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

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

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

DOD: 05/01/11

Cont. from 112911, 013012

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

PUBLIC GUARDIAN, Conservator, is Petitioner.

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

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

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

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

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

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

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

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

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

State of California for reimbursement of Medi-Cal benefits - all remaining assets

Petitioner prays for an order:

1. Determining that the conservatorship terminated upon the death of the conservatee;
2. Approving, allowing and settling the final account and subsequent to final account;
3. Authorizing the Conservator and Attorney fees and commissions;
4. Authorizing payment of the bond fee;
5. Authorizing disbursement of remaining estate assets to the State of California for reimbursement of Medi-Cal benefits.

NEEDS/PROBLEMS/COMMENTS:

CONTINUED FROM 01/30/12

1. **Need revised order.**

Reviewed by: JF

Reviewed on: 02/28/12

Updates:

Recommendation:

File 1 - Franco

Dept. 303, 9:00 a.m. Monday, March 5, 2012

2 Betty LaHargoue (Trust) **Case No. 09CEPR01050**

Atty Sanoian, Joanne (for Sandra F. Edmiston and Sheridan Mae Rodkey – Trustees)

Atty Howk, Robert L. (for Peggy Walton – Contestant)

Status Conference

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

SANDRA EDMISTON and **SHERIDAN RODKEY,** as Trustees of the **BETTY LAHARGOUE LIVING TRUST** filed a **Petition for Instructions and Confirmation of Report of Trust Administration, First and Final Accounting, and Proposed Final Distribution of Trust Estate on 08/18/11** with a hearing set for 10/03/11.

Objections to Fiduciaries' Account and Request for Surcharge of Fiduciary and other Remedies filed 09/28/11 by PEGGY WALTON, contestant and trust beneficiary.

Minute Order from hearing on 10/03/11 set this matter for status and states: Mr. Matsumoto is appearing via conference call. The Court orders that there be no expenditures by the trust without a noticed hearing and order of the court. The Court advises counsel that it will entertain an order shortening time.

First Supplement to First and Final Account filed 10/04/11 by Trustees Sandra Edmiston and Sheridan Rodkey supplements the First and Final Account included in the Petition filed 08/18/11 without any change, modification, or amendment of any portion of that petition and sets forth the charges and credits the Trustees' were entitled to for the period of 07/12/11 – 08/11/11.

Minute Order from status hearing on 12/05/11 set this matter for a Status Conference and states: Parties wish to mediate. Russell Matsumoto states his clients have consented to his withdrawal and asks for a 60 day continuance for Sandra Edmiston to retain counsel (Ms. Rodkey wishes to resign). Nonetheless, Mr. Matsumoto agrees to resume as counsel if parties seek outside mediation. The Court relies on counsel as officers of the Court to meet appropriately and assist as needed. Counsel may contact the Court to resolve issues in lieu of a mediator i.e. parties may contact the Department for a Settlement Conference.

NEEDS/PROBLEMS/COMMENTS:

1. **Need status update.**

Reviewed by: JF

Reviewed on: 02/27/12

Updates:

Recommendation:

File 2 - LaHargoue

Dept. 303, 9:00 a.m. Monday, March 5, 2012

3 **Patricia Gail Jensen (Estate)** **Case No. 10CEPR00421**

Atty **Jensen, Tamila C. (Pro Per – Sister – Executor - Petitioner)**

Petition for Termination of Further Proceedings and Discharge of Personal Representative (Prob. C. 12251)

DOD: 4-23-10		
Cont. from 010912		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	W
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✓	**Letters**	8-11-10
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	**9202**	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	**FTB Notice**	

TAMILA C. JENSON, Sister and Executor without IAEA and without bond, is Petitioner.

Petitioner states the value of the estate was originally estimated at $10,000.00 and was believed to consist of a claim against the estate of her prior spouse. However, it appears that claim is not viable because of various counter claims raised by the executor of the prior spouse's estate, and the impracticality of proving any such claim, as both are now deceased.

Petitioner has diligently searched for assets but has failed to discover any property belonging to the estate that is subject to administration.

Petitioner prays for an order terminating further proceedings and discharging Petitioner as the personal representative.

NEEDS/PROBLEMS/COMMENTS:

Note: Petitioner/Executor is an attorney in Granada Hills, CA.

1. Need proposed order.

Reviewed by: skc

Reviewed on: 2-24-12

Updates:

Recommendation:

File 3 - Jensen

Dept. 303, 9:00 a.m. Monday, March 5, 2012

Charles E. Moore, Sr. DOD: 12-8-08		
Ellen Moore DOD: 11-12-03		
Cont. from 010912		
	Aff.Sub.Wit.	
✔	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✔	Notice of Hrg	
✔	Aff.Mail	W
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✔	Letters	11-10-10
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

CINDY MARIE MOORE HARVEY, Daughter and Executor with full IAEA without bond, is Petitioner.

Petitioner states Decedent and his wife were residents of South Carolina. Decedent's wife Ellen Moore owned a 7.66% interest in certain real property in Fresno, and after her death in 2003, her estate was probated in South Carolina. Decedent was the sole beneficiary and this asset was listed as an asset of her estate in the South Carolina probate. Decedent assumed the property had been conveyed and treated the property as his own, including obtaining rental income. He also specifically identified the property in his own will.

Petitioner recently discovered that no conveyance of title to the subject property was ever recorded in Fresno County; however, there can be no question that Charles E. Moore, Sr., was the legal owner and inherited it from Ellen Moore, and this it is properly part of his estate.

Petitioner states notice was provided to the living beneficiaries of both estates and provides authority including reference to Probate Code §§ 850-859, specifically 850(a)(2)(C)-(D) and 856, regarding satisfaction of the Court for conveyance or transfer. Petitioner states there is ample evidence here and the "evident purpose" of these statutes is to "effectuate the intent of the decedent." (*In re Estate of Young* (2008) 160 Cal.App.4th 62, 92.)

Petitioner requests an order confirming that title passed to Decedent by and through the Estate of Ellen Moore and is part of his estate.

NEEDS/PROBLEMS/COMMENTS:

Note: This is an ancillary proceeding concerning a 7.66% interest in certain real property in Fresno, CA. Decedent and his wife were residents of South Carolina.

Minute Order 1-9-12: Mr. Mcfarlane is appearing via conference call. Matter continued to 3-5-12.

As of 2-24-12, the following issues remain:

1. **Petitioner states this petition is brought pursuant to Probate Code §§ 850 and 17200(b), which indicates that a trust is involved.**

   Examiner also notes that the South Carolina Inventory and Appraisement form from Ellen Moore's probate (Exhibit D) states "BLACKSTONE REAL ESTATE PROPERTY *IN TRUST* FROM HER FATHER'S ESTATE." *[Emphasis added]*.

   Probate Code §17203(b) requires notice to any person whose right, title, or interest would be affected.

   Need clarification:

   - How is title of this interest in the real property currently held?

   - Is a trust involved, and are there any other parties whose interest in the subject property may be affected by this petition (such as Ellen Moore's relatives or other trust beneficiaries or owners of interest in the property)?

SEE PAGE 2

Reviewed by: skc	
Reviewed on: 2-24-12	
Updates:	
Recommendation:	
File 4 - Moore	

NEEDS/PROBLEMS/COMMENTS (Continued):

2. The Court may require clarification or authority for transfer of the subject property interest within this estate rather than an ancillary proceeding of Ellen Moore's estate with notice to *her* relatives/heirs.

Petitioner states the parties entitled to notice pursuant to Probate Code §17203(a) are Petitioner, Stanley Moore and Paul Moore, who are this decedent's children and Ellen Moore's step-children. This decedent treated the subject property as his own and specifically devises it to his children in equal shares.

However, Examiner notes that the South Carolina probate order lists two sons of Ellen Moore, Mark East and Reggie East, both of Fresno, who were not listed. Further, Ellen Moore's will intentionally made no provision for Stanley Moore and Paul Moore, and at this time, transfer to this decedent's estate would, in essence, effectuate transfer to parties that were specifically excluded.

Update: Notice of Hearing filed 2-2-12 shows service on Mark East and Reginald Bryan East.

3. Petitioner states the South Carolina probate included the subject property and refers to the Inventory and Appraisement. However, Examiner notes that the South Carolina I&A form *incorrectly* lists the subject property as an "*In-state*" property rather than an "*Out-of-state*" property.

Since Petitioner requests conveyance based on the inclusion of the real property in that 2003 South Carolina "Informal" probate, the Court may require authority regarding whether such inclusion was appropriate.

Examiner further notes that the South Carolina "Informal" probate appears to be verification-based only and does not appear to have admitted the will or required notice to her relatives at that time.

Therefore, the Court may require clarification and/or further notice.

5A **Sark-Daniel Trust Created 5-6-1990** **Case No. 11CEPR00982**

Atty **Marchini, Joseph M (of BMJ, for Daniel L. Serimian – Beneficiary – Petitioner)**
Atty **Salisch, Victoria J.(of Lang, Richert & Patch, for Leslie A. Morgan)**
Atty **Jones, Timothy (of Wanger Jones Helsey, PC, for Donald Serimian and David Serimian)**

Petition for Order for Accounting, Surcharge of Trustee, Removal of Trustee, and Instructions to Partition, Terminate and Distribute Trust Estate [Prob. C. 15403, 15642, 16420, 16440, 17200(a), 17200(b)(7)]

Sarkis Serimian
DOD: 5-6-1990

Lionel Serimian
DOD: 1-12-08

Cont. from 010312

	Aff.Sub.Wit.	
✔	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✔	Notice of Hrg	
✔	Aff.Mail	W
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

DANIEL L. SERIMIAN, Beneficiary, is Petitioner.

Petitioner states the Sark-Daniel Trust was created for the benefit of Petitioner under the will of Sarkis Serimian, which was recognized by the Court in its order for final distribution entered 7-10-1995 in 0419962-6.

DONALD M. SERIMIAN is the sole remaining trustee after the death of his brother, co-trustee **LIONEL M. SERIMIAN**.

Petitioner states the trust provides that should Donald M. Serimian no longer qualify as an acting trustee, his sons, **DAVID M. SERIMIAN** and **MARLON D. SERIMIAN**, along with Petitioner's sister **LESLIE A. (SERIMIAN) MORGAN** are nominated as co-trustees.

