

1 Fred Loeffler (CONS/PE)

Case No. 13CEPR00655

Atty **Downing, Marcella (for Diane Huerta – daughter)**
 Atty **Rube, Melvin K. (for Conservatee)**
 Atty **Magness, Marcus D. (for Mick Loeffler – son)**
 Atty **Johnson, Summer A. (for Bruce Bickel – Temp. Cons. of the Estate/Petitioner)**
 Atty **Bagdasarian, Gary G. (for Linda Plitt – daughter)**

Petition for Approval of Settlement Agreement

		<p>BRUCE BICKEL, Temporary Conservator of the Estate, is Petitioner. Petitioner requests approval of the Settlement Agreement executed 05/17/14 [fully executed original attached to Petition as Exhibit A]. The Settlement Agreement is conditional upon confirmation by the Court and the Parties agreed that Petitioner would file a request for its approval. The Settlement Agreement provides:</p> <ol style="list-style-type: none"> No conservatorship shall be established for either Dr. Loeffler or Mrs. Loeffler. Provisions in the agreement provide for the orderly transition of the assets of the Temporary Conservatorship estates and The Loeffler Family Trust to the Successor Trustee of the Loeffler Family Trust. The Successor Trustee of the Loeffler Family Trust will be Comerica Bank. In the event of a vacancy, the Court shall appoint a professional licensed fiduciary or institutional fiduciary. The Loeffler Family Trust is to be modified to provide that it is irrevocable and cannot be revoked, amended or terminated, except as provided by Probate Code § 15403 et seq. The Trustee of the Loeffler Family Trust is to be modified to require annual accountings of its proceedings and the accountings shall be provided to Dr. and Mrs. Loeffler, Ms. Huerta, Ms. Plitt, Sam Loeffler and Mick Loeffler. The Trustee shall also provide quarterly reports to the persons listed above. Comerica Bank shall serve as the agent under a Limited Durable Power of Attorney with the limited authority to manage Dr. and Mrs. Loeffler's IRA accounts and the signing of any federal and state tax returns on their behalves. <p style="text-align: center;">Continued on Page 2</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 11/05/14</u></p> <p>Letters of Temporary Conservatorship of the Estate expire 02/13/15</p>
Cont. from 071514, 091714, 110514			
<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.		
<input type="checkbox"/>	Sp.Ntc.		
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<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		
		<p>Reviewed by: JF</p> <p>Reviewed on: 02/05/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1 – Loeffler</p>	

6. The Settlement Agreement provides for a visitation schedule in conformity with the Parties' previous agreement and as set forth in the Court's Order dated 04/02/14.
7. Mick Loeffler shall have the right to reside in Dr. and Mrs. Loeffler's personal residence. He shall pay for all utilities and minor repairs and yard maintenance. An amount as set forth in the Settlement Agreement shall be charged against Mick's distributive share of his parent's estate in lieu of a rental charge.
8. A neutral third party shall serve as the agent under Dr. and Mrs. Loeffler's Advance Health Care Directives.
9. There shall be no gifting of property, monetary, personal, or otherwise from Dr. and Mrs. Loeffler or the Trustee of the Loeffler Family Trust to the children of Dr. and Mrs. Loeffler.
10. All parties' attorney's fees and costs shall be paid by the Loeffler Family Trust.
11. All trial date and all hearings and motion dates in the Conservatorship matters and Trust action are to be vacated.

As set forth in Section 14.4 of the Settlement Agreement, all parties' attorney's fees and costs shall be paid by the Loeffler Family Trust account. As set forth in the Settlement Agreement and the Court's order of 10/31/13, no assets can be distributed from the Loeffler Family Trust without prior Court authorization. The parties submitted invoices in support of their request for payment/reimbursement of the following amounts from the Loeffler Family Trust:

1. Mick Loeffler – outstanding balance to Gilmore, Wood, Vinnard & Magness: \$16,874.13; reimbursement to Mick Loeffler for attorney's fees and costs: \$57,801.55;
2. Dr. and Mrs. Loeffler – outstanding balance to Melvin Rube through 05/31/14: \$17,697.46;
3. Diane Huerta and Linda Plitt (through 05/08/14) – outstanding balance to Howk & Downing: \$108,188.67; reimbursement to Diane Huerta for mediation expenses: \$1,937.50; and
4. Linda Plitt – outstanding balance to Gary Bagdasarian: \$6,431.30; reimbursement to Linda Plitt for attorney's fees and costs: \$6,335.00.

