

Co-Trustees' Motion to Join Indispensable Parties

Age:		NEEDS/PROBLEMS/COMMENTS:  Examiner Notes are not prepared for this matter.
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		
		Reviewed by: skc
		Reviewed on: 3-11-14
		Updates:
		Recommendation:
		File 1 – McCann

**(1) First and Final Account and Report of Administrator and Petition for Its Settlement and (2) Allowance of Statutory Commissions and (3) For Final Distribution**

<b>DOD: 04/13/12</b>	<b>DARRYL GRANT</b> , Administrator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	Account period: <b>04/13/12 – 01/31/14</b>	
<b>Cont. from</b>	Accounting - <b>\$70,000.00</b>	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Beginning POH - <b>\$67,000.00</b>	
<input checked="" type="checkbox"/> <b>Verified</b>	Ending POH - <b>\$39,791.26</b> (all cash)	
<input checked="" type="checkbox"/> <b>Inventory</b>		
<input checked="" type="checkbox"/> <b>PTC</b>	Administrator - <b>\$2,800.00</b> (statutory)	
<input checked="" type="checkbox"/> <b>Not.Cred.</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	Attorney - <b>\$2,800.00</b> (statutory)	
<input checked="" type="checkbox"/> <b>Aff.Mail</b> w/		
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>	Costs - <b>\$2,266.80</b> (filing fees, publication, certified copies, bond premium, probate referee)	
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input type="checkbox"/> <b>Conf. Screen</b>	Reserve - <b>\$700.00</b>	
<input type="checkbox"/> <b>Letters</b> 06/15/12		
<input type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>	<b>Distribution, pursuant to intestate succession, is to:</b>	
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input checked="" type="checkbox"/> <b>9202</b>	Darryl Grant - <b>\$15,612.23</b>	
<input checked="" type="checkbox"/> <b>Order</b>	Raymond Grant - <b>\$15,612.23</b>	
<input type="checkbox"/> <b>Aff. Posting</b>		<b>Reviewed by:</b> JF
<input type="checkbox"/> <b>Status Rpt</b>		<b>Reviewed on:</b> 03/12/14
<input type="checkbox"/> <b>UCCJEA</b>		<b>Updates:</b>
<input type="checkbox"/> <b>Citation</b>		<b>Recommendation:</b> SUBMITTED
<input checked="" type="checkbox"/> <b>FTB Notice</b>		<b>File 2 – Grant</b>

(1) Report and Petition of Administrator for (2) Final Distribution (Account Waived)

DOD: 12/23/12		ERIC M. THUAT, Administrator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>Accounting is waived.</b>	<ol style="list-style-type: none"> <li>Paragraph 21 of the Petition indicates that the attorney is reducing his fee to 85% of the statutory amount (\$18,075.69), but states that the agreed upon attorney fee is \$16,268.24 at item 4 of the prayer. Need clarification as to what the correct attorney fee is.</li> <li>The dollar value of the property on hand is not stated in the Petition. Need dollar value of property on hand.</li> <li>The Order does not comply with Local Rule 7.6.1A which states: all orders or decrees in probate matters must be complete in themselves. Orders shall set forth all matters ruled on by the court, the relief granted, and the names of persons, descriptions of property and/or amounts of money affected with the same particularity required of judgments in general civil matters. <b>Monetary distributions must be stated in dollars</b>, and not as a percentage of the estate. Need revised Order stating the dollar amount to be distributed.</li> </ol>
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.	POH - ?? (see note 2)	
<input checked="" type="checkbox"/>	Verified	Administrator - <b>waived</b>	
<input checked="" type="checkbox"/>	Inventory	Attorney - <b>\$18,075.69?</b> (less than statutory, see note 1)	
<input checked="" type="checkbox"/>	PTC	Reserve - <b>\$5,000.00</b>	
<input checked="" type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
<input checked="" type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
<input checked="" type="checkbox"/>	FTB Notice		
		<b>Distribution, pursuant to intestate succession, is to:</b>	
		Katherine Meux Thuat - Real property, Schwab one portfolio account, 1/3 interest in Schwab one accounting ending in 7377, Bank of America account ending in 8378, 2010 Lexus and miscellaneous furniture and furnishings	
			<b>Reviewed by:</b> JF
			<b>Reviewed on:</b> 03/12/14
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 3 – Meux</b>

**4 Floyd Zielke (Estate)**

Case No. 13CEPR00384

Atty Armo, Lance E. (for Sandra L. Funk – Executor – Petitioner)

(1) Petition for Final Distribution on Waiver of Account and (2) for Allowance of Compensation for Ordinary Services

<b>DOD: 3-13-13</b>	<b>SANDRA L. FUNK</b> , Executor with Full IAEA without bond, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	Accounting is waived.	
<b>Cont. from 022014</b>	I&A: \$534,362.68 POH: \$519,458.67 (cash)	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>		
<input checked="" type="checkbox"/> <b>Inventory</b>	Executor (Statutory): Waived	
<input checked="" type="checkbox"/> <b>PTC</b>	Attorney (Statutory): Waived	
<input checked="" type="checkbox"/> <b>Not.Cred.</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	<b>Distribution pursuant to Decedent's will:</b>	
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	W	
<b>Aff.Pub.</b>	<b>Sandra L. Funk, as Trustee of the Floyd Zielke 2013 Trust: \$519,458.67</b>	
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<input checked="" type="checkbox"/> <b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<input checked="" type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<input checked="" type="checkbox"/> <b>FTB Notice</b>		
		<b>Reviewed by:</b> skc
		<b>Reviewed on:</b> 3-12-14
		<b>Updates:</b>
		<b>Recommendation:</b> SUBMITTED
		<b>File 4 – Zielke</b>



Attached to the petition is a notarized statement from the mother stating that she gives Diana Marie Martinez guardianship of her daughter, it states that she has been caring for the child since 08/2013.

Also attached is a California Statutory Will dated 11/18/2013 which nominates the co-petitioner, Diana Marie Martinez, to be the child's guardian upon the death of the mother.

**Declaration filed 12/18/2013 by co-petitioner, Diana Marie Martinez, which includes letters of support of the guardianship. Also included is a letter from the child which states she wishes to live with Diana Marie Martinez.**

**Objection to Diana M. Martinez Being Appointed As Guardian of The Minor Child, Carlie Jezza De La Fuente filed by Phyllis Torres, maternal great-aunt, on 12/27/2013** states that she objects to Diana M. Martinez being appointed as guardian of Carlie; as well as request that Phyllis Torres and her husband, Jesse Torres, be appointed guardians effective immediately.

Ms. Torres does not believe that Diana M. Martinez is the fit and proper person to care for her niece; and believes that it will be detrimental to her well-being and quite possibly to her safety.

Diana M. Martinez, has a known history of drug abuse, mental health issues as well as physical illnesses that sometimes put her in the hospital for weeks at a time. She disclosed to Ms. Torres that she was hospitalized for a nervous breakdown or in her words "went crazy" in 2013 as the result of her financial difficulties and her husband leaving her. She also has a history of poor money management, and the inability to keep gainful employment. Ms. Torres believes that Diana is motivated by money; and that she is seeking guardianship of the minor to access any money that the child might be entitled to including social security benefits.

It is in the best interest of the child to be raised by her biological family, Diana is not biologically related to the child nor was she related to her mother. Objector is the minor child's great aunt, and her husband is the child's great uncle and godfather. Ms. Torres and her husband have been very close to the child and her mother their entire life.

Mrs. Torres is highly concerned about Dian's son, George Tapia, driving the child around. Mrs. Torres alleges that Mr. Tapia does not have a driver's license due to having DUI's. Ms. Torres also alleges that Diana M. Martinez' family history involves drugs, alcohol and abusive behaviors.

Ms. Torres states that the mother was diagnosed in 2009 with terminal cancer and had indicated to her that she wanted her to become the minor's guardian. In September 2013 the mother requested legal paperwork be drafted indicating her desire for Ms. Torres to become guardian of the child, at that time the mother signed a Nomination of Guardian (copy attached hereto as Exhibit A). Once the mother began residing in the home of Diana M. Martinez things began to change. Diana informed Mrs. Torres that the mother no longer wanted to have anything to do with her and was not longer welcomed in the home. Diana prevented Mrs. Torres from visiting the child and the mother. Diana took over all of the mother's possessions, allowing family members to drive the mother's car, she deleted the mother's Facebook page. Diana took over the mother's phone and began to impersonate her when Mrs. Torres would try to call her. Mrs. Torres believes that Diana M. Martinez was telling the mother that her family did not want to see her.

**Please see additional page**

Mrs. Torres objects to Diana having guardianship of the minor child for many reasons. Mrs. Torres believes that Diana was influencing the mother and taking advantage of her mental state to manipulate the situation. Mrs. Torres believes that the mother was made to feel guilty, and felt pressured into nominating Diana as the minor's guardian. Mrs. Torres alleges that the signature of the mother does not match any other documents that Mrs. Torres has.

Mrs. Torres believes that the temporary petition of Diana M. Marinez is filled with mistruths and lies; she believes the signature of the mother is a forgery. Mrs. Torres asks that the Court compare the signatures of the mother.

Mrs. Torres asks the Court to terminate the temporary guardianship of Carlie by Diana Marinez, and deny the permanent guardianship. Mrs. Torres is requesting that her and her husband, Jess Torres, be allowed to have guardianship of the minor child as it is in her best interest.

Filed Objection of Mrs. Torres also includes several objections of family members attached as "Exhibits".

**Declaration of Diana M. Marinez, petitioner, filed on 12/30/2013**, states the mother of the child passed away on 12/15/2013. She passed away with petitioner and the minor child present. She states she met with the child's father on 12/23/2013 at her home and the Court Investigator was also present. She states that the father of the minor signed the consent form, and that both he and his mother both consent to her being appointed guardian of the child.

**Response to Objections to Appointment of Guardian filed by Diana Marinez on 01/31/2014** states Phyllis' allegation that Diana has a known history of drug abuse and mental health issues is not supported by any documentation. These allegations are slanderous and untrue. Diana does have asthma and has been hospitalized for this condition. Diana has never been hospitalized for mental health or drug issues.

Phyllis' allegations that Diana is motivated by money is again, untrue and slanderous. Diana receives \$620.00/month social security benefits for Carlie. Any other monies from insurance or pension benefits will be placed in a blocked account that cannot be accessed without a court order. As the Court knows, \$620.00/mo. Does not begin to cover the expense of raising a child. Diana is seeking guardianship because Carlie's mother nominated her as guardian and Diana has been caring for both Carlie and her mother since August. Carlie's latest report card shows 2-B's, 1-B-, and one A-. Carlie received 6-outstandings and 8-satisfactories for effort and citizenship. These are not grades of a child being in a situation that is detrimental to her. In fact, considering this child just lost her mother last month, these grades are exceptional considering the trauma that the child has gone through.

Phyllis' allegation that she witnessed George Tapia driving without a license due to DUI's with Carlie in a car is again untrue. Diana's only car was out of service from the 1<sup>st</sup> week of September through the 18<sup>th</sup> of October. The last time Phyllis was at Diana's homes was during the second week of October. Further, George Tapia's driver's license was reinstated December 11, 2013. George Tapia is enrolled full-time in college to become an alcohol/drug counselor.

Phyllis' account of Santos signing the paperwork in September leaves out many important details. Santos did not request the paperwork, but Phyllis insisted on having the paperwork brought to the emergency room between midnight and three a.m. after Santos had been given Morphine and other mind altering drugs for pain, and sticking the paperwork in front of Santos and telling her to sign.

