copy of the form is in the file to give to petitioner.) 2. Need proof of service of the Objections on Petitioner, Luis J. Flores.
Cont. from 092215, 102015, 120815		LUIS J. FLORES, former step-father, is petitioner.	
Please see petition for details.			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
Inventory		Court Investigator Report filed on 9/15/15	
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Objections of mother, Roseline Mattinson, filed on 11/17/15.	
<input checked="" type="checkbox"/>	Aff.Mail	W/	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input checked="" type="checkbox"/>	Pers.Serv.	W/	
<input checked="" type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input checked="" type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input checked="" type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		Reviewed by: KT	
		Reviewed on: 2/3/16	
		Updates:	
		Recommendation:	
		File 11 – Castell	

14A

Kash Cota (GUARD/P)

Case No. 15CEPR00866

Petitioner Roman James Cota (Pro Per – Paternal Uncle – Petitioner)

Petitioner Carrie Joyce Cota (Pro Per – Paternal Aunt – Petitioner)

Petition for Appointment of Guardian of the Person

		See petition for details.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Minute Order 1/28/16:</u> Petitioners report that the minor is currently with Elvira Zavala, the maternal grandmother and competing petitioner, because of the minor's close bond to her. The Cotas' temporary letters are extended, with the understanding that the minor will remain in Ms. Zavala's care.</p> <p><u>Note:</u> See Page B re Ms. Zavala's petition.</p> <p><u>Note:</u> Petitioners' Declaration filed 1/27/16 indicates support of the petition by Elvira Zavala.</p> <p>If this petition goes forward, the following issue remains noted for reference:</p> <ol style="list-style-type: none"> 1. Declaration filed 10/26/15 provides a printout of the hearing information provided to the mother via Facebook message on 10/3/15. Probate Code §1511 requires personal service. <u>Update:</u> No further evidence of notice has been filed by Petitioners. 	
Cont. from 110515, 012816				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W
	Aff.Pub.			
	Sp.Ntc.			
✓	Pers.Serv.			W
	Conf. Screen			
✓	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
✓	CI Report			
✓	Clearances			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
Reviewed by: skc				
Reviewed on: 2/3/16				
Updates:				
Recommendation:				
File 14A – Cota				

14A

16 Alexander G. Montes (CONS/P)

Case No. 15CEPR00912

Petitioner **Gustavo Montes de Leon (Pro Per)**

Petitioner **Rebecca Gonzalez Montes (Pro Per)**

Petition for Appointment of Probate Conservator

		NO TEMPORARY REQUESTED	NEEDS/PROBLEMS/COMMENTS:
		GUSTAVO MONTES DE LEON and REBECCA GONZALEZ MONTES,	Court Investigator Advised Rights on 9/28/2015.
		parents, are Petitioners and request appointment as Conservator of the Person with medical consent powers.	Continued from 10/27/2015. Minute Order [Judge Snauffer] states: No appearances. The Clerk is directed to mail a minute order and examiner notes to Petitioners. (Clerk's Certificate of Mailing shows a copy of the minute order and examiner notes dated 12/15/2015 were mailed to Petitioners on 12/15/2015.)
Cont. from 102715, 121515		~Please see Petition for details~	The following issues from the last hearing remain:
<input type="checkbox"/>	Aff.Sub.Wit.		1. <i>Medical Capacity Declaration</i> of Sreekanth Chava, M.D., filed 9/16/2015 does not support medical consent powers. If Petitioners wish to pursue medical consent powers, need <i>Medical Capacity Declaration</i> in support of Petitioners' request pursuant to Probate Code § 1890(c).
<input checked="" type="checkbox"/>	Verified		2. Item 11(b) of the <i>Petition</i> indicates the maternal and paternal grandparents live at an unknown address in Mexico. Court may require <i>Notice of Hearing</i> and proof of service by mail of the notice with a copy of the <i>Petition for Appointment of Probate Conservator</i> , or a <i>Declaration of Due Diligence</i> , for the maternal and paternal grandparents named in the <i>Petition</i> pursuant to Probate Code § 1822(b)(2).
<input type="checkbox"/>	Inventory		3. Need <i>Confidential Supplemental Information</i> form (GC-312) pursuant to Probate Code § 1821.
<input type="checkbox"/>	Cap. Dec.	X	
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	W/ O	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	N/A	
<input checked="" type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/ Supp	Supp X	
<input type="checkbox"/>	Objections		
<input checked="" type="checkbox"/>	Video Receipt		
<input checked="" type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation	Court Excused	
<input type="checkbox"/>	FTB Notice		
			Reviewed by: LEG
			Reviewed on: 2/3/16
			Updates:
			Recommendation:
			File 16 – Montes