A duplicate request for approval of payment of attorney's fees and costs is made in the Petition for Approval of Settlement Agreement in the Conservatorship matter of Mrs. Loeffler, however only one payment of the above fees is requested.

Petitioner prays for an Order:

1. Approving the Settlement Agreement;
2. Authorizing and directing Mr. Bickel as temporary Trustee of the Loeffler Family Trust to make the following payments from the RBC Brokerage Account no. xxx-x314, titled in the name of the Fred and Kathleen Loeffler Trust:
 - a. To Gilmore, Wood, Vinnard & Magness the amount of \$16,874.13;
 - b. To Mick Loeffler the amount of \$57,801.55;
 - c. To Melvin Rube the amount of \$17,697.43;
 - d. To Linda Plitt the amount of \$6,335.00;
 - e. To Howk & Downing the amount of \$108,188.67;
 - f. To Diane Huerta the amount of \$1,937.50;
 - g. To Gary Bagdasarian the amount of \$6,431.30.
3. Any such other orders as the Court deems appropriate.

Continued on Page 3

Fred Loeffler's Objection to Petition for Approval of Settlement Agreement filed 11/04/14 at 3:13pm states (in summary): The parties attended a second mediation with Judge Howard Broadman (Ret.) on 10/24/14 but an agreement was not reached on that date and these matters remain unresolved. Objector objects to the approval of the Settlement Agreement reached 05/17/14 due to the following:

1. Objector's position is that both Fred and Kathleen Loeffler are competent and that any agreements entered into between the parties must be agreed to and signed by Fred as well as Kathleen.
2. The Settlement Agreement signed 05/17/14 was not signed by Fred Loeffler, but was instead signed by Bruce Bickel on behalf of Fred. Objector contends that Mr. Bickel' did not have authority to sign on Fred's behalf because the Settlement Agreement proposes to make modifications to the Loeffler's Trust, for which Mr. Bickel must petition the court for approval. Objector states that if such a petition for modification of the trust were filed, Objector would oppose it as they contend that Fred remains competent and that he must personally approve and sign any subsequent settlement agreements that may be entered into between the parties, especially if any of those agreements require the Loeffler's to make modifications to their Trust.
3. The Loeffler's contend that the provisions of the Settlement Agreement which require them to modify terms of their Trust are unenforceable.
4. The Loeffler's also contend that the provisions regarding a visitation schedule among their children is unenforceable, unrealistic and burdensome.
5. The Settlement Agreement also provides that a third party will be appointed as agent for medical decisions under their Advance Health Care Directives. The Loeffler's contend that it should be their decisions as to who they appoint to make these decisions and that their children should not have any power to decide who serves as their agents for making healthcare decisions.

In conclusion, Fred did not sign the Settlement Agreement and accordingly, he cannot be bound by its terms. Further, the Settlement Agreement includes provisions that are unenforceable. Fred respectfully requests that the Court deny the Petition for Approval of Settlement Agreement.

Michael "Mick" Loeffler's Opposition to Petition for Approval of Settlement Agreement filed 11/04/14 at 2:43pm also contends that the Settlement Agreement is not valid because it was not signed by Fred. Mick's Opposition further contends that the Settlement Agreement does not reflect his parents' wishes. He states that he believes his parents are competent and able to express their wishes as to the handling of their estates. He respectfully requests that the Court deny the Petition for Approval of the Settlement Agreement.

Diane Huerta's Response and Objection to Fred O. Loeffler's Objection to Petition for Approval of Settlement Agreement filed 11/04/14 states that she objects to Objector's attempt to have the Petition to Approve Settlement Agreement heard and decided without proper notice and without affording Diane the reasonable opportunity to respond to the Objector's arguments and present legal authorities supporting the Conservator's Petition to Approve the Settlement Agreement.