**Please see additional page**

**Dept. 303, 9:00 a.m. Monday, March 17, 2014**

Phyllis's allegations that Diana was the one that decided Santos did not want to see her family and that Santos's signature on the petition, will and other documents is totally without a factual basis. Santos was the one that decided she did not want contact with most of her family. Santos had a very unhappy childhood. Sarah, her mother, was an alcoholic and when entertaining a man, she would lock the door so Santos could not get in the house. Santos did not want to visit with her mother, Sarah, or sister and told the nurse to have them leave. Security had to be called to tell them to leave and after arguing with other family members, they finally left. Santos made it very clear to staff at the hospital, that she did not want to see her birth mother, Sarah or her sister. On Sunday, September 29, 2013, Santos dictated and signed a letter to be placed in her chart, that she did not want Sarah or Chloe to have any type of contact with Santos. Phyllis is fully aware of this situation and to allege that Diana was somehow behind these decisions is a fallacy.

Phyllis's allegations that Diana made the decision to exclude Santos's family again is not based on any fact. Phyllis and many members of the family did not want to be in the same room as Santos because Santos tested positive for MRSA and had a staph infection in an open wound. Phyllis has a newborn grandson and she felt it was too much of a risk to be near Santos. Marylou Torres and Rachel Lopez voluntarily stopped visiting Santos at the hospital because they babysit their grandchildren and they did not want to be exposed to MRSA and Staph infection.

Santos wanted to be cremated and Sarah, Santos's mother tried to halt the cremation which required the service to be delayed and Santos's body be frozen for 8 days. This put a severe emotional burden on Carlie and was definitely not in her best interest. Phyllis knows of Sarah's drinking and emotional problems, which is why Sarah was not ever considered for Guardian of Carlie. Santos did not want her mother or most of her family at her memorial service because she wanted it to be a celebration, not drama. She did not want to expose Carlie to the chaos and outbursts of her family.

When Santos told Phyllis that she did not want her for Carlie's guardian in November, Phyllis got very angry and told Santos she was making a huge mistake. She then stormed toward the door and said "Well, at least I stepped up and am paying for your funeral." This hurt Santos deeply and that was when she informed the hospital staff and Diana that she no longer wanted to visit with any of her blood family. It wasn't until Santos told Phyllis that she wanted Diana to be Carlie's guardian that Phyllis had a problem with Diana. Phyllis and Diana texted each other almost daily regarding Santos's condition until Phyllis made the "funeral" comment. Then, Phyllis's opinion and demeanor completely changed towards Diana. Not only did Phyllis's behavior change, but also Lynette's and Rachel's behavior changed.

Phyllis's allegations that Santos did not want Diana as guardian of Carlie is again without basis or merit. Santos's signature on the form giving Diana Temporary Guardianship of Carlie was notarized and witnessed by the notary. Stating Santos's signature is forgery is a result of Phyllis's jealousy that Santos chose Diana over Phyllis. Santos's Will was witnessed by two disinterested persons and this Will nominated Diana as Custodian of Carlie's assets and Guardian of Carlie's person.

Phyllis has now withdrawn her Petition for Appointment of Guardian and a 2<sup>nd</sup> cousin of Carlie's, Stephanie Woodward, has petitioned in Phyllis's place. This person was elected by the members of Santos's blood family, without any input from Carlie or Diana or Santos. Diana not only was nominated by Santos, but also has the support of Carlie's father and paternal grandmother.

**Please see additional page**

Pursuant to Probate Code § 1502, (a) a nomination of a guardian of a minor can be made in a writing before or after the Petition for Appointment of Guardian is filed. Further in Probate Code § 1502 (c) it states:

**“Unless the writing making the nomination expressly otherwise provides, a nomination made under this article remains effective notwithstanding the subsequent legal incapacity or death of a person making the nomination.”**

Santos made her nomination in her Will that was witnessed by two disinterested people. This Will was properly executed and witnessed on November 18, 2013. Santos also nominated Diana as guardian of Carlie in a notarized document dated December 05, 2013. There has been no nomination of Stephanie Woodward by Carlie's parents verbally or in any writing.

All of the other objections by Sarah DeLaFuente, Chloe Valencia, Rachel Lopez, Marlene Torres, Victoria Bertoni, Jessy B. Torres, Maryann Moreno, Linda Bertoni, Elisa Torres, Danielle DeLaFuente, Daniel DeLaFuente, and Marylou Torres are just repetitive, boiler-plate copies of the same objection with different names on them. All of these relatives were not around to help Santos when she was very ill and none of them had any problem with Diana caring for Santos and Carlie during Santos's illness. Phyllis has used her influence to rally some the "blood" relatives to file objections against Diana simply to try to thwart what Santos really wanted.

**DSS Social Worker Irma Ramirez' report filed on 02/05/2014.**

**Court Investigator Charlotte Bien's report filed 02/05/2014.**

**Needs / Problems /Comments (continued)**

**Note: Petitioners have included the original will of Santos L. De La Fuente. The Court may wish to have the original will returned to the petitioners. The Court does not accept an original will until the individual's death pursuant to Probate Code §8200(a)(1).**

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

<b>Age: Age: 9</b>		<p><b>STEPHANEЕ WOODWARD</b>, cousin, is petitioner and requests appointment as Guardian of the Person and of the Estate without bond and that any and all money of the estate be placed into a blocked account.</p> <p><b>DIANA M. MARINEZ</b>, non-relative, was appointed temporary guardian of the minor on 12/12/2013.</p> <p>Father: <b>ADOLPH CEREDI</b>,</p> <p>Mother: <b>SANTOS L. DE LA FUENTE, Deceased</b></p> <p>Paternal Grandfather: Unknown Paternal Grandmother: Cheryl Ceredi</p> <p>Maternal Grandfather: Louie Silva Maternal Grandmother: Sara De La Fuente, Consents and Waives Notice</p> <p><b>Estimated value of the Estate</b> <b>Personal Property - \$2,500.00</b></p> <p><b>Petitioner states</b> the minor child's mother is recently deceased; the father has never even met the child. The parents are unable/unwilling to provide for the child. The child is currently under temporary guardianship by Diana M. Marinez. However, the petitioner believes that leaving the child under the custody and care of Ms. Marinez is detrimental to the child.</p> <p style="text-align: center;"><b><u>Please see additional page</u></b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> <li>• Adolph Ceredi (Father)</li> <li>• Diana M. Marinez (Temporary Guardian)</li> </ul> </li> <li>2. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> <li>• Paternal Grandfather (Unknown)</li> <li>• Cheryl Ceredi (Paternal Grandmother)</li> <li>• Louis Silva (Maternal Grandfather)</li> </ul> </li> <li>3. Need Child Information Attachment GC-210(CA).</li> <li>4. Petition does not indicate the nature of the assets of guardian of the estate. Need clarification so the Court can determine if guardianship of the estate is necessary.</li> </ol> <p><b>Continued on additional pages 4 and 5</b></p>
<b>Cont. from</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
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<input type="checkbox"/>	<b>Notice of Hrg</b> <input checked="" type="checkbox"/>		
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<input checked="" type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input checked="" type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input type="checkbox"/>	<b>Order</b> <input checked="" type="checkbox"/>		
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<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
<b>Reviewed by:</b> LV			
<b>Reviewed on:</b> 03/12/2014			
<b>Updates:</b>			
<b>Recommendation:</b>			
<b>File 5B – DeLa Fuente</b>			

**Continued from previous page:** Ms. Marinez has no biological relationship to the child. Ms. Marinez prohibited the child's family from seeing her prior to the family obtaining a court order. Ms. Marinez excluded the child's biological family from the funeral siting a non-existent court order. It is believed that the current guardian has a prescription drug habit and has stolen prescription drugs that were prescribed to the deceased mother.

The current guardian has ongoing criminal activity in the home. The daughter-in-law of the guardian was recently arrested and forcibly removed from the home. The current guardian cannot financially provide for the child and has expressed intent to relocate the child to the San Jose area.

**Objections to Appointment of Guardian filed by Stephanie Woodward on 03/06/2014** states petitioner, Diana Marinez, submits her objections to the appointment of Stephanie Woodward as guardian of the person and estate of Carlie Jezell De La Fuente.

Stephanee Woodward does not have higher priority than Diana Marinez, who was nominated by the minor's mother and father:

1. Probate Code § 1500 states "Subject to Section 1502, a parent may nominate a guardian of the person or the estate, or both, of a minor child in either of the following cases:
  - a) Where the other parent nominates, or consents in writing to the nomination of, the same guardian for the same child.
  - b) Where, at the time the petition for appointment of the guardian is filed, either (1) the other parent is dead or lacks legal capacity to consent to the nomination or (2) the consent of the other parent would not be required for an adoption of the child."
2. Probate Code § 1502 states:
  - a) "A nomination of a guardian under this article may be made in the petition for the appointment of the guardian or at the hearing on the petition or a writing signed either before or after the petition for the appointment of the guardian is filed.
  - b) The nomination of a guardian under this article is effective when made except that a writing nominating a guardian under this article may provide that the nomination becomes effective only upon the occurrence of such specified condition or conditions as are stated in the writing, including but not limited to such conditions as the subsequent legal incapacity or death of the person making nomination.
  - c) Unless the writing making the nomination expressly otherwise provides, a nomination made under this article remains effective notwithstanding the subsequent legal incapacity or death of the person making the nomination."

Santos De La Fuente nominated Diana Marinez in a properly witnessed Will, in a notarized document dated 12/05/2013 giving temporary guardianship to Diana Marinez, and under penalty of perjury in the Petitions for Appointment of Temporary and Permanent Guardian. Adolph Ceredi, father of the minor, nominated Diana Marinez as guardian of the minor, filed in this case on 02/04/2014. All of these writings satisfy the requirements of Probate Code § 1502.

**Please see additional page**

**Dept. 303, 9:00 a.m. Monday, March 17, 2014**

There has been no parental nomination of Stephanie Woodward as guardian of the minor. Ms. Woodward's familial relationship to the minor is 1<sup>st</sup> cousin, once removed. Ms. Woodward's familial relationship does not have priority over a person nominated by both parents in a writing. Family Code § 3043 mandates: "In determining the person or persons to whom custody should be granted under paragraph (2) or (3) of subdivision (a) of Section 3040, the court **shall** consider and give due weight to the nomination of a guardian of the person of the child by a parent under Article 1 (commencing with Section 1500) of Chapter 1 of Part 2 of Division 4 of the Probate Code."

Stephanee's allegations that Diana kept Santos from her family is totally without a factual basis. Santos was the one that decided she did not want contact with most of her family. Santos had a very unhappy childhood. Sarah, her mother, was an alcoholic and when entertaining man, she would lock the door so Santos could not get in the house. After a horrible scene made by Sarah and her half-sister Chloe, Santos made it very clear to staff at the hospital, that she did not want to see her birth mother, Sarah or her half-sister. On Sunday 09/29/2013, Santos dictated and signed a letter to be placed in her chart, that she did not want Sarah or Chloe to have any type of contact with Santos. Stephanie is fully aware of this situation and to allege that Diana was somehow behind these decisions is simply untrue. When Santos was at Diana's home, Stephanie was able to visit Santos. Diana kept Lynette, Rachael and Phyllis informed regarding Santos's condition by text. Phyllis stopped communicating after Santos told Phyllis she wanted Diana as guardian for Carlie. Lynette stayed in contact with Diana until after Santos died. Lynette's and Rachael's attitude toward Diana did not change until Phyllis filed her petition for guardianship.

Santos was physically, emotionally and physically abused by Sarah, Carlie's grandmother, Stephanie knows of Sarah's drinking and emotional problems, which is why Sarah did not petition for Guardian of Carlie. Sarah is bipolar, according to Phyllis, and suffers from severe emotional swings exacerbated by alcohol abuse. Santos did not want her mother and most of her family at her memorial service because she wanted it to be a celebration, not drama. Santos did not want Carlie to have contact with grandmother, Sarah, because of the cruelty and abuse that Santos suffered at the hands of Sarah. In fact, in the temporary petition for guardian, Santos requested that the Court dispense with notice to Sarah because Santos felt it would be harmful to Carlie. Stephanie allows Sarah to visit Carlie every weekend. This is evidence that Stephanie, although knowing the abuse that Sarah inflicted on Santos and Chloe, she does nothing to prevent or even discourage Carlie's exposure to Sarah's irrational behavior. In fact the opposite is true, Stephanie encourages Carlie to see her grandmother. Stephanie's behavior is exactly what Santos feared and why she did not name any of her maternal family as guardian of Carlie.