Petitioner states the trust provides that the trust shall terminate as of the latter of 12-31-05 or the date of death of the last to die of **LIONEL M. SERIMIAN** and **DONALD M. SERIMIAN** (the decedent's nephews and original co-trustees of this and the other trusts).

Petitioner states **LIONEL M. SERIMIAN** died 1-12-08, and the remaining sole trustee, **DONALD M. SERIMIAN**, suffered a stroke in or about 2010 which left him incapacitated and unable to qualify or serve as trustee. In addition, Petitioner states the trustee is in breach of his duties as trustee. The facts and specific duties violated by the now-incapacitated trustee, both independently and in collusion and concert with certain nominated successor co-trustee(s), and damages suffered, are set forth in a separate civil complaint (attached).

Petitioner states the trustee DONALD M. SERIMIAN and his son DAVID M. SERIMIAN, who has been acting as a de facto trustee, have unjustly enriched themselves and MARLON D. SERIMIAN, his other son.

Petitioner believes **DONALD M. SERIMIAN** is unfit to serve as trustee both as a result of his wrongful conduct and as a result of his incapacity due to the stroke he suffered in 2010. Under the terms of the trust, the duties of trustee would fall upon the aforementioned successors.

SEE PAGE 2

NEEDS/PROBLEMS/COMMENTS:

CONTINUED TO 6-26-12

(Pursuant to Request by Petitioner's Counsel)

Reviewed by: skc
Reviewed on: 12-15-11
Updates: 12-21-11
Recommendation:
File 5A – Sark-Daniel

Dept. 303, 9:00 a.m. Monday, March 5, 2012

PAGE 2 OF 3 - SUMMARY (Continued):

However, Petitioner states that the trust provides that in the event of disagreement between more than two acting co-trustees, discretion may be exercised by the majority.

Petitioner states this structure would give **DAVID M. SERIMIAN** and **MARLON D. SERIMIAN** (parties adverse to Petitioner) full control over the trust, given their two-thirds majority interest as successor co-trustees (over **LESLIE A. (SERIMIAN) MORGAN**, whose interests are not adverse to Petitioner's). As a result of the conduct alleged in the civil complaint, dissention and insurmountable ill-will have arisen between the parties.

Accordingly, Petitioner states it is in the best interest of the beneficiary(ies) that the Court terminate the trust and distribute its assets to Petitioner.

The trust contains real and personal property located in Fresno County, specifically a 25% undivided interest in APN 389-121-05 (Warehouse Property) that is used by the Serimian family in its farming business, and may contain other real and personal property.

Petitioner states DONALD M. SERIMIAN, while serving as trustee, misused and misappropriated assets and that both he and de facto trustee **DAVID M. SERIMIAN** have failed and continue to fail to provide full and sufficient information concerning administration of the trust and to account to Petitioner in violation of the duties imposed by Probate Code §16062(a).

Petitioner states that attorneys for Donald and David agreed to provide access to partial information; however, the information provided is limited and seriously deficient. Moreover, despite the fact that Petitioner made it clear that he wanted all records preserved, accountants reviewing the information on behalf of Petitioner were recently advised by the trustees' accountants that all supporting records for 2004 and 2005 have been destroyed. Petitioner states these records are critical because the civil complaint specifically alleges that in 2005, Donald Serimian engaged in serious defalcations and fraudulent conduct with regard to trust assets. Records for 2004 are relevant because they would help illustrate the state of affairs.

Petitioner states that prior to being advised of such destruction of records, the attorneys for trustee had indicated willingness to provide them. Petitioner therefore believes that the purported destruction occurred in an effort to hide the trustee's culpable conduct and with full knowledge of Petitioner's request to preserve.

Petitioner states that despite repeated oral and written requests, individually and through counsel, that trustee provide information relating to the trust assets, the requests have been refused in violation of Probate Code §§ 16160-16061 except as noted previously.

Petitioner requests the Court compel the trustee to provide a full accounting concerning the administration of the trust and its assets under Probate Code §§ 17200(a) and (b)(7).

Petitioner also states DONALD M. SERIMIAN as trustee should be surcharged in an amount equal to the aggregate of the following under Probate Code §§ 16420, 16440:

- Any loss or depreciation in value of the trust estate resulting from breach, with interest;
- Any profit made by the trustee through the breach, with interest;
- Any profit that would have accrued to the trust estate if the loss of profit is the result of the breach

Petitioner requests an award of attorneys' fees pursuant to any and all appropriate statutes and law, and to the extent this petition results in recovery of property which benefits all beneficiaries, Petitioner requests that the Court award attorneys' fees to Petitioner based on the so-called common fund and substantial benefit theories – reference: *Estate of Reade* (1948) 31 Cal.2d 669, 671-673 ["plaintiff who has succeeded in protecting, preserving or increasing a fund for the benefit of himself and others may be awarded compensation from the fund for the services of his attorney"].

Petitioner requests removal of the trustee for breaches of trust and other grounds pursuant to Probate Code §15642. Petitioner states the trustee is in breach and neither the trustee nor his sons are qualified to act, and in addition, the trustee is not competent to serve.

SEE PAGE 3

PAGE 3 OF 3 - SUMMARY (Continued):

Petitioner requests an order instructing distribution of the trust estate and terminating the trust pursuant to Probate Code §§ 15403 and 15409. Petitioner states that continuation of the trust is not necessary to carry out any material purpose of the trust, and five significant events or patterns of conduct warrant termination:

1. Lionel Serimian's death;
2. Donald M. Serimian's numerous breaches of trust, independently and in concert and collusion with his sons and successor co-trustees;
3. Donald M. Serimian's incapacity;
4. The dissention and ill-will among the parties; and
5. The tripartite co-trustee structure that would give control to parties adverse to Petitioner and lead to further erosion of the trust corpus.

Petitioner prays as follows:

1. **For an order compelling trustee Donald M. Serimian to report on matters concerning the administration of the trust and to account fully for all trust property;**
2. **For an order for surcharge of Donald M. Serimian;**
3. **For an order removing Donald M. Serimian as trustee of the trust;**
4. **For a finding that successor co-trustees David M. Serimian and Marlon D. Serimian are not qualified to act as co-trustees of the trust;**
5. **For an order vesting the trust property for the benefit of Petitioner Daniel L. Serimian;**
6. **For an order terminating the trust;**
7. **For an order instructing the trustee with regard to the proper distribution of trust assets;**
8. **For attorneys' fees and costs incurred or to be incurred by Petitioner; and**
9. **For such other orders as the court may deem just and proper.**

The attached complaint containing 24 allegations is titled:

DANIEL L. SERIMIAN and LESLIE A. MORGAN, in their individual and representative capacities for themselves and on behalf of D&L, Inc., a California corporation, AGNES SERIMIAN & SONS, SERIMCO RANCH, and MSDL SERIMIAN RANCH, Plaintiffs,

v.

DONALD M. SERIMIAN, individually and as trustee; DAVID M. SERIMIAN, individually and in his representative capacities; MARLON D. SERIMIAN; D&L, Inc., a California Corporation; AGNES SERIMIAN & SONS; SERIMCO RANCH, LLC; MCCLARTY FARMS, LLC; RAY MOLES; KRISTIE SERIMIAN; HANNAH SERIMIAN; BARBARA SERIMIAN; SAFECO TITLE INSURANCE COMPANY; WALTER M. HELM.; ELLEN ROSE HELMS; SECURITY TITLE INSURANCE COMPANY; LEON SERIMIAN; AMERICAN SECURITIES COMPANY, A CORPORATION; WELLS FARGO BANK, NATIONAL ASSOCIATION; CHICAGO TITLE INSURANCE COMPANY, A CALIFORNIA CORPORATION; and DOES 1 through 50, inclusive, Defendants.

Court records indicate case # 11CECG03770 has an upcoming hearing set for 3-5-12 in that case.

5B **Sark-Daniel Trust Created 5-6-1990** **Case No. 11CEPR00982**

Atty **Marchini, Joseph M**

Petition for Order for Accounting, Surcharge of Trustee, Removal of Trustee, and Instructions to Partition, Terminate and Distribute Trust Estate [Prob. C. 15403, 15642, 16420, 16440, 17200(a), 17200(b)(7)]

Age:			NEEDS/PROBLEMS/COMMENTS:
DOD:			**CONTINUED TO 6-26-12**
			(Pursuant to Request by Petitioner's Counsel)
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		Reviewed by:
	Status Rpt		Reviewed on:
	UCCJEA		Updates:
	Citation		Recommendation:
	FTB Notice		File 5B – Sark-Daniel

5B

Dept. 303, 9:00 a.m. Monday, March 5, 2012

6A **Daniel L. Serimian Trust 12-29-1978** **Case No. 11CEPR00983**

Atty Marchini, Joseph M (of BMJ, for Daniel L. Serimian – Beneficiary – Petitioner)
Atty Salisch, Victoria J.(of Lang, Richert & Patch, for Leslie A. Morgan)
Atty Jones, Timothy (of Wanger Jones Helsey, PC, for Donald Serimian and David Serimian)

Petition for Order for Accounting, Surcharge of Trustee, Removal of Trustee, and Instructions to Partition, Terminate and Distribute Trust Estate [Prob. C. 15403, 15642, 16420, 16440, 17200(a), 17200(b)(7)]

Sarkis Serimian
DOD: 5-6-1990

Lionel Serimian
DOD: 1-12-08

Cont. from 010312

	Aff.Sub.Wit.	
✔	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✔	Notice of Hrg	
✔	Aff.Mail	W
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

DANIEL L. SERIMIAN, beneficiary, is Petitioner.

Petitioner states on 12-29-1978, **DONALD M. SERIMIAN** and **LIONEL M. SERIMIAN** established an irrevocable trust for the benefit of Petitioner.

DONALD M. SERIMIAN is the sole remaining trustee after the death of his brother, co-trustee **LIONEL M. SERIMIAN.**

Petitioner states the trust provides that the trust shall terminate when both trustees shall for any reason fail to qualify or cease to act, and the entire estate as then constituted shall be distributed to the beneficiary.