Under the circumstances, Ms. Huerta also believes that, except for payment of fees and costs owed, the Court should reserve deciding the matters raised in the Petition to Approve First and Final Account and states that without the Conservator's services and the protection of this Court that the Loeffler's estate and trust assets are at risk.

2 Kathleen Loeffler (CONS/PE)

Case No. 13CEPR00656

Atty Downing, Marcella (for Diane Huerta – daughter/Petitioner)
 Atty Rube, Melvin K. (for Conservatee)
 Atty Magness, Marcus D. (for Mick Loeffler – son/Objector)
 Atty Johnson, Summer A. (for Bruce Bickel – Temp. Cons. of the Estate/Petitioner)
 Atty Bagdasarian, Gary G. (for Linda Plitt – daughter/Petitioner)

Petition for Approval of Settlement Agreement

		<p>BRUCE BICKEL, Temporary Conservator of the Estate, is Petitioner.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
		<p>Petitioner requests approval of the Settlement Agreement executed 05/17/14 [fully executed original attached to Petition as Exhibit A]. The Settlement Agreement is conditional upon confirmation by the Court and the Parties agreed that Petitioner would file a request for its approval.</p>	<p>CONTINUED FROM <u>11/05/14</u></p>
<p>Cont. from 071514, 091714, 110514</p>			
	Aff.Sub.Wit.	<p>The Settlement Agreement provides:</p>	<p>Letters of Temporary Conservatorship of the Estate expire 02/13/15</p>
✓	Verified		
	Inventory	<p>12. No conservatorship shall be established for either Dr. Loeffler or Mrs. Loeffler. Provisions in the agreement provide for the orderly transition of the assets of the Temporary Conservatorship estates and The Loeffler Family Trust to the Successor Trustee of the Loeffler Family Trust.</p>	
	PTC		
	Not.Cred.	<p>13. The Successor Trustee of the Loeffler Family Trust will be Comerica Bank. In the event of a vacancy, the Court shall appoint a professional licensed fiduciary or institutional fiduciary.</p>	
✓	Notice of Hrg		
✓	Aff.Mail	<p>14. The Loeffler Family Trust is to be modified to provide that it is irrevocable and cannot be revoked, amended or terminated, except as provided by Probate Code § 15403 et seq.</p>	
	Aff.Pub.		
	Sp.Ntc.	<p>15. The Trustee of the Loeffler Family Trust is to be modified to require annual accountings of its proceedings and the accountings shall be provided to Dr. and Mrs. Loeffler, Ms. Huerta, Ms. Plitt, Sam Loeffler and Mick Loeffler. The Trustee shall also provide quarterly reports to the persons listed above.</p>	
	Pers.Serv.		
	Conf. Screen	<p>16. Comerica Bank shall serve as the agent under a Limited Durable Power of Attorney with the limited authority to manage Dr. and Mrs. Loeffler's IRA accounts and the signing of any federal and state tax returns on their behalves.</p>	
	Letters		
	Duties/Supp	<p>Continued on Page 2</p>	<p>Reviewed by: JF</p>
	Objections		
	Video Receipt		<p>Reviewed on: 02/05/15</p>
	CI Report		
	9202		<p>Updates:</p>
✓	Order		
	Aff. Posting		<p>Recommendation:</p>
	Status Rpt		
	UCCJEA		<p>File 2 – Loeffler</p>
	Citation		
	FTB Notice		

17. The Settlement Agreement provides for a visitation schedule in conformity with the Parties' previous agreement and as set forth in the Court's Order dated 04/02/14.
18. Mick Loeffler shall have the right to reside in Dr. and Mrs. Loeffler's personal residence. He shall pay for all utilities and minor repairs and yard maintenance. An amount as set forth in the Settlement Agreement shall be charged against Mick's distributive share of his parent's estate in lieu of a rental charge.
19. A neutral third party shall serve as the agent under Dr. and Mrs. Loeffler's Advance Health Care Directives.
20. There shall be no gifting of property, monetary, personal, or otherwise from Dr. and Mrs. Loeffler or the Trustee of the Loeffler Family Trust to the children of Dr. and Mrs. Loeffler.
21. All parties' attorney's fees and costs shall be paid by the Loeffler Family Trust.
22. All trial date and all hearings and motion dates in the Conservatorship matters and Trust action are to be vacated.