Stephanee's allegations that Santos did not want Diana as guardian of Carlie and that Diana coerced and influenced Santos to pick Diana is again without basis or merit. Santos' signature on the form giving Diana Temporary Guardianship of Carlie was notarized and witnessed by the notary. Santos' Will was witnessed by two disinterested persons and this will nominated Diana as Custodian of Carlie's assets and Guardian of Carlie's person. Santos expressed to several hospital staff, friends, and in several writings that she wanted Diana as guardian of Carlie.

**Please see additional page**

Stephanee's allegations that it would be detrimental for Carlie to remain in Diana's custody and care is again false. Carlie has excelled in school, received counseling, completed the Footsteps Grieving Program through St. Agnes Medical Center and is a happy, healthy nine year old. Considering the trauma Carlie has experienced in her short life, this speaks volumes about the loving guidance and parenting of Diana. There is nothing about the care that Diana has provided for Carlie that could be defined as detrimental.

**Declaration in Support of Objection to Appointment of Stephanie Woodward as Guardian of Person and Estate filed on 03/06/2014** by Itatica Tapia, God-Sister to Santos De La Fuente states she has known Santos her whole life and remembers Santos as a sister to her and her brother, because she was always staying weekends and spending holidays with her family. Ms. Tapia has known Carlie since she was born. Ms. Tapia states that Santos lived with her family from her preteen to teenage years after he biological mother kicked her out of her own home. Ms. Tapia witness Santos struggle with the effects of Sarah's verbal and physical abuse and how Santos swore she would stop the cycle of child abuse. Ms. Tapia witnessed Santos putting Carlie's needs before her own. She expressed time and again that she wanted Carlie to be nurtured, loved, and parented by the only mother she had ever known, Diana.

Ms. Tapia states that in all the years she has known Santos, she never heard her express a desire for Stephanie to be Carlie's guardian. In fact, Ms. Tapia asked Santos when she first became ill if she would rather have one of her cousins act as Carlie's guardian because they were younger than Diana and Santos answered no. She didn't want her mother, aunts, or cousins to act as Carlie's guardian because of the history of alcohol, verbal and physical abuse in the family. She could never count on any of her family when he mother abused her, so she didn't want to trust them with Carlie.

**Attachments to Objections to Appointment of Guardian filed by Stephanie Woodward filed on 03/07/2014.**

**Declaration in Support of Objections to Appointment of Stephanie Woodward as Guardian of Person and Estates filed on 03/10/2014 by Heather Martinez, close friend to Santos De La Fuente** states she has known Santos since 1998, when she attended high school at the same time as her sister. Ms. Martinez states that on several occasions she would drop Santos off at her mother's boyfriend's home on the West Side. She would wait till make sure Santos go tin and many times Santos would knock on the door and no one would answer. Twice Ms. Martinez picked up Santos and her half-sister in the evening after their mother had hit them and locked them out of the house. Santos would take her laundry over to Ms. Martinez's home so that they could be washed for school the next day. Santos loved her mother, Sarah, but did not stay with her for long periods of time because of the verbal abuse. Ms. Martinez states that the horrible memories came back to her when she visited Santos in St. Agnes in September 2013 and she could hear Sarah yelling and cussing at Santos and other family members in the room. Sarah had to be escorted from the room three times that day. When she reached the hallway, Sarah made a worse scene in front of staff and other patients. Sarah was then escorted from the hospital and told she could not return. Sarah, along with her daughter, Chloe, tried to sneak back in the hospital twice more and the staff informed Santos that she may need to seek a restraining order. This prompted Santos to sign the attached document in front of hospital staff, indicating she did not want any contact with Sarah or Chloe. This was put in Santos' chart so there was no question that Santos' mother and half-sister should not be allowed to contact Santos.

Ms. Martinez states that she was asked to witness Santos's will, she was there when Santos told the nurse that she did not want any paid medication that day, so that her mind would be clear. Santos informed Ms. Martinez that her preference was for Diana to be Custodian to any monies that Carlie may receive as result of Santos's death and Carlie's guardian to take care of her until she was 18. Santos was very clear on that subject. Santos did name Lynette Bertoni, cousin of Santos's, as the Third choice for guardian, but she did not mention Stephanie or even bring her name up as a possibility.

**DSS Social Worker Irma Ramirez' report filed on 02/05/2014.**

**Court Investigator Charlotte Bien's report filed 02/05/2014.**

**Needs/Problems/Comments (continued)**

5. Need Letters.
6. Need Orders.
7. Need Order for Blocked Account.

**Note: If the petition is granted status hearings will be set as follows:**

- **Friday, 04/11/2014 at 9:00a.m. in Dept. 303** for the receipt of the blocked account **and**
- **Friday 08/22/2014 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Friday, 05/22/2015 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.

**Petition for Probate Letters of Administration; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)**

<b>DOD: 12/31/2013</b>		<p><b>RENEE SHOEMAKER</b>, daughter is petitioner and requests appointment as Administrator without bond.</p> <p>All heirs waive bond and nominate petitioner.</p> <p>Full IAEA – o.k.</p> <p>Decedent died intestate</p> <p>Residence: Selma          Publication: Selma Enterprise</p> <p><b>Estimated value of the Estate:</b>          Personal property - \$13,200.00          Real property - \$22,000.00  <b>Total - \$35,200.00</b></p> <p>Probate Referee: Rick Smith</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note: If the petition is granted status hearings will be set as follows:</b></p> <ul style="list-style-type: none"> <li>• <b>Friday, 08/22/2014 at 9:00a.m. in Dept. 303</b> for the filing of the inventory and appraisal <u>and</u></li> <li>• <b>Friday, 05/22/2015 at 9:00a.m. in Dept. 303</b> for the filing of the first account and final distribution.</li> </ul> <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>
<b>Cont. from</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
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<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
		<p><b>Reviewed by:</b> LV</p> <p><b>Reviewed on:</b> 03/12/2014</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b> Submitted</p> <p><b>File 6 – Richardson</b></p>	

	<p><b>RICHARD ROSS</b> filed <i>Second Amended Complaint for Breach of Fiduciary Duty and FRAUD</i> [emphasis in original] on 2-4-10.</p> <p><b>SUSAN ROSS ALLEY</b> filed <i>Answer to Plaintiff's Second Amended Complaint</i> on 3-22-10.</p> <p>On 9-2-10, <b>Richard Ross</b> filed a Notice of Motion to Compel Further Responses to Discovery Requests. On 12-16-10, Judge Kazanjian granted that motion and ordered Ms. Alley to provide further responses and pay \$905 sanctions.</p> <p>On 3-26-12, <b>RICK ROSS and RICHARD ROSS</b> opened a new case 12CEPR00278 and filed a new Petition to Compel Accounting, Surcharge and Remove Trustee. The matter was continued, and on 6-5-12, an Amended Petition was filed.</p> <p>On 7-5-12, the matter was set for trial on 2-5-13, which was continued to 2-19-13.</p> <p>On 2-14-13, the parties reached settlement and were ordered to file agreement. <b>However, at status hearing on 4-5-13</b>, no agreement had been filed, and the Court continued the matter <b>and also set this outstanding matter 09CEPR00285 for status hearing on the Second Amended Complaint that has been outstanding since 2010.</b></p> <p>At the last Settlement Conference Hearing (there have been numerous in this matter) the parties reached a settlement. <b>Minute Order from 02/13/14</b> set this matter for status regarding the Settlement Agreement and states: Parties engage in settlement discussions with the Court. Matter resolved. Upon inquiry by the Court, each party individually agrees to the terms and conditions of the settlement. Court to retain jurisdiction. Counsel to prepare the agreement.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b><u>As of 03/12/14, nothing further has been filed in this matter.</u></b></p> <p><b>Note:</b> There are numerous cases regarding this decedent and his testamentary trusts involving these parties:</p> <ul style="list-style-type: none"> <li>• <b>0557330-8 Estate of Earl Jackson Ross</b> (Estate settled 9-29-97; Created testamentary trusts: Earl J. Ross Marital and Earl J. Ross Family Trusts)</li> <li>• <b>04CEPR00370 Earl Jackson Ross Trust</b> Affirmed on appeal 4-12-10. (Examiner has not reviewed that file at this time to determine what the judgment was that was affirmed.)</li> <li>• <b>05CECG01626 Rick Ross vs. Susan Alley</b> (dismissed, dismissal affirmed on appeal 7-18-07)</li> <li>• <b>08CECG02515 Richard Ross vs. Susan Alley</b> Contained two causes of action and a <u>prayer to reopen the original probate</u>, and for damages and costs. Specifically, Plaintiff sought to determine ownership of the <u>Idaho property</u> where he resided with Decedent, alleging it was fraudulently transferred to Ms. Alley in 1994. An Amended Complaint was filed 8-17-09. A Demurrer was filed and it was ruled to transfer the case to Probate as <b>09CEPR00285 Matter of Earl Jackson Ross.</b></li> <li>• <b>09CEPR00285 Matter of Earl Jackson Ross</b> 1-25-10 Judge Kazanjian signed an order on the Demurrer overruling the first cause of action (extrinsic fraud) and sustaining the second cause of action (breach of fiduciary duty) with leave to amend. Second Amended Complaint was filed 2-4-10; Answer filed 3-22-10. Richard Ross filed Notice of Motion to Compel Further Responses to Discovery Requests on 9-2-10; granted 12-16-10 with \$905 sanctions.</li> <li>• <b>12CEPR00278 Earl J. Ross Marital and Earl J. Ross Family Trust</b> (Rick Ross, Richard Ross, Petitioners, v. Susan Clarke Ross Alley)</li> </ul>
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FTB Notice		
		Reviewed by: JF
		Reviewed on: 03/12/14
		Updates:
		Recommendation:
		File 7 – Ross

Atty Childs, Jerry F., of Law Office of Jeffrey D. Bohn, (for Erlinda M. Verni, surviving spouse)  
 Atty Baldwin, Kenneth; Thompson, Timothy L.; Cunningham, Nikole E.; of McCormick Barstow (for Nicola Verni, son, and Antonietta R. Verni, daughter, Trustees)  
 Atty Jaech, Jeffrey A.; Marchini, Joseph M.; of Baker Manock & Jensen (for Carmela DeSantis, daughter and beneficiary)

Status Hearing Re: Settlement Agreement

DOD: 5/25/2009	<p><b>ERLINDA M. VERNI</b>, spouse, filed on 5/13/2010 a <i>Petition to Set Aside the Non-Probate Transfer of Community Property on Death, by Married Person Without Consent of Spouse</i>; an Amended Petition was filed on 7/30/2010; <i>Second Amended Petition</i> was filed on 10/29/2010.</p> <p><b>ANTONIETTA ROSA VERNI</b>, daughter and Successor Trustee of the <b>VERNI FAMILY TRUST</b> and the <b>VERNI MARITAL TRUST</b>, and <b>NICOLA VERNI</b>, son and Successor Trustee of the <b>VERNI SURVIVOR'S TRUST</b>, filed on 9/3/2010 a <i>Response to Amended Petition to Set Aside the Non-Probate Transfer of Community Property, etc.</i>; <i>Response to Second Amended Petition</i> was filed on 2/18/2011.</p> <p><b>Statement of Decision filed 3/14/2013</b> ordered, among the substantive holdings, that a Status Conference be set regarding outstanding issues remaining before the Court (specifically in part, regarding whether any community property accumulated between the date of marriage of Saverio and Erlinda and the date the Post-Marital Agreement was executed.)</p> <p><b>Several Status Hearings and continuances occurred</b>, culminating as follows:</p> <ul style="list-style-type: none"> <li>• <b>Minute Order dated 11/7/2013</b> entitled <i>Matter Not on Calendar</i>, set a <i>Status Hearing</i> on <b>11/21/2013 at 9:00 a.m.</b>, stating: At request of counsel, the matter is set for <i>Settlement Conference</i> on <b>2/3/2014</b> and <i>Court Trial</i> on <b>2/10/2014</b>.</li> <li>• <b>Minute Order dated 11/21/2013</b> states no appearances.</li> <li>• <b>Minute Order dated 12/6/2013</b> states the Court takes the matter off calendar.</li> <li>• <b>Minute Order dated 2/3/2014</b> from the Settlement Conference (set by <i>Minute Order</i> of 11/7/2013) states Mr. Thompson informs the Court that the matter has been resolved and a stipulation and order will be forthcoming. The Court takes the matter off calendar.</li> <li>• <b>Minute Order dated 2/10/2014</b> from the Court Trial states the Court takes the matter off calendar with the understanding that an agreement has been reached. Matter set for Status Hearing on 3/17/2014. Counsel to provide notice.</li> </ul>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Need Settlement Agreement, and current status report pursuant to Local Rule 7.5(B).</p>	
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Duties/S			
Objection			
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Notice Creditors			
UCCJEA			
Citation			
FIB Notice			
		Reviewed by: LEG	
		Reviewed on: 3/12/14	
		Updates:	
		Recommendation:	
		File 8 – Verni	

12200, et seq.]