Petitioner states **LIONEL M. SERIMIAN** died 1-12-08, and the remaining sole trustee, **DONALD M. SERIMIAN**, suffered a stroke in or about 2010 which left him incapacitated and unable to qualify or serve as trustee. In addition, Petitioner states the trustee is in breach of his duties as trustee. The facts and specific duties violated by the now-incapacitated trustee, both independently and in collusion and concert with certain nominated successor co-trustee(s), and damages suffered, are set forth in a separate civil complaint (attached).

Petitioner states the trustee DONALD M. SERIMIAN and his son DAVID M. SERIMIAN, who has been acting as a de facto trustee, have unjustly enriched themselves and MARLON D. SERIMIAN, his other son.

Petitioner believes **DONALD M. SERIMIAN** is unfit to serve as trustee both as a result of his wrongful conduct and as a result of his incapacity due to the stroke he suffered in 2010.

Accordingly, Petitioner states it is in the best interest of the beneficiary(ies) that the Court terminate the trust and distribute its assets to Petitioner.

The trust contains real and personal property located in Fresno County, specifically a 25% undivided interest in six parcels of land. Schedule A also listed $3,000.00 cash from Agnes Serimian and $3,000.00 cash from Sarkis Serimian.

Petitioner states DONALD M. SERIMIAN, while serving as trustee, misused and misappropriated assets and that both he and de facto trustee **DAVID M. SERIMIAN** have failed and continue to fail to provide full and sufficient information concerning administration of the trust and to account to Petitioner in violation of the duties imposed by Probate Code §16062(a).

SEE PAGE 2

NEEDS/PROBLEMS/ COMMENTS:

CONTINUED TO 6-26-12

(Pursuant to Request by Petitioner's Counsel)

Reviewed by: skc

Reviewed on: 12-15-11

Updates: 12-21-11

Recommendation:

File 6A - Serimian

Dept. 303, 9:00 a.m. Monday, March 5, 2012

PAGE 2 OF 2 - SUMMARY (Continued):

Petitioner states that attorneys for Donald and David agreed to provide access to partial information; however, the information provided is limited and seriously deficient. Moreover, despite the fact that Petitioner made it clear that he wanted all records preserved, accountants reviewing the information on behalf of Petitioner were recently advised by the trustees' accountants that all supporting records for 2004 and 2005 have been destroyed. Petitioner states these records are critical because the civil complaint specifically alleges that in 2005, Donald Serimian engaged in serious defalcations and fraudulent conduct with regard to trust assets. Records for 2004 are relevant because they would help illustrate the state of affairs.

Petitioner states that prior to being advised of such destruction of records, the attorneys for trustee had indicated willingness to provide them. Petitioner therefore believes that the purported destruction occurred in an effort to hide the trustee's culpable conduct and with full knowledge of Petitioner's request to preserve.

Petitioner states that despite repeated oral and written requests, individually and through counsel, that trustee provide information relating to the trust assets, the requests have been refused in violation of Probate Code §§ 16160-16061 except as noted previously.

Petitioner requests the Court compel the trustee to provide a full accounting concerning the administration of the trust and its assets under Probate Code §§ 17200(a) and (b)(7).

Petitioner also states DONALD M. SERIMIAN as trustee should be surcharged in an amount equal to the aggregate of the following under Probate Code §§ 16420, 16440:

- Any loss or depreciation in value of the trust estate resulting from breach, with interest;
- Any profit made by the trustee through the breach, with interest;
- Any profit that would have accrued to the trust estate if the loss of profit is the result of the breach

Petitioner requests an award of attorneys' fees pursuant to any and all appropriate statutes and law, and to the extent this petition results in recovery of property which benefits all beneficiaries, Petitioner requests that the Court award attorneys' fees to Petitioner based on the so-called common fund and substantial benefit theories – reference: *Estate of Reade* (1948) 31 Cal.2d 669, 671-673 ["plaintiff who has succeeded in protecting, preserving or increasing a fund for the benefit of himself and others may be awarded compensation from the fund for the services of his attorney"].

Petitioner requests removal of the trustee for breaches of trust and other grounds pursuant to Probate Code §15642. Petitioner states the trustee is in breach and neither the trustee nor his sons are qualified to act, and in addition, the trustee is not competent to serve.

Petitioner requests an order instructing distribution of the trust estate and terminating the trust pursuant to Probate Code §§ 15403 and 15409. Lionel Serimian's death coupled with Donald Serimian's incapacity, in addition to Donald Serimian's numerous breaches of trust, provide the legal grounds for terminating the trust.

Petitioner prays as follows:

1. **For an order compelling the trustee to report on matters concerning the administration of the trust and to account fully for all trust property;**
2. **For an order for surcharge of trustee Donald Serimian;**
3. **For an order removing Donald Serimian as trustee of the trust;**
4. **For an order vesting the trust property for the benefit of Petitioner Daniel L. Serimian;**
5. **For an order terminating the trust;**
6. **For an order instructing the trustee with regard to the proper distribution of trust assets;**
7. **For attorneys' fees and costs incurred or to be incurred by Petitioner; and**
8. **For such other orders as the court may deem just and proper.**

6B **Daniel L. Serimian Trust 12-29-1978** **Case No. 11CEPR00983**

Atty **Marchini, Joseph M**

Petition for Order for Accounting, Surcharge of Trustee, Removal of Trustee, and Instructions to Partition, Terminate and Distribute Trust Estate [Prob. C. 15403, 15642, 16420, 16440, 17200(a), 17200(b)(7)]

Age:			NEEDS/PROBLEMS/COMMENTS:
DOD:			**CONTINUED TO 6-26-12**
			(Pursuant to Request by Petitioner's Counsel)
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
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	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		Reviewed by:
	Status Rpt		Reviewed on:
	UCCJEA		Updates:
	Citation		Recommendation:
	FTB Notice		File 6B - Serimian

6B

Dept. 303, 9:00 a.m. Monday, March 5, 2012

7A **Leslie A. Serimian (Morgan) Trust 12-29-1978** **Case No. 11CEPR00984**

Atty Marchini, Joseph M (of BMJ, for Daniel L. Serimian – Beneficiary – Petitioner)
Atty Salisch, Victoria J.(of Lang, Richert & Patch, for Leslie A. Morgan)
Atty Jones, Timothy (of Wanger Jones Helsey, PC, for Donald Serimian and David Serimian)

Petition for Order for Accounting, Surcharge of Trustee, Removal of Trustee, and Instructions to Partition, Terminate and Distribute Trust Estate [Prob. C. 15403, 15642, 16420, 16440, 17200(a), 17200(b)(7)]

Sarkis Serimian
DOD: 5-6-1990

Lionel Serimian
DOD: 1-12-08

Cont. from 010312

	Aff.Sub.Wit.	
✔	Verified	
	Inventory	
	PTC	
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✔	Aff.Mail	W
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

LESLIE A. MORGAN (SERIMIAN), beneficiary, is Petitioner.

Petitioner states on 12-29-1978, **DONALD M. SERIMIAN** and **LIONEL M. SERIMIAN** established an irrevocable trust for the benefit of Petitioner.

DONALD M. SERIMIAN is the sole remaining trustee after the death of his brother, co-trustee **LIONEL M. SERIMIAN.**

Petitioner states the trust provides that the trust shall terminate when both trustees shall for any reason fail to qualify or cease to act, and the entire estate as then constituted shall be distributed to the beneficiary.

Petitioner states **LIONEL M. SERIMIAN** died 1-12-08, and the remaining sole trustee, **DONALD M. SERIMIAN**, suffered a stroke in or about 2010 which left him incapacitated and unable to qualify or serve as trustee. In addition, Petitioner states the trustee is in breach of his duties as trustee. The facts and specific duties violated by the now-incapacitated trustee, both independently and in collusion and concert with certain nominated successor co-trustee(s), and damages suffered, are set forth in a separate civil complaint (attached).

Petitioner states the trustee DONALD M. SERIMIAN and his son DAVID M. SERIMIAN, who has been acting as a de facto trustee, have unjustly enriched themselves and MARLON D. SERIMIAN, his other son.

Petitioner believes **DONALD M. SERIMIAN** is unfit to serve as trustee both as a result of his wrongful conduct and as a result of his incapacity due to the stroke he suffered in 2010.

Accordingly, Petitioner states it is in the best interest of the beneficiary(ies) that the Court terminate the trust and distribute its assets to Petitioner.

The trust contains real and personal property located in Fresno County, specifically a 25% undivided interest in six parcels of land. Schedule A also listed $3,000.00 cash from Agnes Serimian and $3,000.00 cash from Sarkis Serimian.

Petitioner states DONALD M. SERIMIAN, while serving as trustee, misused and misappropriated assets and that both he and de facto trustee **DAVID M. SERIMIAN** have failed and continue to fail to provide full and sufficient information concerning administration of the trust and to account to Petitioner in violation of the duties imposed by Probate Code §16062(a).

SEE PAGE 2

NEEDS/PROBLEMS/ COMMENTS:

CONTINUED TO 6-26-12

(Pursuant to Request by Petitioner's Counsel)

Reviewed by: skc

Reviewed on: 12-15-11

Updates: 12-21-11

Recommendation:

File 7A - Serimian

Dept. 303, 9:00 a.m. Monday, March 5, 2012

PAGE 2 OF 2 - SUMMARY (Continued):

Petitioner states that attorneys for Donald and David agreed to provide access to partial information; however, the information provided is limited and seriously deficient. Moreover, despite the fact that Petitioner made it clear that he wanted all records preserved, accountants reviewing the information on behalf of Petitioner were recently advised by the trustees' accountants that all supporting records for 2004 and 2005 have been destroyed. Petitioner states these records are critical because the civil complaint specifically alleges that in 2005, Donald Serimian engaged in serious defalcations and fraudulent conduct with regard to trust assets. Records for 2004 are relevant because they would help illustrate the state of affairs.

Petitioner states that prior to being advised of such destruction of records, the attorneys for trustee had indicated willingness to provide them. Petitioner therefore believes that the purported destruction occurred in an effort to hide the trustee's culpable conduct and with full knowledge of Petitioner's request to preserve.

Petitioner states that despite repeated oral and written requests, individually and through counsel, that trustee provide information relating to the trust assets, the requests have been refused in violation of Probate Code §§ 16160-16061 except as noted previously.