Petitioner Munguia, Maribel (Pro Per – Maternal Grandmother – Petitioner)

Petition for Appointment of Guardian of the Person

		See petition for details.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Minute Order 1/5/16:</u> Examiner notes provided in open court.</p> <p><u>Note:</u> As of 2/3/16, nothing further has been filed. The following issues remain:</p> <p style="text-align: center;"><u>SEE PAGE 2</u></p>	
Cont. from 010516				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			w/o
	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			
			<p>Reviewed by: skc</p> <p>Reviewed on: 2/3/16</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 18- Chavarria, Espinoza, Delgado, Rodriguez, Balladares</p>	

Page 2 – NEEDS/PROBLEMS/COMMENTS:

1. 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 or declaration of due diligence on:
 - Andrea Chavarria (Minor)
 - Maria Espinoza (Minor)
 - Betzaida Delgado (Minor)
 - Claudia Delgado (Mother)
 - Oscar Chavarria (Father of Andrea)
 - Cruz Espinoza (Father of Maria)
 - Jorge Cuevas (Father of Betzaida)
 - Adolfo Rodriguez (Father of Monica and Yesenia)
 - Rene Balladeres (Father of Rene)

Note: Declarations of Due Diligence filed 12/31/15 states Adolfo Rodriguez, Cruz Espinoza, and Rene Balladeres were personally served, and Jorge Cuevas was notified of this court date by Facebook, but no Notice of Hearing or Proof of Service or other documentation has been filed.

2. 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 or declaration of due diligence on:
 - Jose G. Delgado (Maternal Grandfather)
 - Israel Cavarria (Paternal Grandfather of Andrea)
 - Elvia Chavarria (Paternal Grandmother of Andrea)
 - Paternal Grandparents of Maria
 - Paternal Grandparents of Betzaida
 - Adolfo Rodriguez, Sr. (Paternal Grandfather of Monica and Yesenia)
 - Maria Aguirre (Paternal Grandmother of Monica and Yesenia)
 - Gloria Del Rosario Contreras (Paternal Grandmother of Rene)

Note: Notices of Hearing filed 12/31/15 are defective. They do not indicate that the parties were served with a copy of the petition, and the service information is incomplete (does not state when the parties were served or by whom).

Note: It appears notice was sent to a Rogelio Cuevas and Esperanza Prado, but it is unclear who these people are. Are these the paternal grandparents of Betzaida?

Petition for Court Order Modifying Trust Instrument in Changed Circumstances

Margaret Salwasser DOD: 7/11/14	DENNIS SALWASSER , Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
Melvin Salwasser DOD: 5/17/15	Petitioner states Melvin Salwasser and Margaret Salwasser created the	Continued from 12/15/15 per request of counsel.
	Melvin Salwasser Family Heritage Trust on	
	12/30/99. Margaret died 7/11/14. Melvin died 5/17/15. The settlors were survived by	
Cont. from 121515	two adult children: Petitioner and Deborah Hendrickson. A third child, Brent Salwasser, predeceased both settlors	
<input type="checkbox"/> Aff.Sub.Wit.	without issue. Petitioner has two adult children and four grandchildren, only one	
<input checked="" type="checkbox"/> Verified	an adult. Deborah Hendrickson has no natural or adopted children, but has	
<input type="checkbox"/> Inventory	three stepchildren.	
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail	As of Melvin Salwasser's death in 2015, the trust estate consisted of cash, securities,	
<input type="checkbox"/> Aff.Pub.	and a small interest in a family business entity. The total value was less than	
<input type="checkbox"/> Sp.Ntc.	\$750,000.00.	
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters	After the surviving settlor's death, the trust estate is to be divided into two trusts, one	
<input type="checkbox"/> Duties/Supp	for each child. Each child's trust was then divided into an "exempt share" and a	
<input type="checkbox"/> Objections	"nonexempt share" trust. Each trust would hold less than \$375,000.00 of value and	
<input type="checkbox"/> Video Receipt	would be held for the lifetime of the surviving child of the settlors.	
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order	Petitioner states continuation of the trust under its terms would defeat or	
<input type="checkbox"/> Aff. Posting	substantially impair the accomplishment of the purposes of the trust.	
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
	Therefore, Petitioner requests an order under §15409 modifying the terms of the trust to distribute outright to the two children of the settlors (Dennis Salwasser and Deborah Hendrickson).	

Petitioner states the trust provides for a long term strategy to avoid estate tax at the deaths of the settlors' children and on the deaths of grandchildren, great-grandchildren, and so on (a "dynasty trust"). Dynasty trusts became popular when several states liberalized or eliminated the rule against perpetuities. (California has not liberalized its rule against perpetuities (§21205.) Combined with an increasing federal generation-skipping-transfer-tax exemption, it became possible to use a dynasty trust to arrange so descendants into perpetuity would get the benefit of a substantial financial legacy without ever paying estate, gift, or generation-skipping transfer taxes.