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 - m. To Diane Huerta the amount of \$1,937.50;
 - n. To Gary Bagdasarian the amount of \$6,431.30.
6. Any such other orders as the Court deems appropriate.

Continued on Page 3

Kathleen Loeffler's Objection to Petition for Approval of Settlement Agreement filed 11/04/14 at 3:13pm states (in summary): The parties attended a second mediation with Judge Howard Broadman (Ret.) on 10/24/14 but an agreement was not reached on that date and these matters remain unresolved. Objector objects to the approval of the Settlement Agreement reached 05/17/14 due to the following:

6. Objector's position is that both Fred and Kathleen Loeffler are competent and that any agreements entered into between the parties must be agreed to and signed by Fred as well as Kathleen.
7. The Settlement Agreement signed 05/17/14 was not signed by Fred Loeffler, but was instead signed by Bruce Bickel on behalf of Fred. Objector contends that Mr. Bickel' did not have authority to sign on Fred's behalf because the Settlement Agreement proposes to make modifications to the Loeffler's Trust, for which Mr. Bickel must petition the court for approval. Objector states that if such a petition for modification of the trust were filed, Objector would oppose it as they contend that Fred remains competent and that he must personally approve and sign any subsequent settlement agreements that may be entered into between the parties, especially if any of those agreements require the Loeffler's to make modifications to their Trust.
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9. The Loeffler's also contend that the provisions regarding a visitation schedule among their children is unenforceable, unrealistic and burdensome.
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In conclusion, Fred did not sign the Settlement Agreement and accordingly, he cannot be bound by its terms. Further, the Settlement Agreement includes provisions that are unenforceable. Fred respectfully requests that the Court deny the Petition for Approval of Settlement Agreement.

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Diane Huerta's Response and Objection to Kathleen D. Loeffler's Objection to Petition for Approval of Settlement Agreement filed 11/04/14 states that she objects to Objector's attempt to have the Petition to Approve Settlement Agreement heard and decided without proper notice and without affording Diane the reasonable opportunity to respond to the Objector's arguments and present legal authorities supporting the Conservator's Petition to Approve the Settlement Agreement.

Under the circumstances, Ms. Huerta also believes that, except for payment of fees and costs owed, the Court should reserve deciding the matters raised in the Petition to Approve First and Final Account and states that without the Conservator's services and the protection of this Court that the Loeffler's estate and trust assets are at risk.

3 Loeffler Family Trust

Case No. 13CEPR00736

Atty Downing, Marcella and McLaughlin, William T, II (for Diane Huerta – daughter)
Atty Johnson, Summer A. (for Bruce Bickel – Conservator/Petitioner)
Atty Bagdasarian, Gary G. (for Linda Plitt – daughter)
Atty Jenkins, Shani D (for Mick Loeffler – son)
Atty Farley, Michael L. and Barkinskaya, Jennie (for Fred and Kathleen Loeffler – Trustors)

Petition for to Determine the Validity of the Trust Modifying the Trust, Removing Trustees, Appointing Trustees Instructing the Trustee, Compelling Redress of Breach of Trust, and Preliminary Injunction Prohibition Further Distributions to Mick Loeffler