Petitioner requests the Court compel the trustee to provide a full accounting concerning the administration of the trust and its assets under Probate Code §§ 17200(a) and (b)(7).

Petitioner also states DONALD M. SERIMIAN as trustee should be surcharged in an amount equal to the aggregate of the following under Probate Code §§ 16420, 16440:

- Any loss or depreciation in value of the trust estate resulting from breach, with interest;
- Any profit made by the trustee through the breach, with interest;
- Any profit that would have accrued to the trust estate if the loss of profit is the result of the breach

Petitioner requests an award of attorneys' fees pursuant to any and all appropriate statutes and law, and to the extent this petition results in recovery of property which benefits all beneficiaries, Petitioner requests that the Court award attorneys' fees to Petitioner based on the so-called common fund and substantial benefit theories – reference: *Estate of Reade* (1948) 31 Cal.2d 669, 671-673 ["plaintiff who has succeeded in protecting, preserving or increasing a fund for the benefit of himself and others may be awarded compensation from the fund for the services of his attorney"].

Petitioner requests removal of the trustee for breaches of trust and other grounds pursuant to Probate Code §15642. Petitioner states the trustee is in breach and neither the trustee nor his sons are qualified to act, and in addition, the trustee is not competent to serve.

Petitioner requests an order instructing distribution of the trust estate and terminating the trust pursuant to Probate Code §§ 15403 and 15409. Lionel Serimian's death coupled with Donald Serimian's incapacity, in addition to Donald Serimian's numerous breaches of trust, provide the legal grounds for terminating the trust.

Petitioner prays as follows:

9. **For an order compelling the trustee to report on matters concerning the administration of the trust and to account fully for all trust property;**
10. **For an order for surcharge of trustee Donald Serimian;**
11. **For an order removing Donald Serimian as trustee of the trust;**
12. **For an order vesting the trust property for the benefit of Petitioner Leslie A. Morgan (Serimian);**
13. **For an order terminating the trust;**
14. **For an order instructing the trustee with regard to the proper distribution of trust assets;**
15. **For attorneys' fees and costs incurred or to be incurred by Petitioner; and**
16. **For such other orders as the court may deem just and proper.**

7B **Leslie A. Serimian (Morgan) Trust 12-29-1978** **Case No. 11CEPR00984**

Atty **Salish, Victoria J.**

Petition for Order for Accounting, Surcharge of Trustee, Removal of Trustee, and Instructions to Partition, Terminate and Distribute Trust Estate [Prob. C. 15403, 15642, 16420, 16440, 17200(a), 17200(b)(7)]

Age:			NEEDS/PROBLEMS/COMMENTS:
DOD:			**CONTINUED TO 6-26-12**
			(Pursuant to Request by Petitioner's Counsel)
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
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	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		Reviewed by:
	Status Rpt		Reviewed on:
	UCCJEA		Updates:
	Citation		Recommendation:
	FTB Notice		File 7B - Serimian

7B

Dept. 303, 9:00 a.m. Monday, March 5, 2012

8A **Sark-Leslie Trust Created 5-6-1990** **Case No. 11CEPR00985**

Atty Marchini, Joseph M (of BMJ, for Daniel L. Serimian – Beneficiary – Petitioner)
Atty Salisch, Victoria J.(of Lang, Richert & Patch, for Leslie A. Morgan)
Atty Jones, Timothy (of Wanger Jones Helsey, PC, for Donald Serimian and David Serimian)

Petition for Order for Accounting, Surcharge of Trustee, Removal of Trustee, and Instructions to Partition, Terminate, and Distribute Trust Estate [Prob. C. 15403, 15642, 16420, 16440, 17200(a), 17200(b)(7)]

Sarkis Serimian
DOD: 5-6-1990

Lionel Serimian
DOD: 1-12-08

Cont. from 010312

	Aff.Sub.Wit.	
✔	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✔	Notice of Hrg	
✔	Aff.Mail	W
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

LESLIE A. MORGAN (SERIMIAN) is Petitioner.

Petitioner states the Sark-Leslie Trust was created for the benefit of Petitioner under the will of Sarkis Serimian, which was recognized by the Court in its order for final distribution entered 7-10-1995 in 0419962-6.

DONALD M. SERIMIAN is the sole remaining trustee after the death of his brother, co-trustee **LIONEL M. SERIMIAN**.

Petitioner states the trust provides that should Donald M. Serimian no longer qualify as an acting trustee, his sons, **DAVID M. SERIMIAN** and **MARLON D. SERIMIAN**, along with Peittioner's brother **DANIEL L. SERIMIAN** are nominated as co-trustees.

Petitioner states the trust provides that the trust shall terminate as of the latter of 12-31-05 <u>or</u> the date of death of the last to die of **LIONEL M. SERIMIAN** and **DONALD M. SERIMIAN** (the decedent's nephews and original co-trustees of this and the other trusts).

Petitioner states **LIONEL M. SERIMIAN** died 1-12-08, and the remaining sole trustee, **DONALD M. SERIMIAN**, suffered a stroke in or about 2010 which left him incapacitated and unable to qualify or serve as trustee. In addition, Petitioner states the trustee is in breach of his duties as trustee. The facts and specific duties violated by the now-incapacitated trustee, both independently and in collusion and concert with certain nominated successor co-trustee(s), and damages suffered, are set forth in a separate civil complaint (attached).

Petitioner states the trustee DONALD M. SERIMIAN and his son DAVID M. SERIMIAN, who has been acting as a de facto trustee, have unjustly enriched themselves and MARLON D. SERIMIAN, his other son.

Petitioner believes **DONALD M. SERIMIAN** is unfit to serve as trustee both as a result of his wrongful conduct and as a result of his incapacity due to the stroke he suffered in 2010. Under the terms of the trust, the duties of trustee would fall upon the aforementioned successors.

<u>SEE PAGE 2</u>

NEEDS/PROBLEMS/COMMENTS:

<u>CONTINUED TO 6-26-12</u>

(Pursuant to Request by Petitioner's Counsel)

Reviewed by: skc
Reviewed on: 12-15-11
Updates: 12-21-11
Recommendation:
File 8A – Sark-Leslie

Dept. 303, 9:00 a.m. Monday, March 5, 2012

PAGE 2 OF 3 - SUMMARY (Continued):

However, Petitioner states that the trust provides that in the event of disagreement between more than two acting co-trustees, discretion may be exercised by the majority.

Petitioner states this structure would give **DAVID M. SERIMIAN** and **MARLON D. SERIMIAN** (parties adverse to Petitioner) full control over the trust, given their two-thirds majority interest as successor co-trustees (over **DANIEL M. SERIMIAN**, whose interests are not adverse to Petitioner's). As a result of the conduct alleged in the civil complaint, dissention and insurmountable ill-will have arisen between the parties.

Accordingly, Petitioner states it is in the best interest of the beneficiary(ies) that the Court terminate the trust and distribute its assets to Petitioner.

The trust contains real and personal property located in Fresno County, specifically a 25% undivided interest in APN 389-121-05 (Warehouse Property) that is used by the Serimian family in its farming business, and may contain other real and personal property.

Petitioner states DONALD M. SERIMIAN, while serving as trustee, misused and misappropriated assets and that both he and de facto trustee **DAVID M. SERIMIAN** have failed and continue to fial to provide full and sufficient information concerning administration of the trust and to account to Petitioner in violation of the duties imposed by Probate Code §16062(a).

Petitioner states that attorneys for Donald and David agreed to provide access to partial information; however, the information provided is limited and seriously deficient. Moreover, despite the fact that Petitioner made it clear that he wanted all records preserved, accountants reviewing the information on behalf of Petitioner were recently advised by the trustees' accountants that all supporting records for 2004 and 2005 have been destroyed. Petitioner states these records are critical because the civil complaint specifically alleges that in 2005, Donald Serimian engaged in serious defalcations and fraudulent conduct with regard to trust assets. Records for 2004 are relevant because they would help illustrate the state of affairs.

Petitioner states that prior to being advised of such destruction of records, the attorneys for trustee had indicated willingness to provide them. Petitioner therefore believes that the purported destruction occurred in an effort to hide the trustee's culpable conduct and with full knowledge of Petitioner's request to preserve.

Petitioner states that despite repeated oral and written requests, individually and through counsel, that trustee provide information relating to the trust assets, the requests have been refused in violation of Probate Code §§ 16160-16061 except as noted previously.

Petitioner requests the Court compel the trustee to provide a full accounting concerning the administration of the trust and its assets under Probate Code §§ 17200(a) and (b)(7).

Petitioner also states DONALD M. SERIMIAN as trustee and DAVID M. SERIMIAN as de facto trustee should be surcharged in an amount equal to the aggregate of the following under Probate Code §§ 16420, 16440:

- Any loss or depreciation in value of the trust estate resulting from breach, with interest;
- Any profit made by the trustee through the breach, with interest;
- Any profit that would have accrued to the trust estate if the loss of profit is the result of the breach

Petitioner requests an award of attorneys' fees pursuant to any and all appropriate statutes and law, and to the extent this petition results in recovery of property which benefits all beneficiaries, Petitioner requests that the Court award attorneys' fees to Petitioner based on the so-called common fund and substantial benefit theories – reference: *Estate of Reade* (1948) 31 Cal.2d 669, 671-673 ["plaintiff who has succeeded in protecting, preserving or increasing a fund for the benefit of himself and others may be awarded compensation from the fund for the services of his attorney"].

Petitioner requests removal of the trustees for breaches of trust and other grounds pursuant to Probate Code §15642. Petitioner states the trustee is in breach and neither the trustee nor his sons are qualified to act, and in addition, the trustee is not competent to serve.

SEE PAGE 3

PAGE 3 OF 3 - SUMMARY (Continued):

Petitioner requests an order instructing distribution of the trust estate and terminating the trust pursuant to Probate Code §§ 15403 and 15409. Petitioner states that continuation of the trust is not necessary to carry out any material purpose of the trust, and five significant events or patterns of conduct warrant termination:

6. Lionel Serimian's death;
7. Donald M. Serimian's numerous breaches of trust, independently and in concert and collusion with his sons and successor co-trustees;
8. Donald M. Serimian's incapacity;
9. The dissention and ill-will among the parties; and
10. The tripartite co-trustee structure that would give control to parties adverse to Petitioner and lead to further erosion of the trust corpus.