<b>DOD: 7/29/2010</b>	<p><b>FRANK SCOTT HINE</b> was appointed Administrator with Full IAEA and bond set at \$118,260.00 on 1/5/2011.</p> <p>Minute order dated 6/15/2012 states the court orders bond set at \$45,000.00 and Limited IAEA authority.</p> <p>Bond of \$45,000.00 filed on 8/10/12.</p> <p>Letters issued 10/24/12.</p> <p>Inventory and Appraisal filed on 6/6/2012 showing the estate valued at \$134,550.00</p> <p><b>Creditor's Claims filed:</b></p> <table border="0"> <tr><td>CitiBank</td><td>-</td><td>\$12,563.66</td></tr> <tr><td>DCM Services</td><td>-</td><td>\$ 260.80</td></tr> <tr><td>Frank Hine</td><td>-</td><td>\$ 4,743.41</td></tr> <tr><td>Donna Langley</td><td>-</td><td>\$17,625.99</td></tr> <tr><td>Wesley Langley</td><td>-</td><td>\$ 1,397.38</td></tr> <tr><td>FTB</td><td>-</td><td>\$ 2,660.09</td></tr> <tr><td>FTB</td><td>-</td><td>\$ 4,337.54</td></tr> <tr><td><b>Total</b></td><td></td><td><b>\$43,689.17</b></td></tr> </table> <p><b>Former Status Report filed 9/9/13 states</b> Mr. Krbechek met with Mr. Hine since the last status conference. Mr. Hine will be present in court on 9/13/13 to provide updated information regarding the status of the estate. The beneficiary of the estate is the decedent's minor daughter, Noelle Hine. Ms. Hine will turn 18 before the end of this year. Mr. Hine has been making all the monthly payments on the house and the loan is current. Ms. Hine's future is uncertain and she is not ready to own a house. Thus, it is in the best interest of the estate that the house be sold. The personal representative will provide an update regarding the status of the property listing at the next hearing.</p>	CitiBank	-	\$12,563.66	DCM Services	-	\$ 260.80	Frank Hine	-	\$ 4,743.41	Donna Langley	-	\$17,625.99	Wesley Langley	-	\$ 1,397.38	FTB	-	\$ 2,660.09	FTB	-	\$ 4,337.54	<b>Total</b>		<b>\$43,689.17</b>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Need <b>First Account, Petition for Final Distribution</b> or <b>current written status report</b> pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>
CitiBank		-	\$12,563.66																							
DCM Services		-	\$ 260.80																							
Frank Hine		-	\$ 4,743.41																							
Donna Langley		-	\$17,625.99																							
Wesley Langley		-	\$ 1,397.38																							
FTB		-	\$ 2,660.09																							
FTB		-	\$ 4,337.54																							
<b>Total</b>			<b>\$43,689.17</b>																							
<b>Cont. from 062113, 080213, 091313, 111513</b>																										
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	<p><b>Reviewed by: KT</b></p> <p><b>Reviewed on: 3/12/14</b></p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 9 - Hine</b></p>																									

**Former Status Report of Randolph Krbechek filed on 11/14/13 states** he has met with Mr. Hine several times since the last hearing. Mr. Hine reports that he has completed most of the tasks to close the estate. The home is listed for sale and is in good, saleable condition. It is anticipated that they will be receiving offers in the foreseeable future. Sale of the real property must be confirmed by the court.

<b>DOD: 08/28/11</b>	<b>SUSAN J. QUINN</b> and <b>RHONDA WALLACE</b> , were appointed Co-Executors without bond on 11/08/11. Letters were issued on 11/21/11.	<p><b>NEEDS/PROBLEMS/ COMMENTS:</b></p> <p><b>CONTINUED FROM 11/18/13</b></p> <p>1. <b>Need Final/Supplemental Account and/or Petition for Final Distribution.</b></p>
	Inventory & Appraisal, Final filed 04/10/12 - \$499,722.31	
	Inventory & Appraisal, Supplemental filed 04/18/13 - \$41,158.54	
<b>Cont. from 091313, 111813</b>	First & Final Account and Report of Executor filed 10/09/12 and set for hearing on 11/19/12.	
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
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<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>	<p><b>Minute Order from 11/19/12 set this matter for status</b> and states: The Court advises counsel that it is treating this as a Petition for Preliminary Distribution. The Court grants a distribution of up to 80% of the estate and compensation. Counsel is directed to submit a revised order.</p> <p><b>Status Report on Continued Administration filed 03/10/14</b> states: on 10/09/12, the co-executors filed their first account and report and petition for distribution. On 11/20/12, the Court entered an order authorizing distribution of substantially all of the assets of the estate, save and accepting the retention of cash for tax liabilities; the court also ordered payment of 80% of statutory attorney fees and extraordinary compensation. The Court ordered that estate administration continue pending the receipt of funds from the unclaimed property division of the State Controller's office in the amount of \$41,158.54 as set forth on the supplemental inventory and appraisal. Those funds were received on 12/07/12. Subsequently, the co-executors have been dealing with the IRS. The decedent did not file tax returns for 2008 or 2009. In filing a return for 2010, the Executors were advised of the missing returns. In filing those returns, the executors were advised that the decedent's identity had been stolen and a false return filed for 2010 in which an erroneous refund was claimed, which refund affected the prior year's returns. Working with a CPA to address the situation, corrected returns have been filed. The IRS assessed penalties on the late filed returns, and the estate sought abatement of those penalties. The executors have been advised to contact the IRS Taxpayer Advocate Service to resolve the issue, but that has not taken place yet. The co-executors distributed \$48,600.00 each to Alison Quinn and Brian Quinn, representing dividends on Quinn Company stock, and retained \$10,000.00 from each distribution towards income taxes payable by the estate on such dividends. The amount of income taxes payable by the estate on account thereof was the sum of \$9,920.00 and co-executors have now distributed the sum of \$10,800 (\$5,040 to each) as the balance of such distribution. Following the period of the account, the estate received an additional \$31,200 representing dividends on Quinn Company stock, which was distributed to Alison Quinn and Brian Quinn (\$15,600 each). The estate's bank account will have \$75,745.99 after payment of fees for preparation of the estates income tax returns. The amount at issue with the IRS is \$15,000. The executors anticipate that within 120 days they will be able to address the penalties with the taxpayer's advocate's division of the IRS and resolve the matter so the estate can be closed.</p>	
		<b>Reviewed on:</b> 03/12/14
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 10 - Quinn</b>

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 7-1-12	<p><b>GEORGE P. PAPPAS</b> was appointed Executor with Full IAEA without bond on 4-25-13 and Letters issued on 5-1-13.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>
	<p>At hearing on 4-25-13, the Court set this status hearing for filing the Inventory and Appraisal.</p>	<p><u>Continued from 9-27-13, 11-22-13, 1-31-14</u></p>
<p>Cont. from 092713, 112213, 013114</p>	<p><b>Status Report filed 9-24-13</b> states the decedent's estate consists primarily of interests in legal entities (one corporation and five general partnerships) for which appraisal is being obtained and one partial interest in a piece of real property for which a sale has been completed. The appraiser engaged by the personal representative is currently working on finalizing the appraisals of the decedent's interests in the entities mentioned above. Once complete, the personal representative intends to either submit to the probate referee for his appraisals, or request waiver of the probate referee appraisal. Status report requests continuance to 11-22-13.</p>	<p><b>Minute Order 9-27-13:</b> Counsel informs the Court that they are in the process of getting appraisals for the decedent's property.</p>
Aff.Sub.Wit.	<p><b>Status Report filed 1-30-14</b> states the I&amp;A has been sent to the Probate Referee. Attorney Poochigian requests 45 days.</p>	<p><b>Minute Order 11-22-13:</b> No appearances. Continued to 1-31-14. A copy of the minute order was mailed to Mr. Poochigian 12-11-13.</p>
Verified	<p><b>Minute Order 1-31-14:</b> Mr. Poochigian is appearing via Courtcall. Continued to 3-17-14.</p>	
Inventory	<p><u>As of 3-11-14, nothing further has been filed.</u></p>	
PTC	<p>1. Need Inventory and Appraisal.</p>	
Not.Cred.	<p>Reviewed by: skc</p>	
Notice of Hrg	<p>Reviewed on: 3-11-14</p>	
Aff.Mail	<p>Updates:</p>	
Aff.Pub.	<p>Recommendation:</p>	
Sp.Ntc.	<p>File 11 – Pappas</p>	
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Citation		
FTB Notice		

<b>DOD: 08/17/12</b>	<p><b>EDWARD SIMPSON</b>, brother, was appointed Administrator with Limited IAEA, without bond, with deposits of \$1,000,000.00 to be placed into a blocked account on 10/16/13. Letters of Administration were issued on 10/22/13.</p> <p><b>Status Hearing Report</b> filed 11/12/13 states: The only assets of the estate are an insurance policy for \$1,000,000.00 and a possible worker's compensation claim as the decedent died while working. In the car accident that killed the decedent, there was a passenger who was injured. That passenger is making a claim against the insurance policy. The passenger hired an attorney and is seeking the full \$1,000,000.00. There are depositions scheduled for mid-December and the passenger still needs to go through a medical evaluation before the parties can go back to mediation. The Administrator is still trying to ascertain if the estate will receive a distribution from a worker's comp claim. Receipts cannot be filed because there are no funds to deposit at this time. No life insurance funds will be distributed until the matter with the passenger is settled. A 60 day continuance is requested.</p> <p><b>Status Hearing Report</b> filed 03/12/14 states: They are in the middle of discovery in the litigation and trying to reach a settlement. The worker's compensation claim must be litigated before finalizing the life insurance litigation. There is a mandatory settlement conference scheduled for 03/18/14. No funds have been disbursed for either claim. A Receipt for Deposit of Funds Into a Blocked Account or a Final Inventory &amp; Appraisal cannot be filed until both claims have been settled. A continuance of at least 90 days is requested.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>CONTINUED FROM 11/15/13</b></p> <p>1. Need Receipt &amp; Acknowledgement of Order for the Deposit of Money into Blocked Account.</p> <p><b>Note:</b> It does not appear that an Order to Deposit Money into Blocked Account has been submitted/signed.</p>
<b>Cont. from 111513</b>		
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 03/12/14</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 12A – Simpson</b></p>		