		DIANE HUERTA and LINDA PLITT , daughters, are Petitioners.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM</u> <u>11/05/14</u></p> <p>1. The Petition does not state the names of the persons entitled to notice of as required Pursuant to Probate Code § 17201. Note: Fred and Kathleen Loeffler were personally served with the Notice of Hearing and a copy of the Petition and several other people were served by mail. The Examiner is unable to determine whether everyone entitled to notice has received notice due to that information not being stated in the petition.</p> <p>2. Need Order.</p>
		Petitioners state:	
Cont. from 102213, 120313, 011414, 081214, 091714, 110514		1. Dr. Fred Otto Loeffler and Kathleen Loeffler are the Trustor's of THE LOEFFLER FAMILY TRUST .	
	Aff.Sub.Wit.	2. Petitioners were appointed as temporary conservators of the Person of their parents, Dr. Fred Otto Loeffler and Kathleen Loeffler.	
✓	Verified	3. Bruce Bickel is the currently acting temporary conservator of the estates of both Dr. Fred Otto Loeffler and Kathleen Loeffler.	
	Inventory	4. The principal place of administration of the Trust is Fresno County.	
	PTC	5. Petitioners allege that Dr. and Mrs. Loeffler (hereinafter "the Loefflers") lack capacity to resist undue influence and to protect their assets for their own benefit. This case and the conservatorship cases are inextricably linked and Petitioners request that the Court take Judicial Notice of the Conservatorship proceedings and all of the filings in those matters.	
	Not.Cred.	6. The Loefflers have 4 children, Petitioners, Diane Huerta and Linda Plitt and Samuel Loeffler (hereinafter "Sam") and Michael Loeffler (hereinafter "Mick"). Linda and Diane are also successor trustee and beneficiaries under all of the various trusts which have been created by the Trustors over the years and therefore having standing to bring this action before the Court.	
✓	Notice of Hrg	7. Petitioners believe that many trusts have been made and revised by the Loefflers.	
✓	Aff.Mail	Continued on Page 2	
	Aff.Pub.		
	Sp.Ntc.		
✓	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
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	9202		
	Order	x	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
		Reviewed by: JF	
		Reviewed on: 02/05/15	
		Updates:	
		Recommendation:	
		File 3 – Loeffler	

8. The first Declaration of Trust was dated 08/01/72 and amended on 05/12/82 and again on 05/21/91. The trust was then restated on 02/04/01. In the restated trust, the successor disability trustees were the spouse, then Diane, then Sam and the successor death trustee were the spouse, then Sam. The 2001 trust was amended in 2003 to replace Sam with Mick as successor disability and death trustee.
9. On 12/21/06, the trust was entirely restated once again. In this restatement, under the disability provisions of the trust, a co-trustee position was established with the non-incapacitated spouse serving with a co-trustee during any period of incapacity by one of the trustors. The succession of those to serve as both successor disability and successor death trustees was Diane, then Mick, then Linda, then Sam. If the remaining spouse was unable to service, the co-trustee would serve alone.
10. Subsequently, another attorney was contacted and yet another trust was created by attorney Kevin Gunner. Mediation was held and pursuant to a mediated agreement, all trustees stepped town and Bruce Bickel, a professional fiduciary, was appointed as trustee of yet another revised trust. The trust created by Kevin Gunner was titled "The Second Amendment and Full Restatement of the Loeffler Family Trust dated 08/01/72" was signed October 18, 2011.
11. Finally, yet another trust amendment entitled "The First Amendment to the Second Amendment and Full Restatement of the Loeffler Family Trust" was signed on 03/01/12.
12. On 05/15/12, Bruce Bickel stepped down as trustee of the trust at the request of Mrs. Loeffler who admitted to him that she did not want him to step down but was asking him step down at her son, Mick's insistence.

Background Leading to Current Claims for Relief:

1. On or about March 2008, Mick was evicted from the home he shared with his girlfriend and moved into the Loeffler's home purportedly to stay for a short time until he could procure employment allowing him to move out of the Loeffler's home.
2. In approximately July 2011, Dr. Loeffler fell and required in-home care. Mick reduced the caregiver hours to the point of being useless and insisted Dr. Loeffler rely solely on Mick, further isolating the couple. With Dr. Loeffler unable to assist himself, much less others, this left Mrs. Loeffler to rely solely on Mick. When asked if they could help, the other three children were told she "didn't think it was a good idea". Towards the end of July 2011, Dr. Loeffler was moved to a skilled nursing home by Diane Huerta to protect him from Mick's unpredictable verbal tirades and to provide the necessary care that was not being provided at home.
3. In approximately October 2011, Mick had all of the locks changed on their parents' home and refused to give any copies of the keys to any of the other children. Prior to this time, all of the children had been free to come and go in their parents' home.
4. From this point on, Dr. and Mrs. Loeffler were in an atmosphere which best could be described as a siege. When the other children were admitted to the home, they witnessed significant verbal abuse, hording, and evidence of substantial use of pain killers by Mick Loeffler. Dr. and Mrs. Loeffler were subjected to ongoing rants replete with obscenities, were taken from professional to professional in an attempt to persuade Dr. and Mrs. Loeffler to change their estate plan, ultimately giving Mick Loeffler complete control over their funds, healthcare and changing the Testator's ultimate gifting plan during life and after death.
5. Knowing Mick had a history of violent behavior and a previous domestic abuse restraining order had been filed against him, the other children were concerned any action to protect their parents might result in harm to their parents or themselves. Hence, they chose to mediate what had, at this point, become seen to be a crisis. This resulted in the drafting of yet another trust.