Petitioner prays as follows:

10. For an order compelling the trustee to report on matters concerning the administration of the trust and to account fully for all trust property;

11. For an order for surcharge of trustee Donald M. Serimian;

12. For an order removing Donald M. Serimian as trustee of the trust;

13. For a finding that successor co-trustees David M. Serimian and Marlon D. Serimian are not qualified to act as co-trustees of the trust;

14. For an order <u>partitioning</u> the trust estate and vesting the trust property for the benefit of Petitioner Leslie A. Morgan;

15. For an order terminating the trust;

16. For an order instructing the trustee with regard to the proper <u>division</u> of trust assets;

17. For attorneys' fees and costs incurred or to be incurred by Petitioner; and

18. For such other orders as the court may deem just and proper.

The attached complaint containing 24 allegations is titled:

DANIEL L. SERIMIAN and LESLIE A. MORGAN, in their individual and representative capacities for themselves and on behalf of D&L, Inc., a California corporation, AGNES SERIMIAN & SONS, SERIMCO RANCH, and MSDL SERIMIAN RANCH, Plaintiffs,

v.

DONALD M. SERIMIAN, individually and as trustee; DAVID M. SERIMIAN, individually and in his representative capacities; MARLON D. SERIMIAN; D&L, Inc., a California Corporation; AGNES SERIMIAN & SONS; SERIMCO RANCH, LLC; MCCLARTY FARMS, LLC; RAY MOLES; KRISTIE SERIMIAN; HANNAH SERIMIAN; BARBARA SERIMIAN; SAFECO TITLE INSURANCE COMPANY; WALTER M. HELM.; ELLEN ROSE HELMS; SECURITY TITLE INSURANCE COMPANY; LEON SERIMIAN; AMERICAN SECURITIES COMPANY, A CORPORATION; WELLS FARGO BANK, NATIONAL ASSOCIATION; CHICAGO TITLE INSURANCE COMPANY, A CALIFORNIA CORPORATION; and DOES 1 through 50, inclusive, Defendants.

Court records indicate case # 11CECG03770 has an upcoming hearing set for 3-5-12 in that case.

8B **Sark-Leslie Trust Created 5-6-1990** **Case No. 11CEPR00985**

Atty **Salish, Victoria J.**

Petition for Order for Accounting, Surcharge of Trustee, Removal of Trustee, and Instructions to Partition, Terminate, and Distribute Trust Estate [Prob. C. 15403, 15642, 16420, 16440, 17200(a), 17200(b)(7)]

Age:			NEEDS/PROBLEMS/COMMENTS:
DOD:			**CONTINUED TO 6-26-12**
			(Pursuant to Request by Petitioner's Counsel)
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	Aff.Sub.Wit.		
	Verified		
	Inventory		
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	Notice of Hrg		
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	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
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	Order		
	Aff. Posting		Reviewed by:
	Status Rpt		Reviewed on:
	UCCJEA		Updates:
	Citation		Recommendation:
	FTB Notice		File 8B – Sark-Leslie

8B

Dept. 303, 9:00 a.m. Monday, March 5, 2012

9A **Sark-Lionel Trust Created 7-10-1995** **Case No. 11CEPR00986**

Atty Marchini, Joseph M (of BMJ, for Daniel L. Serimian – Beneficiary – Petitioner)
Atty Salisch, Victoria J.(of Lang, Richert & Patch, for Leslie A. Morgan)
Atty Jones, Timothy (of Wanger Jones Helsey, PC, for Donald Serimian and David Serimian)

Petition for Order for Accounting, Surcharge of Trustee, Removal of Trustee and Instructions to Partition, Terminate and Distribute Trust Estate [Prob. C. 15403, 15642, 16420, 16440, 17200(a), 17200(b)(7)]

Sarkis Serimian
DOD: 5-6-1990

Lionel Serimian
DOD: 1-12-08

Cont. from 010312

	Aff.Sub.Wit.	
✔	Verified	
	Inventory	
	PTC	
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✔	Notice of Hrg	
✔	Aff.Mail	W
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	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

DANIEL L. SERIMIAN and LESLIE A. MORGAN, Beneficiaries, are Petitioners.

Petitioners state the Sark-Lionel Trust was created for the benefit of their father **LIONEL M. SERIMIAN** under the will of Sarkis Serimian, which was recognized by the Court in its order for final distribution entered 7-10-1995 in 0419962-6.

DONALD M. SERIMIAN is the sole remaining trustee after the death of his brother, co-trustee and beneficiary **LIONEL M. SERIMIAN**.

Petitioners state the trust provides that should Donald M. Serimian no longer qualify as an acting trustee, his sons, **DAVID M. SERIMIAN** and **MARLON D. SERIMIAN**, along with Petitioner's sister **LESLIE A. (SERIMIAN) MORGAN** are nominated as co-trustees.

Petitioners state the trust provides that the trust shall terminate as of the date of death of the beneficiary and assets be distributed to his issue, or their trusts, if in existence.

Petitioners state **LIONEL M. SERIMIAN** died 1-12-08, and the remaining sole trustee, **DONALD M. SERIMIAN**, suffered a stroke in or about 2010 which left him incapacitated and unable to qualify or serve as trustee. In addition, Petitioners state the trustee is in breach of his duties as trustee. The facts and specific duties violated by the now-incapacitated trustee, both independently and in collusion and concert with certain nominated successor co-trustee(s), and damages suffered, are set forth in a separate civil complaint (attached).

Specifically, Petitioners state that in addition to failing to terminate and distribute at Lionel's death, trustee DONALD M. SERIMIAN and his son DAVID M. SERIMIAN, who has been acting as a de facto trustee, have unjustly enriched themselves and MARLON D. SERIMIAN, his other son.

Petitioners believe **DONALD M. SERIMIAN** is unfit to serve as trustee both as a result of his wrongful conduct and as a result of his incapacity due to the stroke he suffered in 2010. Under the terms of the trust, the duties of trustee would fall upon the aforementioned successors.

SEE PAGE 2

NEEDS/PROBLEMS/ COMMENTS:

CONTINUED TO 6-26-12

(Pursuant to Request by Petitioner's Counsel)

Reviewed by: skc
Reviewed on: 12-15-11
Updates: 12-21-11
Recommendation:
File 9A – Sark-Lionel

Dept. 303, 9:00 a.m. Monday, March 5, 2012

PAGE 2 OF 3 - SUMMARY (Continued):

However, Petitioners state that the trust provides that in the event of disagreement between more than two acting co-trustees, discretion may be exercised by the majority.

Petitioners state this structure would give **DAVID M. SERIMIAN** and **MARLON D. SERIMIAN** (parties adverse to Petitioners) full control over the trust, given their two-thirds majority interest as successor co-trustees (over **LESLIE A. (SERIMIAN) MORGAN**, whose interests are not adverse to Petitioner Daniel's). As a result of the conduct alleged in the civil complaint, dissention and insurmountable ill-will have arisen between the parties.

Accordingly, Petitioners state it is in the best interest of the beneficiaries that the Court terminate the trust and distribute its assets to Petitioners. ***(Note: Although the Trust requires distribution to the beneficiaries' trusts, if in existence, Petitioners have concurrently brought petitions (Pages 2 and 5) to terminate those trusts. Here, Petitioners seek instructions regarding distrubtion.)***

The trust contains real and personal property located in Fresno County, specifically a 16.6667% undivided interest in four ranches and three other properties that are used by the Serimian family in its farming business, and may contain other real and personal property.

Petitioners state DONALD M. SERIMIAN, while serving as trustee, misused and misappropriated assets and that both he and de facto trustee **DAVID M. SERIMIAN** have failed and continue to fail to provide full and sufficient information concerning administration of the trust and to account to Petitioners in violation of the duties imposed by Probate Code §16062(a).

Petitioners state that attorneys for Donald and David agreed to provide access to partial information; however, the information provided is limited and seriously deficient. Moreover, despite the fact that Petitioners made it clear that they wanted all records preserved, accountants reviewing the information on behalf of Petitioners were recently advised by the trustees' accountants that all supporting records for 2004 and 2005 have been destroyed. Petitioners state these records are critical because the civil complaint specifically alleges that in 2005, Donald Serimian engaged in serious defalcations and fraudulent conduct with regard to trust assets. Records for 2004 are relevant because they would help illustrate the state of affairs.

Petitioners state that prior to being advised of such destruction of records, the attorneys for trustee had indicated willingness to provide them. Petitioners therefore believe that the purported destruction occurred in an effort to hide the trustee's culpable conduct and with full knowledge of Petitioners' request to preserve.

Petitioners state that despite repeated oral and written requests, individually and through counsel, that trustee provide information relating to the trust assets, the requests have been refused in violation of Probate Code §§ 16160-16061 except as noted previously.

Petitioners request the Court compel the trustee to provide a full accounting concerning the administration of the trust and its assets under Probate Code §§ 17200(a) and (b)(7).

Petitioners also state DONALD M. SERIMIAN as trustee should be surcharged in an amount equal to the aggregate of the following under Probate Code §§ 16420, 16440:

- Any loss or depreciation in value of the trust estate resulting from breach, with interest;
- Any profit made by the trustee through the breach, with interest;
- Any profit that would have accrued to the trust estate if the loss of profit is the result of the breach

Petitioners request an award of attorneys' fees pursuant to any and all appropriate statutes and law, and to the extent this petition results in recovery of property which benefits all beneficiaries, Petitioners request that the Court award attorneys' fees to Petitioners based on the so-called common fund and substantial benefit theories – reference: *Estate of Reade* (1948) 31 Cal.2d 669, 671-673 ["plaintiff who has succeeded in protecting, preserving or increasing a fund for the benefit of himself and others may be awarded compensation from the fund for the services of his attorney"].

Petitioners request removal of the trustee for breaches of trust and other grounds pursuant to Probate Code §15642. Petitioners state the trustee is in breach and neither the trustee nor his sons are qualified to act, and in addition, the trustee is not competent to serve.