**Status Hearing Re: Filing of the Inventory and Appraisal**

<b>DOD: 08/17/12</b>	<p><b>EDWARD SIMPSON</b>, brother, was appointed Administrator with limited IAEA, without bond, with deposits of \$1,000,000.00 to be placed into a blocked account on 10/16/13.</p> <p>Letters of Administration were issued on 10/22/13.</p> <p>Minute order dated 8/20/13 set this status hearing for the filing of the inventory and appraisal.</p> <p><b>Status Report filed on 1/17/14</b> states the only assets of the estate are an insurance policy for \$1,000,000.00 and a possible worker's compensation claim as the decedent died while working.</p> <p>In the car accident that killed the decedent, there was a passenger who was injured. That passenger is making a claim against the insurance policy. The passenger hired an attorney and is seeking the full \$1,000,000.00. The parties are still in the middle of discovery and are trying to reach a settlement.</p> <p>An inventory and appraisal cannot be filed until they know how much of the life insurance proceeds will come into the estate.</p> <p><b>Status Hearing Report</b> filed 03/12/14 states: They are in the middle of discovery in the litigation and trying to reach a settlement. The worker's compensation claim must be litigated before finalizing the life insurance litigation. There is a mandatory settlement conference scheduled for 03/18/14. No funds have been disbursed for either claim. A Receipt for Deposit of Funds Into a Blocked Account or a Final Inventory &amp; Appraisal cannot be filed until both claims have been settled. A continuance of at least 90 days is requested.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>CONTINUED FROM 01/21/14</b></p> <p>1. <b>Need inventory and appraisal.</b></p>
<b>Cont. from 012114</b>		
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
	<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 03/12/14</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 12B – Simpson</b></p>	



**Page 2**

Petitioners state the establishment of a special needs trust is to the advantage of the Conservatee and appropriate for the following reasons:

- The Conservatee has a disability that substantially impairs his ability to provide for his own care or custody and constitutes a substantial handicap
- The Conservatee has been a resident of Wish-I-Ah Skilled Nursing & Wellness Centre, LLC, in Auberry, CA, since approx. 2010. It is believed he will remain in a skilled nursing facility for the balance of his lifetime.
- The Conservatee is eligible for and is currently receiving approx. \$4,000/month in Medi-Cal benefits, all of which is applied against his medically necessary expenses and pays all of the cost of his board and care at Wish-I-Ah.
- A distribution from the trust to the Conservatee will result in ineligibility for the Medi-Cal nursing home benefits he is currently receiving and will interfere with his continued board and care at Wish-I-Ah or any other skilled nursing facility.
- If the Conservatee becomes ineligible for Medi-Cal nursing home benefits, the actual cash available for distribution (\$34,000.00 per petition, actually \$5,000.00 per declaration) would be depleted in less than one year.

Pursuant to federal law, if the SNT is established prior to age 65, the exception continues to apply after the individual reaches age 65. This Court has jurisdiction to authorize establishment of a SNT under Probate Code §2580 (substituted judgment) (authority provided).

A declaration as to the value of the trust and in support of this petition is provided by attorney Paul T. Chambers, attorney for Petitioners as Co-Trustees of The Satterberg Family Trust.

Declaration of Attorney Boyett filed 3-10-14 provides additional information regarding the value of the proposed SNT and also provides a revised proposed SNT because the form of SNT previously submitted inadvertently included provisions that were overbroad. The SNT as revised complies with applicable federal and state law, including 42 USC § 1396p(d)(4)(A) and Cal. Rules of Court 7.903.

**Petitioners pray for an order:**

- 1. Petitioners, as co-conservators, are authorized to direct the co-trustees of the Satterberg Family Trust, Exemption Trust to distribute all of the assets from the Exemption Trust due George William Satterberg, Jr., to a special needs trust established under Probate Code §2580(b)(5) for the benefit of George William Satterberg, Jr., Conservatee;**
- 2. None of the assets distributed to the special needs trust for the benefit of George William Satterberg, Jr., from the trust are to be considered as having been received by George William Satterberg, Jr., or the conservators of his estate;**
- 3. That the form of the proposed trust attached to the Declaration filed 3-10-14 be approved;**
- 4. That Petitioners Janet L. Lorensen and Harriet Satterberg are appointed as the co-trustees of the special needs trust created for the benefit of George William Satterberg, Jr.; and**
- 5. For such other and further orders as the Court may deem proper.**

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

Age: 16 years		<b>TEMPORARY EXPIRES 03/17/2014</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		JAMES LESTER FAIR, maternal uncle, is petitioner.		Note: Bernard Fair, maternal grandfather, filed a petition for visitation on 03/10/2014. Hearing is set for 04/14/2014.	
Cont. from 120913, 011314		Father: JOHN ESTRADA – Court Dispensed with Notice per Minute Order of 10/22/2013		Minute Order 01/13/2014: Bernard Fair, maternal grandfather, objects to petition. Parties are directed to clerk's office to get required documents to petition as co-guardians. Visitation is appropriate and allowed with Bernard Fair and is not in violation of the order.	
	Aff.Sub.Wit.	Mother: MEGUMI FAIR, personally served on 10/11/2013		Minute Order of 12/09/2013: Bernard Fair objects to the guardianship.	
✓	Verified	Paternal grandparents: Court Dispensed with Notice per Minute Order of 10/22/2013		As of this examiner's review no written objections have been filed nor has a petition as co-guardians been filed as directed in minute order of 01/13/2014.	
	Inventory	Maternal grandfather: Bernard Fair, served by mail 11/18/2013			
	PTC	Maternal grandmother: Emi Fair, served by mail on 11/18/2013			
	Not.Cred.	Minor: Jessica Monique Estrada, Consents and Waives Notice			
✓	Notice of Hrg	Siblings: Felicia Neill, and Alexander Fair, Consent and Waive Notice			
✓	Aff.Mail	Petitioner states the minor recently suffered a traumatic brain injury and requires 24 hour care. Her mother is unfit to care for her and would not be physically able to care for her. CPS officer advised the petitioner to seek guardianship as soon as possible so that the mother would not be allowed to see the child based on the fact that the mother is not in her right mind.			
	Aff.Pub.	Court Investigator Dina Calvillo's report filed 11/26/2013.			
	Sp.Ntc.			Reviewed by: LV	
✓	Pers.Serv.			Reviewed on: 03/13/2014	
	Conf. Screen			Updates:	
✓	Letters			Recommendation:	
✓	Duties/Supp			File 14 – Estrada	
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				

15 James Horton & Brooke Horton (GUARD/P)  
 Atty Horton, Juanita Faun (pro per Petitioner/paternal grandmother)  
 Atty Banut, Delia M. (pro per Petitioner/maternal grandmother)  
 Atty Rusca, Rodney (for Objector/Father James Horton)

Case No. 14CEPR00029

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

James: Deceased DOD: 2/19/14	<p style="text-align: center;"><b>There is no temporary. Temporary was denied.</b></p> <p><b>JUANITA FAUN HORTON</b>, paternal grandmother, and <b>DELIA MARTINEZ BANUT</b>, maternal grandmother, are petitioners.</p> <p>Father: <b>JAMES JOHN HORTON</b></p> <p>Mother: <b>DESIE MONTERO HORTON</b> – consents and waives notice.</p> <p>Paternal grandfather: Robert William Horton          Maternal grandfather: Arsie Ortega Banut</p> <p><b>Petitioners state</b> the child, James, suffered a traumatic brain injury caused by the mother's ex-boyfriend in March 2013. The injury has compromised the child's ability to walk, talk and feed himself. He currently requires 24-hour care which includes daily medications, tube feeding, repositioning and overall monitoring of his health. This has caused the father to be in severe depression and has resulted in his alcohol abuse. The depression and alcohol abuse impairs the father's judgment to provide proper care for the children. The paternal grandmother is currently providing care for the children every day and observes that the father is rarely home to provide care for the children.</p> <p style="text-align: center;"><b>Please see additional page</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need Notice of Hearing.</li> <li>2. Need proof of service of the Notice of Hearing or Consent and Waiver of Notice or Declaration of Due Diligence on:             <ol style="list-style-type: none"> <li>a. Robert Horton (paternal grandfather)</li> <li>b. Arsie Banut (maternal grandfather)</li> </ol> </li> </ol>		
Brooke age: 2				
Cont. from				
<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 type="checkbox"/> Notice of Hrg			X	
<input type="checkbox"/> Aff.Mail			X	
<input type="checkbox"/> Aff.Pub.				
<input type="checkbox"/> Sp.Ntc.				
<input type="checkbox"/> Pers.Serv.				
<input checked="" type="checkbox"/> Conf. Screen				
<input checked="" type="checkbox"/> Letters				
<input checked="" type="checkbox"/> Duties/Supp				
<input type="checkbox"/> Objections				
<input type="checkbox"/> Video Receipt				
<input type="checkbox"/> CI Report				
<input type="checkbox"/> 9202				
<input checked="" type="checkbox"/> Order				
<input type="checkbox"/> Aff. Posting				
<input type="checkbox"/> Status Rpt				
<input checked="" type="checkbox"/> UCCJEA				
<input type="checkbox"/> Citation				
<input type="checkbox"/> FTB Notice				
			Reviewed by: KT	
			Reviewed on: 3/13/14	
		Updates:		
		Recommendation:		
		File 15 – Horton		

**Father, James Horton's Objection to Petitioners' Request for Guardianship filed on 1/16/14. Objector states** he and the children's mother separated on 6/1/12 and the mother moved to Visalia. Mr. Horton states he remained in the family residence in Fresno and they shared physical custody of their children. On 3/21/13 the mother had the children and her boyfriend, Trevor Bishop, beat their son, Jimmy within an inch of his life. Trevor Bishop and the mother were arrested, a hold was placed on the children and then they were placed in the father's care.

Jimmy was released from the hospital on 5/23/13. He is non-responsive. Mr. Horton states he has a hospital bed in his home and he gives him his medications.

On 1/2/14, Mr. Horton states he met with Dr. Nakaguchi and it was suggested that he meet with a Hinds Hospice Social Worker.

On 1/7/14 a Hinds Hospice worker began assisting with Jimmy's care as recommended by his physicians at Valley Children's Hospital.

Mr. Horton states this made his mother, Juanita Horton, angry and he suspects that is why she filed for guardianship. Neither of the proposed guardians are trained to care for Jimmy.

Mr. Horton states the social worker who is working with him has expressed her concerns with either of the proposed guardians caring for Jimmy.

Mr. Horton states the police came to his home on 1/14/14 to enforce the ex parte order of temporary guardianship. A child abuse detective showed up and many other law enforcement persons. After speaking with Tulare County, Fresno County refused to enforce the ex parte guardianship order and told Mr. Horton to file for immediate ex parte relief.

**Mr. Horton requests the court deny the request for guardianship in favor of the custody orders in Tulare County.**

**Court Investigator Samantha Henson's Report for the temporary hearing filed on 1/21/14**

**Supplemental Declaration of Father, James Horton filed on 3/12/14 states** on 2/14/14 he was awarded permanent domestic violence restraining orders protecting him from Juanita Horton and Desie Horton.

On 2/19/14 Jimmy (minor herein) passed away.

The mother [Desie Horton] and his mother [Juanita Horton] spent the weeks preceding Jimmy's passing terrorizing them.

They went through mediation with Family Court Services and a new custody order is attached. [Mother was given supervised visits with Brooke only twice per week for one hour at a supervising agency.]

**Declaration of Juanita Horton filed on 3/11/14.** In her declaration Ms. Horton is requesting visitation with her granddaughter Brooke.