Continued on Page 3

6. In February 2012, Mrs. Loeffler chose to move out of the home to an independent living apartment adjoining Dr. Loeffler's skilled nursing placement.
7. This did not end Mick's ongoing attempts to control his parents. Mick attempted to convince the facility he was the only one to make decisions for Dr. and Mrs. Loeffler's healthcare decisions, when in fact, Diane, held the power of attorney for healthcare.
8. Mick also went from attorney to attorney attempting to get the healthcare power of attorney, durable power of attorney, and the trust changed to put him in control of each instrument.
9. In the meantime, Mick was living rent free in the Loeffler's home and convinced Mrs. Loeffler she could only rely on him (Mick) for food, transportation, advice, safety, etc. and that all of the other family members, friends, advisors, etc. were not to be trusted.
10. Although mediation was attempted and although there appeared to be an agreement, the last amendment represents evidence that the mediation has failed and of further undue influence exerted on the Loefflers.

First Claim for Relief – Determining the Validity of the Trust or Modifying the Trust

1. Petitioners request the Court find that with the establishment of the conservatorships of the Loefflers, any Durable Power of Attorney which may exist is now void and there is to be no amendment or modification of the trust without prior court approval.
2. In the alternative, Petitioners request to modify Article II(B)(2) of the Trust to state, upon the finding that the Trustor lacks capacity, Article II(B)(2) is void. Petitioner submit that it is reasonably necessary for the protection of the interests of the trustee or beneficiary to insure no additional revisions are made to this trust and the trust assets are protected removing the possibility the trust might be revised to allow gifting of trust assets prior to the death of both Trustors. As indicated in this Petition, there have been an extraordinary number of changes to this trust and it is reasonable to believe that at least the last two revisions were more likely than not made as a result of the exertion of undue influence on the Trustors by Mick Loeffler.

Second Claim for Relief – Removing Trustees

1. Article II(E) of the Trust entitled Successor Trustee, provides in relevant part: "Upon the death, resignation, removal or inability to act of Bruce D. Bickel, then in such event, Fred O. Loeffler and Kathleen Loeffler shall become Co-Trustees of said trust. Upon the death, resignation, removal or inability to act of Fred O. Loeffler or Kathleen D. Loeffler, then in such event, the remaining individual shall become sole trustee hereunder. Upon the death, resignation, removal or inability to act of Fred O. Loeffler and Kathleen D. Loeffler, then in such event, a Professional Licensed Fiduciary, to be appointed by Trustors' son, Mick G. Loeffler, shall serve in this capacity. In the event Mick G. Loeffler is unable or unwilling to appoint a professional licensed fiduciary to serve in this capacity, then in such event, the adult children of Trustors, by majority vote, shall so select a professional licensed fiduciary to serve in this capacity."
2. Petitioners request that the Court remove Fred O. Loeffler and Kathleen D. Loeffler as trustees as they are no longer able to serve in that capacity as they are now conserved under a temporary conservatorship. Petitioners believe both of them lack capacity to act in their own best interest and are subject to undue influence. **Examiners Note: The temporary conservatorship of the Person of both Fred and Kathleen expired on 08/29/13. Bruce Bickel was re-appointed as temporary conservator of the estate of both Fred and Kathleen on 09/25/13 and is the currently acting temporary conservator of the estate.**
3. Petitioners also ask that Mick Loeffler be removed from any position in which he may choose a professional fiduciary or to act as trustee or personal representative. Mick has demonstrated a history of abusing any power left in his hands and it is in the interest of Dr. and Mrs. Loeffler for their estate plan to remain unchanged and to have a professional fiduciary named without Mick's attempt to control that process to his benefit.