SEE PAGE 3

PAGE 3 OF 3 - SUMMARY (Continued):

Petitioners request an order instructing distribution of the trust estate and terminating the trust pursuant to Probate Code §§ 15403 and 15409.

Although Lionel Serimian's death alone provides the legal basis for terminating the trust, Petitioners state four additional significant events or patterns of conduct further warrant termination:

11. Donald M. Serimian's numerous breaches of trust, independently and in concert and collusion with his sons and successor co-trustees;
12. Donald M. Serimian's incapacity;
13. The dissention and ill-will among the parties; and
14. The tripartite co-trustee structure that would give control to parties adverse to Petitioners and lead to further erosion of the trust corpus.

Petitioners pray as follows:

19. For an order compelling trustee Donald M. Serimian to report on matters concerning the administration of the trust and to account fully for all trust property;

20. For an order for surcharge of trustee Donald M. Serimian;

21. For an order removing Donald M. Serimian as trustee of the trust;

22. For a finding that successor co-trustees David M. Serimian and Marlon D. Serimian are not qualified to act as co-trustees of the trust;

23. For an order vesting the trust property for the benefit of Petitioners Daniel L. Serimian and Leslie A. Morgan;

24. For an order terminating the trust;

25. For an order instructing the trustee with regard to the proper distribution of trust assets;

26. For attorneys' fees and costs incurred or to be incurred by Petitioner; and

27. For such other orders as the court may deem just and proper.

The attached complaint containing 24 allegations is titled:

DANIEL L. SERIMIAN and LESLIE A. MORGAN, in their individual and representative capacities for themselves and on behalf of D&L, Inc., a California corporation, AGNES SERIMIAN & SONS, SERIMCO RANCH, and MSDL SERIMIAN RANCH, Plaintiffs,

v.

DONALD M. SERIMIAN, individually and as trustee; DAVID M. SERIMIAN, individually and in his representative capacities; MARLON D. SERIMIAN; D&L, Inc., a California Corporation; AGNES SERIMIAN & SONS; SERIMCO RANCH, LLC; MCCLARTY FARMS, LLC; RAY MOLES; KRISTIE SERIMIAN; HANNAH SERIMIAN; BARBARA SERIMIAN; SAFECO TITLE INSURANCE COMPANY; WALTER M. HELM.; ELLEN ROSE HELMS; SECURITY TITLE INSURANCE COMPANY; LEON SERIMIAN; AMERICAN SECURITIES COMPANY, A CORPORATION; WELLS FARGO BANK, NATIONAL ASSOCIATION; CHICAGO TITLE INSURANCE COMPANY, A CALIFORNIA CORPORATION; and DOES 1 through 50, inclusive, Defendants.

Court records indicate case # 11CECG03770 has an upcoming hearing set for 3-5-12 in that case.

9B **Sark-Lionel Trust Created 7-10-1995** **Case No. 11CEPR00986**

Atty **Marchini, Joseph M**

Petition for Order for Accounting, Surcharge of Trustee, Removal of Trustee and Instructions to Partition, Terminate and Distribute Trust Estate [Prob. C. 15403, 15642, 16420, 16440, 17200(a), 17200(b)(7)]

Age:			NEEDS/PROBLEMS/COMMENTS:
DOD:			**CONTINUED TO 6-26-12**
			(Pursuant to Request by Petitioner's Counsel)
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		Reviewed by:
	Status Rpt		Reviewed on:
	UCCJEA		Updates:
	Citation		Recommendation:
	FTB Notice		File 9B – Sark-Lionel

9B

Dept. 303, 9:00 a.m. Monday, March 5, 2012

10 Gwyneth Caitlyn Walzberg (GUARD/P) **Case No. 12CEPR00159**

Atty Shahbazian, Steven L. (for Pamela S. Lockie and Jeffrey D. Lockie – Petitioners)

Petition for Appointment of Temporary Guardianship of the Person

Age: 4		
DOB: 5-7-07		
	Aff.Sub.Wit.	
✔	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✔	**Conf. Screen**	
✔	**Letters**	
✔	**Duties/Supp**	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✔	**Order**	
	Aff. Posting	
	Status Rpt	
✔	**UCCJEA**	
	Citation	
	FTB Notice	

GENERAL HEARING 4-18-12

PAMELA S. LOCKIE and JEFFREY D. LOCKIE, Maternal Grandmother and Step-Grandfather, are Petitioners.

Father: **BENJAMIN MICHAEL WALZBERG**
Mother: **JESSICA LAUREN WALZBERG**

Paternal Grandfather: Michael G. Walzberg
Paternal Grandmother: Sandra Walzberg

Maternal Grandfather: Jim G. Perkins

Sibling: Dylan Kyle Perkins

Petitioners state the parents are substances abusers, generally opiate derivatives, including Oxycontin, Methadone, Opana, and Suboxone. The parents stated that they wanted to go to Arroyo Grande to "get clean: and left on 2-10-12. Gwyneth has been with Petitioners since 1-15-12.

The parents had been living in a rental home owned by Petitioner's mother for the past year, but are approx. $12,000.00 in arrears. As a result of their irresponsible, chaotic drug-impacted lifestyles, both parents are not capable of providing a proper, safe and caring home environment for Gwyneth.

The parents have stated that they wanted to leave California with Gwyneth and relocate somewhere else in the US for a fresh start to "get off drugs." Petitioner's state that at four years old, Gwyneth needs proper care and protection that her parents cannot provide.

NEEDS/PROBLEMS/COMMENTS:

1. **Need Notice of Hearing.**
2. **Need proof of personal service of Notice of Hearing with a copy of the temporary petition at least five court days prior to the hearing per Probate Code §2250(e) or consent and waiver of notice on:**
   - Benjamin Michael Walzberg (Father)
   - Jessica Lauren Walzberg (Mother)

Reviewed by: skc
Reviewed on: 2-24-12
Updates:
Recommendation:
File 10 - Walzberg

Dept. 303, 9:00 a.m. Monday, March 5, 2012

11 Stacy Lynn Moore (CONS/PE) **Case No. 0489148**

Atty Humpal, Leroy C (for Conservators Rosemarie Swearingen and Maile Moore)

Probate Status Hearing Re: Failure to File Annual or Biennial Account

Age: 36 years DOB: 4/19/1975	**ROSEMARIE A. SWEARINGEN** and **MAILE MOORE** were appointed co-Conservators of the person and estate on 12/20/1993. First account was due 12/20/1994. **Court Investigator JoAnn Morris' Report filed on 8/30/11**.	NEEDS/PROBLEMS/COMMENTS: 1. **Need current status report or first account.**
Cont. from 121211		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		Reviewed by: KT
Status Rpt		Reviewed on: 2/24/12
UCCJEA		Updates:
Citation		Recommendation:
FTB Notice		File 11 - Moore

12 **Jiro Kataoka (Estate)** **Case No. 08CEPR00101**

Atty **French, G. Dana (for Stanley Kataoka – Son)**

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

DOD: 9-21-06		
	Aff.Sub.Wit.	
	Verified	
✔	**Inventory**	
	PTC	
	Not.Cred.	
✔	**Notice of Hrg**	
✔	**Aff.Mail**	W
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
✔	**Status Rpt**	
	UCCJEA	
	Citation	
	FTB Notice	

MIARIYE KATAOKA, Spouse, was appointed Executor with Full IAEA without bond on 3-4-08. Letters issued on 12-6-11.

The Inventory and Appraisal was filed 7-26-11.

On 1-4-12, the Court set this status hearing for failure to file a first account or petition for final distribution.

Status Report filed 2-17-12 by STANLEY KATAOKA, Son, states that the Executor passed away on 12-26-11. The Decedent and his spouse were survived by four children: Stanley Kataoka, Myra Stackpole, Nora Juncal, and Mel Kataoka. Notice of this status hearing has been provided to all four.

STANLEY KATAOKA has filed a Petition for appointment as Executor that is set for hearing on 3-27-12.

Petitioner requests an Order approving the acts and transactions of the Executor and granting an extension of time to prepare the estate for closing and file a petition for final distribution.

NEEDS/PROBLEMS/COMMENTS:

STANLEY KATAOKA has filed a Petition for appointment as Executor that is set for hearing on 2-22-12.

Reviewed by: skc

Reviewed on: 2-24-12

Updates:

Recommendation:

File 12 - Kataoka

Dept. 303, 9:00 a.m. Monday, March 5, 2012

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

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

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

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 7/2/08	**STEVEN GAUCIN**, son, was appointed Administrator of the Estate with full IAEA and without bond on 9/16/08. Letters did not issue. **At a status hearing on 9/29/11 for failure** to file the inventory and appraisal and first account or petition for final distribution the court appointed the Public Administrator to represent the Estate and set this status hearing for the filing of the inventory and appraisal.	**NEEDS/PROBLEMS/COMMENTS:** **<u>OFF CALENDAR.</u> Inventory and appraisal was filed on 1/31/12.**
Cont. from 013012		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		**Reviewed by: KT**
Status Rpt		**Reviewed on: 2/24/12**
UCCJEA		**Updates:**
Citation		**Recommendation:**
FTB Notice		**File 13 - Gaucin**

14 **Guerrini John Bucci (Estate)** **Case No. 09CEPR00510**

Atty **Sanoian, Joanne (for Administrator Rocky Bucci)**

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

DOD: 6/5/2009	**ROCKY BUCCI** was appointed as Administrator with full IAEA and without bond on 7/28/09. I & A filed on 8/5/2009 showing an estate valued at $64,650.00. First account or petition for final distribution was due 7/28/2010. This status hearing was set for the filing of the first account or petition for final distribution.	**NEEDS/PROBLEMS/COMMENTS:** **1. Need current status report, first account or petition for final distribution.**
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		**Reviewed by: KT**
Status Rpt		**Reviewed on: 2/24/12**
UCCJEA		**Updates:**
Citation		**Recommendation:**
FTB Notice		**File 14 - Bucci**

Dept. 303, 9:00 a.m. Monday, March 5, 2012

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

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

Atty Turner, Naomi (pro per – former trustee)

Probate Status Hearing Re: Accounting Prepared by Naomi Turner

DOD: 05/25/10		
Cont. from 013012		
	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	

PEGGY MORSE HOLLAND, is the acting successor trustee of the **SHIRLEY A. PRATT LIVING TRUST,** dated 03/19/10.