**Court Investigator Samantha Henson's Report filed on 3/11/14.**

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

<b>Alexis age: 7 years</b>	<b>Temporary Expires on 3/17/14</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Emma age: 6 years</b>	<b>MARIA ARROYO</b> , maternal grandmother, is petitioner.	<ol style="list-style-type: none"> <li>1. Petition does not include the names and addresses of the paternal grandparents.</li> <li>2. Need proof of service of the Notice of Hearing along with a copy of the petition or consent and waiver of notice on:             <ol style="list-style-type: none"> <li>a. Greg Romero – unless the court dispenses with notice.</li> </ol> </li> <li>3. Need proof of service of the Notice of Hearing along with a copy of the petition or consent and waiver of notice or declaration of due diligence for:             <ol style="list-style-type: none"> <li>a. Alexis's paternal grandparents.</li> <li>b. Emma's paternal grandparents. (It should be noted that the father's objections seem to indicate that the petition has dropped Emma off with her paternal grandmother.)</li> </ol> </li> </ol>
	Father (Alexis): <b>GREG ROMERO</b> – Declaration of Due Diligence filed on 1/30/14.	
<b>Cont. from</b>	Father (Emma): <b>TERRENCE STEVEN LEE</b> – personally served on 2/10/14.	
<input type="checkbox"/> Aff.Sub.Wit.	Mother: <b>GRISELDA ARROYO</b> - Consents and waives notice	
<input checked="" type="checkbox"/> Verified	Paternal Grandfather (Alexis): Unknown Paternal Grandmother (Alexis): Unknown	
<input type="checkbox"/> Inventory	Paternal Grandfather (Emma): Unknown Paternal Grandmother (Emma): Unknown	
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	<b>Petitioner states</b> the children are living with her and although their mother has notarized documentation, they need to formalize things so that Petitioner can enroll them in school, get insurance for them, and provide for any medical attention they may need while in her care.	
<input type="checkbox"/> Aff.Mail	<b>Objections of Terrance Lee (father of Emma) filed on 2/11/14 states</b> the grandmother lied when she said she didn't have contact with the father and didn't know where he lived. She would drop the minor off. Father feels that if the mother isn't going to care for Emma then Emma should be with him.	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input checked="" type="checkbox"/> Pers.Serv.		
<input checked="" type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report	<b>Court Investigator Dina Calvillo's Report filed on 3/10/14.</b>	
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input checked="" type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		<b>Reviewed by: KT</b>
		<b>Reviewed on: 3/13/14</b>
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 16 – Romero &amp; Arroyo</b>

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

<b>Age: 67</b>		<b><u>GENERAL HEARING: 04/08/14</u></b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>		
		<p><b>JIMMY ASHLOCK</b>, non-relative, is Petitioner and requests appointment as Temporary Conservator of the Person.</p>				
<b>Cont. from</b>		<p><b>Petitioner states</b> that the proposed conservatee needs assistance with counting money, cooking and daily living activities.</p>		<ol style="list-style-type: none"> <li>1. Need <i>Notice of Hearing</i>.</li> <li>2. Need proof of personal service at least 5 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Temporary Conservator</i> on the Proposed Conservatee.</li> <li>3. Need proof of service by mail at least 5 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Temporary Conservator</i> for:               <ol style="list-style-type: none"> <li>a. Gloria Smith (mother)</li> <li>b. Connie Cunningham (sister)</li> <li>c. Brian Wright (son)</li> <li>d. Matthew Wright (son)</li> <li>e. Jonathan Wright (son)</li> <li>f. Catherine Thurman (granddaughter)</li> <li>g. Brandon Wright (grandson)</li> </ol> </li> <li>4. Need Confidential Guardian Screening Form (GC-212).</li> </ol>		
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>					
<input checked="" type="checkbox"/>	<b>Verified</b>					
<input type="checkbox"/>	<b>Inventory</b>					
<input type="checkbox"/>	<b>PTC</b>					
<input type="checkbox"/>	<b>Not.Cred.</b>					
<input type="checkbox"/>	<b>Notice of Hrg</b>	x	<p><b>Court Investigator Jennifer Daniel filed a report on 03/11/14.</b></p>			
<input type="checkbox"/>	<b>Aff.Mail</b>	x				
<input type="checkbox"/>	<b>Aff.Pub.</b>					
<input type="checkbox"/>	<b>Sp.Ntc.</b>					
<input type="checkbox"/>	<b>Pers.Serv.</b>	x				
<input type="checkbox"/>	<b>Conf. Screen</b>	x				
<input checked="" type="checkbox"/>	<b>Letters</b>					
<input checked="" type="checkbox"/>	<b>Duties/Supp</b>					
<input type="checkbox"/>	<b>Objections</b>					
<input checked="" type="checkbox"/>	<b>Video Receipt</b>					
<input type="checkbox"/>	<b>CI Report</b>					
<input type="checkbox"/>	<b>9202</b>					
<input checked="" type="checkbox"/>	<b>Order</b>					
<input type="checkbox"/>	<b>Aff. Posting</b>					
<input type="checkbox"/>	<b>Status Rpt</b>					
<input type="checkbox"/>	<b>UCCJEA</b>					
<input type="checkbox"/>	<b>Citation</b>					
<input type="checkbox"/>	<b>FTB Notice</b>					
				<b>Reviewed by:</b> JF		
				<b>Reviewed on:</b> 03/12/14		
				<b>Updates:</b>		
				<b>Recommendation:</b>		
				<b>File 17 – Wright</b>		

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

Age: 12	<u>GENERAL HEARING 05/05/14</u>		<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need <i>Notice of Hearing</i> for the temporary hearing on 03/17/14.</li> <li>2. Need proof of personal service at least 5 court days before the hearing of <i>Notice of Hearing</i> for the 03/17/14 hearing with a copy of the <i>Temporary Guardianship Petition or Consent &amp; Waiver of Notice or Declaration of Due Diligence</i> for:           <ol style="list-style-type: none"> <li>a. Tyeondrea McGlothlin (mother)  <b>Note:</b> Proof of personal service filed 03/11/14 attached to the <i>Notice of Hearing</i> on the 05/05/14 hearing does not indicate that a copy of the <i>Petition</i> was served with the <i>Notice of Hearing</i> as required per the Probate Code.</li> </ol> </li> </ol>
	<p><b>JACQUELINE SMITH</b>, paternal aunt, is Petitioner.</p>		
	<p>Father: <b>HOWARD MASON</b> – <i>Consent &amp; Waiver of Notice filed 03/05/14</i></p>		
Cont. from	<p>Mother: <b>TIYEONDREA MCGLOTHIN</b> – <i>Personally served on 03/10/14 with Notice of Hearing only for the general hearing on 05/05/14</i></p>		
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	x	<p>Paternal grandfather: BILLY MASON          Paternal grandmother: MAGNOLIA HEADLEY</p>	
Aff.Mail			
Aff.Pub.		<p>Maternal grandparents: UNKNOWN</p>	
Sp.Ntc.			
Pers.Serv.	x	<p><b>Petitioner states</b> that the since May 2013, Absalom's mother has been dropping him off at the paternal grandmother's home and leaving him for long periods of time. The mother began locking the minor out of her home and has stated that she does not want him in her home. Petitioner requests temporary guardianship so that she can help her nephew.</p>	
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
			<p><b>Reviewed by:</b> JF</p>
			<p><b>Reviewed on:</b> 03/12/14</p>
			<p><b>Updates:</b></p>
			<p><b>Recommendation:</b></p>
			<p><b>File 18 – Mason</b></p>

**1A Robert Warren Fansler (Estate)**

Case No. 13CEPR00399

Atty Garzon-Ayvazian, Hilda (Competing Petitioner – Attorney of Alhambra, California)

Atty Molsenbocker, Gary L (for Robert B. Fleming- Petitioner – Special Administrator)

**Petition for Letters of Special Administration; Authorization to Administer under the Independent administration of Estates Act**

<b>DOD: 11/24/2011</b>	<b>ROBERT B. FLEMING</b> , Court Appointed Special Administrator in Arizona of Decedent, is petitioner and requests appointment as Special Administrator in Ancillary Administration.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Attorneys have been provided the Tentative Ruling.</b></p> <p><b>Minute Order of 11/06/2013: The Court orders Geraldine Guthrie and/or her counsel, Ms. Garzon-Ayvazian to see to the payment of the Calaveras County tax liens and penalties by 11/8/13. The Court orders that any payments made be reimbursed by the administrator using the funds he is overseeing. The Court indicates for the record that this is not to be construed as the Court's appointment of Geraldine Guthrie as special administrator. Any issues regarding off-sets are to be dealt with at another date and time. Parties are advised that any issues of surcharge are to be dealt with in Arizona. Parties are further advised that Court may in the interim rule on the issue of standing.</b></p> <p><b>Reviewed by: LV</b></p> <p><b>Reviewed on: 03/14/2014</b></p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 1A - Fansler</b></p>
	Petitioner was appointed Special Administrator of the Estate in the Arizona Probate of the Decedent on 06/27/2012.	
<b>Cont. from 101513, 110613, 010814</b>	Letters of Special Administration issued on 08/02/2012 by the State of Arizona, County of Pima.	
<input type="checkbox"/> Aff.Sub.Wit.	Will dated: 06/19/2006	
<input checked="" type="checkbox"/> Verified	Residence: Rico Rico, Arizona	
<input type="checkbox"/> Inventory	<b>Estimated Value of the Estate:</b>	
<input type="checkbox"/> PTC	<b>Total - \$0</b>	
<input type="checkbox"/> Not.Cred.	Probate Referee: Rick Smith	
<input checked="" type="checkbox"/> Notice of Hrg	<b>Objections to Petition for Letters of Special Administration filed by Robert Fleming was filed by Attorney Hilda Garzon-Ayvazian on 10/01/2013 and states Robert Fleming, the Arizona Special Administrator of the Estate of Robert W. Fansler has just now filed a Petition for Special Letter of Administration. Such petition should be denied because Robert Fleming is <b>no longer a neutral third party in the Estate of Robert W. Fansler.</b> He has made himself a party by contesting the Petition for Probate filed by Petitioner here in Fresno. In Arizona, he was appointed as Special Administrator because there was a controversy between the heirs of the 2006 California will and the heir of the 2011 Mexican Will and he stayed clear of the controversy there. He was appointed by stipulation of the parties involved, including Petitioner because she was not informed that Robert Fleming was in fact a very close friend of Denice Shepard, counsel for Barbara Stettner, one of the heirs of the 2006 Will. This fact was proven to be very detrimental to the Estate as a whole but mostly to the heir of the 2011 Will, the surviving spouse.</b>	
<input checked="" type="checkbox"/> Aff.Mail w/		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input 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		

**Please see additional page**

**Objection continued:**

Robert Fleming's petition and his objections filed with this Court clearly evidences that he is in fact an advocate for the heirs of the 2006 will and is **no longer a neutral representative of the estate**. In fact, he has taken or refused to take action on issues that have diminished the estate corpus in Arizona. In Arizona, he allowed Barbara Stettner, one of the heirs of the 2006 will, to petition the court for a determination of proceeds that were paid to the estate from an inheritance in a Chicago probate without opposition from his part. The Court erroneously awarded Stettner \$147,000+ and **not only did Robert Fleming not oppose the Petition, he had reached a side agreement with Stettner's counsel**, his good friend Denice Shepherd, according to court documents filed by Shepherd, about the Chicago proceeds without notifying any of the other heirs. This order is currently under appeal in Arizona brought by the Petitioner not the Special Administrator.

Robert Fleming refuses to refer to Ramona Rios Rodriguez as the decedent's wife although there is a validly authenticated marriage certificate that has been presented on numerous occasions. Even the court in Arizona **after nearly sixteen months has finally acquiesced that Ramona Rodriguez is the wife of the decedent**. Petitioner requests that any mention by Robert Fleming of the word "alleged" next to wife when referring to Ramona Rios Rodriguez should be stricken from the record.

Robert Fleming, as Special Administrator in Arizona has filed a Petition to Determine Heirship. He has no standing to do so under Arizona law, and again proves his impartiality towards Barbara Stettner represented by his good friend Denice Shepherd. In *Estate of Wallin*, (1971) 16 Ariz.App.34, 35 the Court of Appeals stated that "**(t)he burden of establishing a claim of heirship is on the alleged heir**. Edgar v. Dickens, 230 Ark. 7, 320 S.W.2d 761 (1959); In re Hobart's Estate, 82 Cal.App.2d 502, 187 P.2d 105(1947)." (Emphasis added). In footnote 2 of the opinion to court clearly states that the Administrator should not take any affirmative action for or against any claimant. It stated "Objections were made both by counsel for the state and counsel for the administrator of Hugo Walling's estate. In fact the transcript reflects active participation by the latter. It is true that an executor is a property party in heirship proceedings and has a duty to defend the testator's will against attack. In Re Estate of Harber, 104 Ariz. 79, 449 P.2d7 (1969). **However, in this case the administrator is in effect merely a nominal party, to be advised of the progress of the proceedings and to be bound by the heirship determination. Consequently, it is inappropriate that he take an affirmative position for or against any claimant.** In Re Lynagh's Estate, 177 So.2d. 256 (Fla.App. 1965); Zimmer v. Gudmundsen, 142 Neb. 260, 5N.W.2d707 (1942). (Emphasis added).