The settlors' tax purpose is explicitly stated in Section 5a of Article Seven of the trust. When the trust was established in 1999, the federal exemption was \$675,000.00 and the estate-tax top rate was 55%, and the settlors were justifiably concerned about the future estate tax burdens on their descendants. However, in 2001, Congress increased the estate-tax exemption in steps as described in the petition. The petition also describes that a further tax development in the last few years was the increase of the federal capital-gains top rate.

Petitioner states property held in a dynasty trust is not eligible for the step-up in basis afforded property held by a decedent at death, so it is exposed to greater capital gain taxes as property is sold.

Because of these changes, the dynasty trust in the Salwasser family's situation is likely to be a tax detriment rather than the benefit contemplated by the settlors. Based on his conversations with his parents, Petitioner believes the only purpose of the dynasty trust features was to avoid taxes on the younger generations, and that the settlors had no appreciation or understanding of their non-tax implications. The settlors could not amend the trust as it was irrevocable.

Early termination provision: Petitioner states the trust provides that if the trustee determines in his sole and absolute discretion that any trust "has become uneconomical to administer due to the high cost of administration relative to the value of the trust property," the trustee may end the trust and distribute to the income beneficiaries. While tax costs of losing the step up in basis of trust property may not be such a "cost of administration," so as to trigger this provision, by analogy, this provision supports Petitioner's view that when the settlors' tax driven purpose is frustrated by changed circumstances, the trust should be ended and the estate distributed.

Wherefore, Petitioner requests an order modifying the trust as stated above, and for such further orders as the Court considers proper.

Petition for Court Order Modifying Trust Instrument in Changed Circumstances

Margaret Salwasser DOD: 7/11/14		DENNIS SALWASSER, Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
Melvin Salwasser DOD: 5/17/15			
Cont. from 121515		<p>Petitioner states Melvin Salwasser and Margaret Salwasser created the Salwasser Living Trust on 12/30/99. Margaret died 7/11/14. Melvin died 5/17/15. The settlors were survived by two adult children: Petitioner and Deborah Hendrickson. A third child, Brent Salwasser, predeceased both settlors without issue. Petitioner has two adult children and four grandchildren, only one an adult. Deborah Hendrickson has no natural or adopted children, but has three stepchildren.</p>	<p>Continued from 12/15/15 per request of counsel.</p> <p>Update: Consents to Modification and Distribution of Trust were filed 2/2/16 by Lisa Dutcher and Leann Schmit, two of three adult contingent successor lifetime beneficiaries.</p>
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified	<p>As of Melvin Salwasser's death in 2015, the trust estate consisted of cash, securities from an IRA, and interests in two family business entities. The total value was less than \$2,300,000.00.</p>	<p>Reviewed by: skc</p> <p>Reviewed on: 2/3/16</p>
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC	<p>After the surviving settlor's death, the trust estate is to be divided into two trusts, one for each child. Each trust would hold less than \$1,150,000.00 of value.</p>	<p>Updates:</p>
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	<p>Petitioner states continuation of the trust under its terms would defeat or substantially impair the accomplishment of the purposes of the trust.</p>	<p>Recommendation:</p>
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.	<p>Therefore, Petitioner requests an order under §15409 modifying the terms of the trust to distribute outright to the two children of the settlors (Dennis Salwasser and Deborah Hendrickson).</p>	<p>File 21 - Salwasser</p>
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	<p>SEE PAGE 2</p>	
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Page 2

Petitioner states the trust provides for a long term strategy to avoid estate tax at the deaths of the settlors' children and on the deaths of grandchildren, great-grandchildren, and so on (a "dynasty trust"). Dynasty trusts became popular when several states liberalized or eliminated the rule against perpetuities. (California has not liberalized its rule against perpetuities (§21205.) Combined with an increasing federal generation-skipping-transfer-tax exemption, it became possible to use a dynasty trust to arrange so descendants into perpetuity would get the benefit of a substantial financial legacy without ever paying estate, gift, or generation-skipping transfer taxes.

The settlors' tax purpose is explicitly stated in Section 5a of Article Seven of the trust. When the trust was established in 1999, the federal exemption was \$675,000.00 and the estate-tax top rate was 55%, and the settlors were justifiably concerned about the future estate tax burdens on their descendants. However, in 2001, Congress increased the estate-tax exemption in steps as described in the petition. The petition also describes that a further tax development in the last few years was the increase of the federal capital-gains top rate.