NAOMI TURNER, became a successor co-trustee on May 25, 2010 and then, upon resignation of co-trustee, **DEBORAH DIANNE EDMUNDS** on 07/16/10, served as the sole trustee until resigning on or about 04/28/11.

Petition for Order Compelling Trustee to Account and Report, for Surcharge, and for Return of Trust Property was filed by Peggy Morse Holland on 09/30/11.

Minute Order from hearing on 11/14/11 granted the Petition Compelling Trustee to Account and set this matter for status on 01/30/12.

NEEDS/PROBLEMS/COMMENTS:

<u>CONTINUED FROM 01/30/12</u>

Minute order from 01/30/12 states: Counsel informs the Court that she has not received the accounting. Ms. Turner advises the Court that she does not have everything she needs to complete the account such as the receipts and bank statements. The Court orders Ms. Turner to file what she has with the clerk's office and provide a copy to counsel. Counsel is directed to provide Ms. Turner any receipts and bank statements she has for the period of 05/25/10 to 04/28/11.

As of 02/28/12, no additional documents have been filed.

1. **Need Account and Report of Trustee (Naomi Turner).**

Reviewed by: JF
Reviewed on: 02/28/12
Updates:
Recommendation:
File 15 - Pratt

Dept. 303, 9:00 a.m. Monday, March 5, 2012

16A Consuelo Garza (Estate) **Case No. 06CEPR00816**

Atty Greenup, Patricia (Pro Per – Daughter – Administrator)

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution (Prob. C. § 122200, et seq.)

DOD: 5-5-06		
Cont. from 041111, 062011, 010912		
	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	X
	UCCJEA	
	Citation	
	FTB Notice	

PATRICIA GREENUP was appointed Administrator with Limited IAEA without bond and Letters issued on 1-2-07.

Inventory and Appraisal filed 4-27-07 reflects real property located in Clovis valued at $175,000.00.

A status report from February 2008 indicated that the house was listed for sale and requested six months to close administration.

On 2-18-11, the court set this status hearing for failure to file a first account or petition for final distribution. Notice was sent to Administrator on 2-18-11.

On 4-11-11, the matter was continued to 6-20-11.

On 6-20-11, Mr. Greenup advised the Court that the home is not listed for sale, but is being rented by a non-relative, and he intends to have the property re-appraised. Mr. Greenup requested a 5-6 month continuance. The matter was continued to 1-9-12.

Examiner's note: Present at the hearing were Patricia Greenup and Arthur Greenup (unknown relation).

On 1-9-12, there were no appearances. The Court set the matter for an Order to Show Cause Re: Failure to File the First Account on 3-5-12 (Page 16B). The minute order was mailed to Petitioner.

Nothing further has been filed.

NEEDS/PROBLEMS/COMMENTS:

Note: Petitioner was previously represented by Attorney Richard C. Henderson, but pursuant to Substitution of Attorney filed 10-13-09, is now pro per.

Minute Order 4-11-11: Examiner notes handed to Ms. Greenup. Matter continued to 6-20-11.

Minute Order 6-20-11: Examiner notes provided to Ms. Greenup. Mr. Greenup advises the Court that the home is not listed for sale, but is being rented by a non-relative. He further advises that he intends to have the property re-appraised. Mr. Greenup requests a five to six months continuance. Matter continued to 1/9/12.

Minute Order 1-9-12: No appearances. The Court sets the matter for an Order to Show Cause Re: Failure to File the First Account on 3-5-12. The Court orders Patricia Greenup to be present on 3-5-12.

As of 2-24-12, nothing further has been filed.

The following issues remain:

1. **Need account current or petition for final distribution.**
2. **The Court may also require notice of hearing(s) to the heirs and the Dept. of Health Care Services pursuant to their Request for Special Notice.**

Updates:

Contacts: Reviewed 2-24-12

Recommendation:

Reviewed by: skc

File 16A - Garza

Dept. 303, 9:00 a.m. Monday, March 5, 2012

16B Consuelo Garza (Estate) **Case No. 06CEPR00816**

Atty Greenup, Patricia (Pro Per – Daughter – Administrator)

Order to Show Cause Re: Failure to File 1st Account

DOD: 5-5-06		
	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	

PATRICIA GREENUP was appointed Administrator with Limited IAEA without bond and Letters issued on 1-2-07.

Inventory and Appraisal filed 4-27-07 reflects real property located in Clovis valued at $175,000.00.

A status report from February 2008 indicated that the house was listed for sale and requested six months to close administration.

On 2-18-11, the court set status hearing for failure to file a first account or petition for final distribution. Notice was sent to Administrator on 2-18-11.

The matter was continued twice, and on 1-9-12, there were no appearances.

The Court set this Order to Show Cause and the minute order was mailed to Petitioner on 1-13-12.

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: skc

Reviewed on: 2-24-12

Updates:

Recommendation:

File 16B - Garza

Dept. 303, 9:00 a.m. Monday, March 5, 2012

17 Aaliyah Morales, Talaya Young, Edward Young, Jr. & Kaziyah Lewis (GUARD/P) Case No. 10CEPR00525

Atty Gutierrez, Mary Ann (pro per Petitioner/family friend)

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

Aaliyah age: 9 years DOB: 1/23/2003		
Talaya age: 5 years DOB: 6/9/2006		
Edward age: 3 years DOB: 2/13/2008		
Kaziyah age: 1 year DOB: 8/15/10		
Cont. from 012312		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✓	**Conf. Screen**	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
✓	**CI Report**	
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

Temporary (as to all 4 minors)
Expires 3/5/12.

MARY ANN GUTIERREZ, family friend, is petitioner.

Aaliyah's father: **CIRO MORALES** - *Declaration of due diligence filed on 11/28/11.*
Talaya and Edward's father: **EDWARD YOUNG**
Kaziyah's father: **UNKNOWN** – *Declaration of due diligence filed on 11/14/11.*

Mother: **FELICIA YOLANDA LUNA** – *Consents and waives notice.*

Aaliyah's paternal grandparents – unknown
Talaya and Edwards' paternal grandparents – unknown
Kaziyah's paternal grandparents – unknown – *Declaration of due diligence filed on 11/28/11.*
Maternal grandfather : Deceased
Maternal grandmother: Josie Alvarez – *consents and waives notice.*

Petitioner states custodial parent is unable to provide housing for the children.

DSS Social Worker, Anita Ruiz's Report filed 1/19/12

NEEDS/PROBLEMS/COMMENTS:

<u>Note:</u> Declaration filed by Petitioner on 11/29/11 states mother has decided to keep Talaya and Edward with her. It is unclear if the Petitioner is intending to amend her petition to only include minors Aaliyah and Kaziyah. *File includes two orders one for all four minors and one for Aaliyah and Kaziyah only.*

Continued from 1/23/12 (Judge M. Bruce Smith) states Examiner notes are provided to the Petitioner. Petitioner is directed to give notice to the father. The Court on its own motion grants a temporary guardianship to Mary Ann Gutierrez as to all four minors. ***As of 2/24/12 the following issues remain:***

1. **Need *Notice of Hearing.***
2. **Need proof of personal service of the *Notice of Hearing* along with a copy of the *Petitioner* or *Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
   a. **Ciro Morales (Aaliyah's father) –** *unless the court dispenses with notice. (Note: Petition states father is incarcerated in Arizona for life).*
   b. **Edward Young (Talaya and Edward's father)**
   c. **Unknown father of Kaziyah** *–unless the court dispenses with notice.*
3. **Need proof of service of the *Notice of Hearing* along with a copy of the *Petitioner* or *Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
   a. **Aaliyah's paternal grandparents**
   b. **Talaya and Edward's paternal grandparents**
   c. **Kaziyah's paternal grandparents –** *unless the court dispenses with notice.*

Reviewed by: KT
Reviewed on: 1/12/12
Updates: 1/20/12
Recommendation:
File 17 – Morales, Young & Lewis

Dept. 303, 9:00 a.m. Monday, March 5, 2012

18 Sam Johnson and Jessie Johnson (Det Succ) Case No. 11CEPR01002

Atty Johnson, Robert L. (pro per Petitioner/son)
Atty Johnson, Susie (pro per Petitioner/daughter-in-law)

Petition to Determine Succession to Real Property (Prob. C. 13151)

Sam DOD: 10/3/1994			**ROBERT JOHNSON, son,** and **SUSIE JOHNSON**, daughter-in-law, are petitioners.	NEEDS/PROBLEMS/COMMENTS:
Jessie DOD: 8/29/1993				**Continued from 1/5/12. Minute order states Examiner notes are provided to petitioners. Petitioners agree to meet with Curtis Rindlisbacher. Mr. Rindlisbacher informs the court that an amended petition will need to be filed. As of 2/24/12 the following issues remain:**
Cont. from 010512			40 days since DOD.	
	Aff.Sub.Wit.			
✓	Verified		No other proceedings	
	Inventory			
	PTC		I & A – NEED	
	Not.Cred.			
	Notice of Hrg	X		
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	X		
	Aff. Posting			Reviewed by: KT
	Status Rpt			Reviewed on: 2/24/12
	UCCJEA			Updates:
	Citation			Recommendation:
	FTB Notice			File 18 - Johnson

1. **Petition includes two decedents. A separate petition is needed for each decedent. Therefore need this petition to be amended to include only one of the decedent's and another petition to be filed for the remaining decedent.**
2. **Petition was filed using a fee waiver. Please note: prior to any order granting distribution of the property all costs of administration, including filing fees, must be paid.**
3. **Petition is defective in the following areas, including but not limited to:**
   a. **Need inventory and appraisal**
   b. **There is no attachment 11 including the legal description and decedent's interest in the property.**
   c. **#9a(3) of the petition was not answered re: issue of predeceased child.**
   d. **The petition indicates the decedents died intestate. The petition also indicates that both petitioners succeed to the property. Pursuant to intestate succession only Robert succeeds to the property therefore only Robert should petition.**

19 Zemirah Channah Johnson (GUARD/P) Case No. 12CEPR00010

Dept. 303, 9:00 a.m. Monday, March 5, 2012

Atty Woody, Carol (pro per Petitioner/maternal grandmother)

Petition for Appointment of Guardianship of the Person

Age: 10 years DOB: 11/16/2001		
Cont. from		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✓	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
	Objections	
	Video Receipt	
✓	CI Report	
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

<u>There is no temporary. Temporary was denied.</u>

CAROL WOODY, maternal grandmother, is petitioner.