Third Claim for Relief – Appointing Trustees

1. With the removal of the Loefflers as trustees, a trustee will be required and will need to be appointed in order to appoint a professional fiduciary to act as the Trustee of the Trust. Given the indications of undue influence exerted on the prior trustees, Court supervision is needed to protect the trust assets and those serving as trustees or conservators.
2. Petitioners request the Court appoint both of them in conjunction with Samuel Loeffler, Dr. and Mrs. Loeffler's remaining children, to fulfill the successor trustee provision to appoint a professional fiduciary to administer the trust as provided under Article II(E) and designate that the professional fiduciary named will also serve as conservator of the estate should one be appointed.

Fourth Claim for Relief – Instructing the Trustee and Compelling Redress of a Breach of Trust

1. Petitioners request the Court to either compel or instruct the trustee as allowed under Probate Code § 12700(b)(6) to hire a forensic accountant to audit the trust along with prior trusts and provide an accounting of the trust assets beginning January 1, 2008 to the present.
2. Petitioners assert trust funds have been diverted, gifted against the terms of the trust, and/or simply squandered. Mick Loeffler lives in the family home rent free and it is believed is paid for services either unrendered or overcharged. Petitioners believe and are prepared to show that social security checks which have previously been deposited directly into an account believed to be in the trust name are no longer being deposited to that account or any account they are aware of in the name of the Trust or the Trustors, individually.
3. Petitioners request that the court direct the trustee that upon any finding by the forensic accountant indicating funds have not been used for the benefit of the Trustors, the trustee be compelled to redress the breach, that the Court maintain jurisdiction over this case and case numbers 13CEPR00655 and 13CEPR00656, and that the Court maintain oversight of the administration of the trust.

Preliminary Injunction Prohibiting Further Disbursements to Mick Loeffler

1. Petitioners request that any person acting as trustee of the Trust or as the personal representative of Dr. and Mrs. Loeffler be enjoined from distributing any assets held in Trust to Mick Loeffler without further Court order.

Petitioners pray for an Order:

1. That the Court determine the validity of Article II(B)(2) of the Trust. Petitioners request the court find that with the establishment of the conservatorships any Durable General Power of Attorney which may exist is now void, and there is to be no amendment or modification of the trust without prior court approval, or in the alternative, that Article II(B)(2) be modified to state, upon the finding that either Trustor lacks capacity, Article II(B)(2) is void and the Trust may no longer be modified without prior court approval;
2. That the Court remove Fred O. Loeffler and Kathleen Loeffler and Mick Loeffler as Trustees of the Trust, remove Mick Loeffler from any position in which he may choose a professional fiduciary or to act as trustee or personal representative;
3. That the Court appoint Petitioners in conjunction with Samuel Loeffler to choose a professional fiduciary to act as the successor trustee of the trust as provide by the Trust;
4. That the Court designate that any trustee of the Trust which is appointed will also be named as the Conservator of the Estate if one is needed;
5. That the Court compel or instruct the trustee to hire a forensic accountant to audit the trust along with prior trusts and provide an accounting of the trust assets beginning with 01/01/08 to the present;
6. That the Court direct the trustee that upon any finding by the forensic accountant or any other party indicating funds have not been used for the benefit of the Trustors, the trustee be compelled to redress the breach;
7. That the Court maintain jurisdiction over this case and case numbers 13CEPR00655 and 13CEPR00656;
8. That the Court maintains oversight of the administration of the Trust; and
9. That the Court issue a preliminary injunction enjoining any person acting as trustee of the Trust or as the personal representative of Dr. and Mrs. Loeffler from distribution any assets held in the Trust to Mick Loeffler without further order of this Court.