Based on the current controversy between Robert Fleming and the Petitioner, Petitioner requests that a neutral third party be appointed as Special Administrator here in California, until the issue of the Mexican Will is resolved. As stated by the California Supreme Court in *O'Bryan v. Superior Court* (1941) 18Ca.2d 490, 497, quoting New York Case: "Where the executor is not a disinterested party or is a party to the contest, surrogates have been deemed justified in the exercise of discretion in appointing a stranger." (See also *Estate of Eggsware*, 123 Misc. 541 [206 N.Y. sup, 18].") As stated above, Robert Fleming is a party to the contest or a as he calls it objecting to the probate and therefore is not a disinterested party. He has failed to protect the estate in Arizona and continues to act in favor of one heir, Barbara Stettner, to the detriment of the estate. Petitioner requests the Court appoint the Public Administrator as Special Administrator. The Public Administrator would in fact be a neutral third party.

**Please see additional page**

**Dept. 303, 9:00 a.m. Monday, March 17, 2014**

Wherefore, Petitioner requests that this Court enter an order that:

1. Robert Fleming, as the Arizona Special Administrator is not a neutral third party, and therefore his Petition for Special Letters of Administration is denied.
2. The Public Administrator be appointed Special Administrator pending the resolution of the Mexican Will.

**Note: If the petition is granted status hearings will be set as follows:**

- **Friday, 08/22/2014 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Friday, 05/22/2015 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

**Dept. 303, 9:00 a.m. Monday, March 17, 2014**

**1B Robert Warren Fansler (Estate)**

**Case No. 13CEPR00399**

**Atty Garzon-Ayvazian, Hilda (Petitioner – Attorney of Alhambra, California)**  
**Atty Molsenbocker, Gary (for Objector Robert B. Fleming)**  
**Atty Sullivan, Robert L. (for Objector – Barbara A. Stettner)**

**Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)**

<b>DOD: 11/24/2011</b>	<b>HILDA GARZON-AYVAZIAN</b> , petitioner requests appointment as Administrator with will annexed without bond.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Attorneys have been provided the Tentative Ruling.</b></p> <p><b>Minute Order of 11/06/2013: The Court orders Geraldine Guthrie and/or her counsel, Ms. Garzon-Ayvazian to see to the payment of the Calaveras County tax liens and penalties by 11/8/13. The Court orders that any payments made be reimbursed by the administrator using the funds he is overseeing. The Court indicates for the record that this is not to be construed as the Court's appointment of Geraldine Guthrie as special administrator. Any issues regarding off-sets are to be dealt with at another date and time. Parties are advised that any issues of surcharge are to be dealt with in Arizona. Parties are further advised that Court may in the interim rule on the issue of standing.</b></p> <p><b>For Objector Barbara A. Stettner:</b></p> <p>1. Objection was not verified pursuant to Probate Code §1021.</p> <p><b>Note: If the petition is granted status hearings will be set as follows:</b></p> <ul style="list-style-type: none"> <li>• <b>Friday, 08/22/2014 at 9:00a.m. in Dept. 303</b> for the filing of the inventory and appraisal <u>and</u></li> <li>• <b>Friday, 05/22/2015 at 9:00a.m. in Dept. 303</b> for the filing of the first account and final distribution.</li> </ul>
	Sole heir waives bond.	
	Named executor declines to act.	
<b>Cont. from 062413, 073013, 091113, 101513, 110613, 010814</b>		
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Full IAEA – o.k.	
<input checked="" type="checkbox"/> <b>Verified</b>	Will dated: 06/16/2011	
<input type="checkbox"/> <b>Inventory</b>	Residence: Arizona / Mexico	
<input type="checkbox"/> <b>PTC</b>	Publication: Fresno Bee	
<input type="checkbox"/> <b>Not.Cred.</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	<b>Estimated value of the Estate:</b>	
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	Personal property \$33,190.00	
<input checked="" type="checkbox"/> <b>Aff.Pub.</b>	Real property \$647,570.00	
<input type="checkbox"/> <b>Sp.Ntc.</b>	<b>Total: \$680,760.20</b>	
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input type="checkbox"/> <b>Conf. Screen</b>	Probate Referee: Rick Smith	
<input checked="" type="checkbox"/> <b>Letters</b>		
<input checked="" type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>	<b>Please see additional page for Objections of Robert B. Fleming.</b>	
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
		<b>Reviewed by: LV</b>
		<b>Reviewed on: 03/14/2014</b>
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 1B – Fansler</b>

**Objections to Petition for Probate filed by Robert B. Fleming on 6/20/13.** Objector states he is the duly appointed Special Administrator of the Estate of Robert Warren Fansler, deceased, which is pending in the Superior Court of the State of Arizona, County of Santa Cruz, case no. PB 12-001. Objector states he was appointed by the Arizona court to act as Special Administrator upon the determination by the Court that the appointment of a special administrator was needful and necessary due to the conflict and disputed claims among the parties.

Objector states he was appointed by the Court to act as the interim special administrator to hold and preserve the estate assets and to do whatever was needful and necessary to protect the assets of the estate during the pendency of the proceedings before the court; those matters included, among other things, the validity of the decedent's alleged "Mexican" will that was submitted in this matter. As of this time the proceedings in the Arizona court are in process and as of yet the issues before the court have not been fully adjudicated and/or resolved by the court.

There are a number of issues presently being litigated between Ms. Garzon-Ayvazian's client, Ramona Rios Rodriguez, the alleged wife of the Decedent; the child of the Decedent, Donna Jean Broussard, and the partner/significant other of the Decedent, Geraldine Guthrie. Without going into all the sordid details of the contested proceedings, a brief synopsis of the issues that are currently pending before the Arizona court is offered. Initially Geraldine Guthrie, described as the partner and or/significant other of the decedent was appointed personal representative of the decedent's estate; sometime thereafter her appointment was objected to by the decedent's alleged "Mexican" wife (Rodriguez) and an objection/claim of right was filed by the decedent's daughter (Broussard). The "wife" contends that she is the rightful heir under the decedent's alleged last will and testament, which was written in Spanish and authored in Mexico and any rights that she may have independently under the law as "surviving spouse" of the decedent. The daughter claims an interest in the estate as a lineal heir of the decedent.

The principal issues of the contest are the validity and effect of the decedent's Mexican "will." If the will is found to be valid, there are additional issues that were raised as to what the decedent actually intended when he wrote the alleged will, as well as, issues regarding the interpretation of the instrument. There is also an issue in regard to the authenticity and validity of the decedent's "Mexican" marriage.

During the course of the proceedings in Arizona, Ms. Garzon-Ayvazian, Esq. actively participated in the probate hearings and in the ensuing litigation process; and she is/was aware of Mr. Fleming's appointment as Special Administrator and all the court orders entered in that matter. After Mr. Fleming's appointment the parties have been engaged in pretrial discovery and related proceedings in preparation and anticipation of trial on the issues. Mr. Fleming states he is not an active participant in the litigation of the matter. He was charged by the court to administer the estate until such time as the issues are resolved and/or on such other considerations that the court may determine to be in the best interest of the estate.

Presently the decedent's estate owns no real property in the State of California; at the time of his death he held three promissory notes secured by deeds of trust, which are being administered in his estates. The potential possessory rights as on any of the three properties involved have not accrued into the right of possession; thus the estate holds no "ownership" interest in the three properties other than contingent beneficial interest in the as security for notes.

**Please see additional page**

**Objections to Petition for Probate filed by Robert B. Fleming on 6/20/13 cont.:** It is the opinion of the Objector that the petition filed in this matter by Ms. Garzon-Ayvazian was ill conceived and that she failed to disclose to the court all the pertinent facts and circumstances necessary for the court to take lawful and appropriate jurisdiction over this estate.

**Wherefore**, based on the objections and the facts presented herein, the Objector requests that the Court grant the following relieved and the Court enter and order that:

1. The Petitioner's petition be dismissed with prejudice;
2. The Objector be awarded his attorney's fees and costs; and
3. For all other proper relief the Court deems proper under the circumstances.

**Reply to Objections to Petition for Probate filed by Hilda Garzon-Ayvazian on 07/05/2013.** On or around the year 2000, Robert Fransler, decedent, met Ramona Rios Rodriguez in Mazatlan, Sinaloa, Mexico. At the same time that Ramona met decedent she also met Geraldine May Guthrie who was introduced as decedent's sister. Gerry herself testified at her deposition taken by the Objector, Robert B. Fleming, on 04/03/2013 that she was a business partner and friend of the decedent. She also called decedent her brother. At no time did Gerry testify that she was the significant other of the decedent as stated by Objector.

Decedent and Ramona began dating and when decedent spent his time in Mazatlan, Ramona lived with him at his home on the beach which was named "Sand Castle." When decedent was in Mazatlan, Gerry would also come down with him and she would stay in the Sand Castle and Ramona and decedent would stay in the trailer home that was parked on the property.

In February 2009, decedent and Ramona married in Mazatlan, Sinaloa, Mexico. Gerry was present at the wedding and was one of the witnesses as corroborated by the signature on the marriage certificate. Also at Gerry's deposition, she testified that "Monica" as Gerry calls Ramona was decedent's wife. Contrary to what Objector, who should be neutral since he is the Special Administrator in Arizona, has stated, Ramona **is the wife of decedent, not the alleged wife**. Although Gerry knew that Ramona was the decedent's wife after his death she refused to name her as the surviving spouse on the death certificate, and also failed to give her notice of any of the probate proceedings.

**Objector has no standing to Object** – The question to ask is whether the objector who is Special Administrator in Arizona is an "interested person" within the meaning of Probate Code section 48, and has standing to object to Probate of a Will in Fresno. Probate Code section 48 defines "interested person" as follows:

"(a) Subject to subdivision (b), "interest person" include any of the following:

- (1) An heir, devisee, child, spouse, creditor, beneficiary, and any other person having a property right in or claim against a trust estate or the estate of the decedent which may be affected by the proceeding.
- (2) Any person having priority for appointment as personal representative.
- (3) A fiduciary representing an interested person.

**Please see additional page**

(b) The meaning of "interested person" as it relates to particular purposes of, an matter involved in, any proceedings"

Under the above definitions, Objector as Special Administrator in an Arizona probate does not fall within any of the categories. An interested persona has also been defined as "one who has such a pecuniary interest in the devolution of the testator's estate as may be impaired or defeated by the probate of the will or be benefitted by having it set aside." Estate of O'Brien, 246 Cal.App.2d 788, 792, 55 Cal.Rptr. 343. Although the Special Administrator is deriving fees from the decedent's estate in Arizona that is not the pecuniary interest that case law refers to.

In an early case, the California Supreme Court held that the right of an interested person to contest a will is a fundamentally based upon the loss of property or property rights resulting from the recognition of an invalid instrument depriving him of those rights; that the purpose of a will contest is to establish a violation of the contestant's rights of property; that in its essence the contest is an action for the recovery of property unlawfully taken or about to be taken from the ownership of the contestant. Estate of Baker, 170 Cal. 578, 586-585, 150 P. 989. Although, Objector has not clearly stated that he is contesting the will of decedent of June 2011, his objections to the probate seem to infer that he is in fact objecting to the will on grounds that are not specifically stated.