Father: **DURRON JOHNSON** – *deceased.*

Mother: **AMEIKA A. MORRIS –** *Declaration of Due Diligence filed on 1/19/12.*

Paternal grandfather: *deceased*
Paternal grandmother: Tonya S. Sloan
Maternal grandfather: Torrance Mathis

Petitioner states mother is not caring for the child. She sent the child to the paternal grandmother for a visit and never returned. The exact whereabouts of the minor is not certain. The grandmother the minor was visiting works fulltime and travels on the weekend. The mother has a history of disappearing for long periods of time in the past leaving the minor with acquaintances unknown to the minor. The last Petitioner heard the mother was in San Jose. The minor is currently missing school.

Court Investigator JoAnn Morris' Report filed on 2/22/12.

NEEDS/PROBLEMS/COMMENTS:

1. **Need *Notice of Hearing.***
2. **Need proof of personal service of the *Notice of Hearing* or *Consent and Waiver of Notice* or *Declaration of Due Diligence on:***
   a. **Ameika A. Morris (mother) –** *unless the court dispenses with notice.*
3. **Need proof of service of the *Notice of Hearing* or *Consent and Waiver of Notice* or *Declaration of Due Diligence on:***
   a. **Tonya Sloan (paternal grandmother)**
   b. **Torrance Mathis (maternal grandfather)**

Reviewed by: KT
Reviewed on: 2/24/12
Updates:
Recommendation:
File 19 - Johnson

20A Jade Estelle Whatley (GUARD/P) **Case No. 12CEPR00012**

Dept. 303, 9:00 a.m. Monday, March 5, 2012

Atty Kee, Dennis Sr. (pro per Petitioner/paternal grandfather)
Atty Kee, Linda (pro per Petitioner/paternal grandmother)
Atty Kee, Lashae (pro per Step-mother)

Petition for Appointment of Guardian of the Person (Petitioners Dennis and Linda Kee) (Prob. C. 1510)

Age: 4 years DOB: 5/10/2007		
Cont. from		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✓	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
	Objections	
	Video Receipt	
✓	CI Report	
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

Temporary Expires 3/5/12

DENNIS KEE and **LINDA KEE,** paternal grandparents, are petitioners.

Father: **DENNIS KEE, JR.**

Mother: Not Listed (**Angela Whatley**)

Maternal grandparents: Not listed.

Petitioners state father is in jail and the child needs a guardian.

Objections of the father, Dennis Kee, filed on 1/19/12 states Lashae Kee is the step-mother and could provide, shelter, food, and transportation for the minor. Father does not want the minor separated from her brother and sister. Father states his parents already have their hands full with the children they already have there and also their health is poor.

Court Investigator Julie Negrete's Report filed on 2/22/12

NEEDS/PROBLEMS/COMMENTS:

1. **Need *Notice of Hearing.***
2. **Need proof of personal service of the *Notice of Hearing* along with a copy of the *temporary petition or Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
   a. **Dennis Kee, Jr. (father)**
   b. **Angela Whatley (mother)**
3. **Need proof of service of the *Notice of Hearing* along with a copy of the *temporary petition or Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
   a. **Maternal grandparents**
4. **Pursuant to the Court Investigator's Report the minor has Indian ancestry. Therefore, a *Notice of Child Custody Proceeding for Indian Child* (Form ICWA-030), must be served together with copies of petition and all attachments, including this form, on the child's parent; any Indian custodian; any Indian tribe that may have a connection to the child; the Bureau of Indian Affairs (BIA), and possibly the U.S. Secretary of the Interior, by certified or registered U.S. Mail, return receipt requested.**
5. **Per item 4 above, Petitioners will need to return the completed copy of the *Notice of Child Custody Proceeding for Indian Child* to the probate clerk. The probate clerk will then mail the notice to the required agencies as required.**
6. **After mailing, per item 5 above, need proof of service of notice, including copies of the notices sent and all return receipts and responses received, pursuant to Probate Code 1460.2(d).**
7. **UCCJEA is incomplete. Need the minor's residence information for 5/10/2007 to present.**

Reviewed by: KT
Reviewed on: 2/24/12
Updates:
Recommendation:
File 20A - Whatley

20A

20B Jade Estelle Whatley (GUARD/P) **Case No. 12CEPR00012**

Dept. 303, 9:00 a.m. Monday, March 5, 2012

Atty Kee, Dennis Sr. (pro per paternal grandfather)
Atty Kee, Linda (pro per paternal grandmother)
Atty Kee, Lashae (pro per Petitioner/Step-mother)

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

Age: 4 years DOB: 5/10/2007		
Cont. from		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✓	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
	Objections	
	Video Receipt	
✓	CI Report	
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

<u>No temporary. Temporary denied.</u>

LASHAE KEE, step-mother, is petitioner.

Father: **DENNIS KEE, JR**. – *consents and waives notice.*

Mother: **ANGELA WHATLEY** – *declaration of due diligence filed on 1/9/12.*

Paternal grandfather: Dennis Kee
Paternal grandmother: Linda Kee
Maternal grandparents: Unknown – *declaration of due diligence filed on 1/9/12.*

Petitioner states she is the stepmother and has been raising the minor for the past four years. The father has full sole custody of the minor. Father is currently in jail and petitioner states he wanted her to have guardianship.

Court Investigator Julie Negrete's Report filed on 2/22/12.

NEEDS/PROBLEMS/COMMENTS:

8. **Need *Notice of Hearing.***
9. **Need proof of personal service of the *Notice of Hearing* along with a copy of the *temporary petition or Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
   c. **Angela Whatley (mother)**
10. **Need proof of service of the *Notice of Hearing* along with a copy of the *temporary petition or Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
    b. **Maternal grandparents**
11. **Pursuant to the Court Investigator's Report the minor has Indian ancestry. Therefore, a *Notice of Child Custody Proceeding for Indian Child* (Form ICWA-030), must be served together with copies of petition and all attachments, including this form, on the child's parent; any Indian custodian; any Indian tribe that may have a connection to the child; the Bureau of Indian Affairs (BIA), and possibly the U.S. Secretary of the Interior, by certified or registered U.S. Mail, return receipt requested.**
12. **Per item 4 above, Petitioners will need to return the completed copy of the *Notice of Child Custody Proceeding for Indian Child* to the probate clerk. The probate clerk will then mail the notice to the required agencies as required.**
13. **After mailing, per item 5 above, need proof of service of notice, including copies of the notices sent and all return receipts and responses received, pursuant to Probate Code 1460.2(d).**

Reviewed by: KT
Reviewed on: 2/24/12
Updates:
Recommendation:
File 20B - Whatley

20B

Dept. 303, 9:00 a.m. Monday, March 5, 2012

21 Hendrix Escoto, Camryn Escoto, and Carlos Escoto III (GUARD/P)

Case No. 12CEPR00182

Atty Stegall, Nancy J. (for Lynda Lockwood – Maternal Grandmother – Petitioner)

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

Hendrix Escoto (age 10) DOB: 1-9-02		
Camryn Escoto (age 7) DOB: 4-22-04		
Carlos Escoto III (age 6) DOB: 12-15-05		
	Aff.Sub.Wit.	
✔	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
	Conf. Screen	
	Letters	X
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
✔	UCCJEA	
	Citation	
	FTB Notice	

TEMPORARY GRANTED EX PARTE EXPIRES 3-5-12

GENERAL HEARING 4-25-12

LYNDA LOCKWOOD, Maternal Grandmother, is Petitioner.

Father: **CARLOS ESCOTO**

Mother: **LAURA ESCOTO**
- *Consent and Waiver of Notice filed 2-22-12*

Paternal Grandfather: Not provided
Paternal Grandmother: Not provided
Maternal Grandfather: Not provided

Petitioner states the children will be in immediate danger if Petitioner is not appointed Guardian. Mother abuses illegal and prescription drugs and advised Petitioner that she will be evicted from her home at the end of February 2012. She will then be homeless and have nowhere to go with the children. Mother also suffers from Bi-Polar Disorder and severe anxiety, but cannot responsibly take her medication due to her drug addiction.

Approximately one month ago, Mother became erratic and severely depressed and slit her wrists. The youngest child saw this traumatic incident through the ajar bathroom door. She was placed on a 5150 hold and discharged. Mother has recently reached out to Petitioner for help with the children and Petitioner agreed to provide a home for them and act as Guardian while Mother gets healthy.

Petitioner states Father is on drugs and lives on the streets. He has been arrested at least four times in the past six months for drug offenses, as well as violating a restraining order that protects Mother.

NEEDS/PROBLEMS/COMMENTS:

Note: Petitioner was appointed Guardian of minor Arianna Buik (age 10) on 11-3-03 in 03CEPR00884.

1. **Need proof of personal service of Notice of Hearing with a copy of the Temporary Petition at least five Court days prior to the hearing per Probate Code §2250(e) or consent and waiver of notice or declaration of due diligence on Carlos Escoto (Father).**

Note: Petitioner states Father is not actively or regularly involved in the children's lives and Petitioner does not know how to contact him. Petitioner fears if he learns about the temporary guardianship he will try to take the children. Petitioner states his parents will not even allow them in their home any longer.

Note: Court records reflect a current restraining order protecting Mother from Father dated 6-1-11 in case # 09CEFL03137 that expires 6-1-14. (A copy is in the file for reference.)

The Order gives sole legal and physical custody to Mother and provides visitation to Father as follows:

"Father shall have visitation every weekend Friday 5pm through Sunday 5pm. Paternal grandmother to provide transportation or any 3rd party designated by paternal grandmother and known to all parties. Exchanges to occur at Mr. Escoto's home. Mr. Escoto is not to be a t the exchanges."

Reviewed by: skc	
Reviewed on: 2-24-12	
Updates:	
Recommendation:	
File 21 - Escoto	

Dept. 303, 9:00 a.m. Monday, March 5, 2012