Petitioner states property held in a dynasty trust is not eligible for the step-up in basis afforded property held by a decedent at death, so it is exposed to greater capital gain taxes as property is sold.

Because of these changes, the dynasty trust in the Salwasser family's situation is likely to be a tax detriment rather than the benefit contemplated by the settlors. Based on his conversations with his parents, Petitioner believes two primary factors, uncertainty and poor health, explain why they did not amend the trust to eliminate the dynasty trust provisions when the tax law changed. From 2001-2012, there was uncertainty about what the law would be. Margaret Salwasser began suffering from dementia in the late 1990s and later suffered other health issues, residing in a nursing home by 2008. Melvin Salwasser was seriously injured in 2011 and spent time in a skilled nursing facility before returning home, although his health deteriorated rapidly thereafter. Under these circumstances, it is understandable that the settlors did not amend the trust when the tax law on which their dynasty strategy depended changed.

Early termination provision: Petitioner states the trust provides that if the trustee determines in his sole and absolute discretion that any trust "has become uneconomical to administer due to the high cost of administration relative to the value of the trust property," the trustee may end the trust and distribute to the income beneficiaries. While tax costs of losing the step up in basis of trust property may not be such a "cost of administration," so as to trigger this provision, by analogy, this provision supports Petitioner's view that when the settlors' tax driven purpose is frustrated by changed circumstances, the trust should be ended and the estate distributed.

Wherefore, Petitioner requests an order modifying the trust as stated above, and for such further orders as the Court considers proper.

23 Ariehn Brady, Annaleah Brady, and ABCD Brady (GUARD/P)

Case No. 15CEPR01190

Petitioner Julie C. Jones (Pro Per - self-represented attorney)

Petition for Appointment of Guardian of the Person

		TEMPORARY GRANTED EX PARTE EXPIRES 1/4/2016; extended to 2/9/2016		NEEDS/PROBLEMS/COMMENTS:
		<p>JULIE C. JONES, non-relative caretaker, is Petitioner.</p> <p style="text-align: center;"><i>~Please see Petition for details~</i></p>		
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		X	
	Clearances		X	
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
				Reviewed by: LEG
				Reviewed on: 2/3/16
				Updates:
				Recommendation:
				File 23- Brady

Petition to Determine Succession to Real Property

DOD: 7/28/06	RICARD COBOS and CARLOS CAL COBOS , Sons, are Petitioners.	NEEDS/PROBLEMS/COMMENTS:
	40 days since DOD	
	No other proceedings	
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified	I&A: \$145,000.00 (real property located at 4623 North Fourth Street in Fresno)	
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC	Decedent died intestate	
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	Petitioners request Court determination that the real property passes to	
<input checked="" type="checkbox"/> Aff.Mail	Petitioners in one-half undivided	
<input type="checkbox"/> Aff.Pub.	interests each pursuant to intestate	
<input type="checkbox"/> Sp.Ntc.	succession.	
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: skc
		Reviewed on: 2/3/16
		Updates:
		Recommendation: SUBMITTED
		File 26- Cobos

Petition for Letters of Administration; Authorization to Administer under IAEA

DOD: 8/25/15		<p>THEODORE ZAMORA, Son, is Petitioner and requests appointment as Administrator with Full IAEA without bond.</p> <p>Petitioner is the sole heir and waives bond.</p> <p>Full IAEA – need publication</p> <p>Decedent died intestate</p> <p>Residence: Reedley Publication: need publication</p> <p>Estimated value of estate: Real property: \$170,000.00</p> <p>Probate Referee: Rick Smith</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Publication pursuant to Probate Code §8120 and Local Rule 7.9.</p> <p>Note: If granted, the Court will set status hearings as follows:</p> <ul style="list-style-type: none"> Tuesday, June 7, 2016 for the filing of the Inventory and Appraisal Tuesday, April 4, 2017 for the filing of the first account or petition for final distribution <p>If the proper items are on file prior to the status dates pursuant to Local Rule 7.5, the status hearings may come off calendar.</p>	
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			W
<input type="checkbox"/>	Aff.Pub.			X
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
<p>Reviewed by: skc</p>				
<p>Reviewed on: 2/3/16</p>				
<p>Updates:</p>				
<p>Recommendation:</p>				
<p>File 27- Zamora</p>				

Petition for Appointment of Temporary Guardian of the Person

		See petition for details.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need proof of personal service of Notice of Hearing with a copy of the petition at least five court days prior to the hearing per Probate Code §2250(e) <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on: - Monica Corina Salinas (Mother) 2. If diligence is not found, need personal service on the father or consent or further diligence. 	
	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			
			Reviewed by: skc	
			Reviewed on: 2/3/16	
			Updates:	
			Recommendation:	
			File 29- Velasquez	