In California, an Executor who has been named in a will, which has been admitted to probate, has the right to oppose or resist a contest of such will. Estate of Webster, 43 Cal.App.2d 6, 20, 110 P. 2d 81, 11 P.2d 355. In this case the Objector is not an executor named in a will but a Special Administrator. A Public Administrator, however, is not entitled to maintain a contest of a will. In Golden v. Stoddard (1935) 4 Cal.2d 300, 306 quoting Estate of Sanborn, 98 Cal. 106 the California Supreme Court stated: "A public administrator has no interest in an estate, or in the probate of a will; that is a matter which concerns only those to whom the estate would otherwise go." Objector as Special Administrator functions very similar to a Public Administrator. The Objector as Special Administrator has no interest in the estate. It is a concern only of the heirs at law or under a previous will of the decedent. He does not have the right to fight their battles. As such, the Special Administrator's objections should be dismissed because he has no standing to object. Petitioner advised the Special Administrator of this prior to him filing any objections as such his objections were frivolously or negligently filed. He should pay fees and costs to Petition from his own pocket and not from the estate.

**Objector does not have capacity to sue** – "Under common law, a personal representative cannot sue in his or her representative capacity outside the state of appointment. (Vaughan v. Northrup, (1841) 40 U.S. 1, 5-6 [10 L.Ed. 63]) Justice Story of the United States Supreme Court explained the doctrine: 'Every grant of administration is strictly confined in its authority and operation to the limits of the territory of the government which grants it; and does not, de jure, extend to other countries [or estate]. It cannot confer as a matter of right, any authority to collect assets of the deceased in any other state; and whatever operation is allowed to it beyond the original territory of the grant is mere matter of comity, which every nation [or state] is at liberty to yield or to withhold, according to its own policy and pleasure, with reference to its own institutions and the interest of its own citizens' (id. At p.5) Some states have abandoned the common law rule and permit estate representatives appointed by any sister state to commence litigation in their court. (e.g., N.Y. Estates, Powers & Trusts Law §13-3.5 (McKinney 1967). **California is not one of them. California has always followed the common law in holding that 'an executor or administrator, as such, has no power which he can employ extraterritorially.'** (Lewis v. Adams (1886) 70 Cal. 403, 411 [11 P. 833] italics omitted. "Smith v. Climmet, (2011) 199 Cal. Spp.4<sup>th</sup> 1381, 1391. (emphasis added).

**Please see additional page**

Objector by his own admission is objecting to the probate of Decedent's will of June of 2011 in his capacity as Special Administrator appointed by the Court in Nogales, Arizona. Under California law, he has no power outside of the State of Arizona to file any documents in this State in his capacity as Special Administrator.

**California has jurisdiction** – Objector's argument is that the decedent died holding three deeds of trust in California and that does not give California jurisdiction to hear the probate of Decedent's will because the deeds of trust are no rights of possession, and that furthermore a probate proceeding is currently pending in Arizona. In an early case, the California Supreme Court dealt with the issue of probating a will in different states. "Recognition would be given to the indisputable principle that every state has plenary power with respect to administration and disposition of the estates of deceased persons as to all property of such persons found within its jurisdiction. Thus the courts of a state may grant original probate upon wills of deceased non-residents who leave property within the state" Estate of Clark, 148 Cal. 108, 112, 82 P. 760. The decedent died holding three deeds of trust (one in Fresno, two in Calaveras County), two classic mustangs and bank accounts a Bank of America in Los Banos. As such the Decedent had assets within the state and California has jurisdiction to hear the probate.

**Deed of Trust is interest in Real Property** – Objector further asserts that the Deeds of Trust currently held by Decedent have no possessory rights and the estate holds no "ownership" interest in the three properties. Once again, Objector is mistaken as to California Law. Under common law and the majority rule in the United States a mortgage taken as security for a purchase money note is but a chose in action, strictly personally, representing no interest in the land. Adams v. Winne (1838), 7 Paige (N.Y.) 97 101-102. But under California law, "a mortgage is not a mere chose in action." A mortgage creates "an interest in the property to the extent of the attachment lien." Estate of McLaughlin, 97 Cal.App. 485 [275 P. 875]. "Under California law, a mortgage also has a security interest in the nature of an equitable lien." Childs etc. Co. v. Shelburne Realty Co., 23 Cal.2d 263, 268. "A trust deed definitely does represent an interest in the land, for the title is in the trustee for the benefit of the creditor. Bank of Italy v. Bentley, 217 Cal 644, 655 [20 P. 2d940]; Py v. Pleitner, 70 Cal.App.2d 576, 579 [161 P.2d 393]. "Though the trust deed has been analogized to a mortgage, especially between debtor and creditor, whenever necessary to avoid harshness in the application of the rule, it still remains true that **title does not pass to the buyer but rests in the trustee for the primary benefit of the seller. And any rule that rests upon the assumption that the holder of a trust deed note does not have any interest in the land finds no substantial basis in California law.**" Estate of Moore, 135 Cal.App.2d 122, 132. (Emphasis added). Therefore, the three Deeds of Trust that Decedent holds for property here in California do represent an interest in land and as such, California has jurisdiction over the Estate of Decedent for the Deeds of Trust in California.

**Deed of Trust is Debt that has Situs in California** – In California, "(i)t has therefore been widely held that **a debt has its situs at the domicile of the debtor for purposes of administration**, since it may be necessary to sue him there and to have administrator appointed to bring suit. (See 3 Beale, Conflict of Laws [1935], p. 1452; see 23 Minn. L. Rev. 221.) By the same reasoning **a debt will be regarded as an asset wherever the debtor is subject to suit.** (New England Mutual Life Ins. Co. v. Woodworth, 111 U.S. 138 [4 S.Ct. 364, L.Ed. 379]" Estate of Waits, 23 Cal. 2d 676, 680-681 (emphasis added).

**Please see additional page**

Of the three deeds of trust that are held by the Decedent, two of them have been seriously in arrears for more than a year and a half, and it has become necessary to bring suit against the debtors. The Special Administrator is attempting to handle the probate of these Deeds of Trust from his position as Special Administrator in Arizona which is acting outside of his authority according to California law.

The Deeds of Trust are assets of the Estate in California and as such, the Arizona special Administrator should be enjoined from acting any further on any issue dealing with the Deed Trust, including any payments on any Deed of Trust.

Based on the California Probate Code and Case Law, the Objector who is the Special Administrator and an Attorney in Arizona is not an interested party for purposes of objecting to the Petition for Probate filed by the Petitioner. Further, more Objector as an Arizona Special Administrator has no capacity to be involved in this proceeding in California. California has jurisdiction over assets within its borders. The three Deeds of Trust held by the Decedent are considered an interest in the real properties. And, finally, the Situs for the Deeds of Trust, which are debts owed on the real properties is where the Debtors are subject suit. The res are in California and the debtors are subject to suit on the res her in California.

**Petitioner requests that this Court enter an order that:**

- **The Objector has no standing to object to the Petition for Probate.**
- **The Objector has no capacity to object to the Petition for Probate.**
- **California has jurisdiction to hear the Probate Petition.**
- **The three Deeds of Trust are an interest in real property**
- **For purposes of Administration, the situs of the Deeds of Trust is California where the debtors are subject to suit.**
- **The Objector who is the Arizona Special Administrator is enjoined from handling any issues dealing with the three Deeds of Trust, including negotiating with the debtors, re-negotiating any of the Deeds of Trust and collecting any of the payments.**
- **Attorney fees and costs.**

**Memorandum of Points and Authorities in Opposition to the Objections of the Petitioner to the Objections of the Respondent filed by Robert B. Fleming on 07/23/2013.** During the course of the proceedings in the Arizona Superior Court Ms. Garzon-Ayvazian, Esq. has actively participated in the probate hearings and in the ensuing litigation process; and she is/was aware of the appointment of a Special Administrator and all the court orders entered in that matter. After the Objector's appointment the parties, including Ms. Garzon-Ayvazian have engaged in pretrial discovery and related proceedings in preparations and anticipation of a trial on the issues that are pending resolution by the Superior Court of the State of Arizona, Santa Cruz County. The Objector/Respondent is charged by the court to administer the estate until such time as all issues are resolved and or/on such other considerations that the court may determine to be in the best interest of the estate. Presently the decedent's estate holds three promissory notes secured by deeds of trust, which are being administered in the Decedent's estate in Arizona. The decedent's estate holds no "ownership" interest in the three properties other than a contingent beneficial interest in them as security for the notes. It is the opinion of the Objector that the petition filed in this matter by Ms. Garzon-Ayvazian is ill conceived and that she failed to disclose all the pertinent facts and circumstances necessary for a California court to take lawful and appropriate jurisdiction over this matter.

**Please see additional page**

The call of the question on the probate petition is "Does the Decedent own real property in California?" The question in the petition calls for a response as to whether or not the decedent owns or has tangible possessory right in real property; that theoretically could include leasehold rights, if it were for a term of years. In the present case the Respondent contends that the decedent did not "own" real property in California. The moving party argues that the Decedent owned real property since he held "a mortgage" on several pieces of real property. This assertion by the Petitioner is a gross oversimplification and generalization of the use of the term "mortgage." In her moving papers she characterizes the interest held by the Decedent as a mortgage, citing various case rulings that have held that a "mortgage" is an interest in real property; her analysis is patently flawed and misleading. It is a common place for individuals, lay persons, banks and other institutions to refer an encumbrance on real property as a "mortgage." In California this generally inaccurate. "...the majority of "mortgages" with a different name..." Quoted from an article on Mortgages from [mortgagecalculator.org/mortgage-rates/California.php](http://mortgagecalculator.org/mortgage-rates/California.php).

According to Witkin's 10<sup>th</sup> Summary of California, CEB's Ogden's Revised California Real Property Law and other legal treaties a promissory note secured by deed of trust is not a possessory right or an ownership right in real property; it is merely a secured interest in real property. Promissory notes are intangible personal property; they do not represent an actual titled ownership in realty. A promissory note is acknowledgement of a debt or obligation which encumbers the owner's title to real property; the promissory note is indicia of money due and payable; a promissory note is a negotiable instrument and it is classified as intangible personal property. As "personal property the notes are movable, transportable and transferable; for all purposes under the law they assume the domicile of the holder, which in the present case that would be the State of Arizona – see Estate Moore v. Geisman, Estate of Burnison vs Katz (cited above) and C.C. §946.

True "mortgages" are not commonly used in California, they are not the method of choice in California in secured real property transaction; deeds of trust are by far and away the most commonly utilized. Mortgages involve two parties, the mortgager and the mortgagee. Deeds of trust differ in several ways, chiefly that there are three parties: 1) the trustor, owner and title holder of the property; 2) the trustee, the party charged with enforcing the terms of the note in the event of default on the payments and any other terms of the trust deed which are violated; and 3) the beneficiary, holder of the note and the party to whom the payments are to be made and to which additional obligations may be owed-payment of property taxes, insurance on the property, etc. The beneficiary retains no ownership right per se in the real property; the interest held and retained by the beneficiary is simply the right to receive payments by and pursuant to the terms of the note; his interest in the property is to insure performance of the pledged obligations of the trustor, title holder. The note holder has no rights to occupy the premises, to encumber or transfer any interest in the real property or to the rents and profits therefrom; he merely hold a secured interest in the property to insure that obligation is paid as agreed. The beneficiary's remedy for breach of the agreement is to demand that the trustee sell the property to satisfy and remaining balance on the note.

**Please see additional page**

Omission of the reverent and essential facts in this matter – At the risk of being redundant the Respondent has maintained from the very onset that the Petitioner did not and has not properly informed the Fresno County Superior Court of the concurrent proceedings being conducted in Arizona Superior Court nor did she inform the court of any proceedings allegedly in being held in a Mexican Court in regard to this Decedent's estate. At the very least her petition should have informed the court of one or both of these matters because the property application (petition) if any, would have been to establish an ancillary proceeding on this matter rather than a "straight up" probate – Decedent was not a resident of California, see Probate Code § 12522. The moving party has admitted or has not denied the fact that there are other proceedings in regard to this matter in Arizona; that the Decedent died in Arizona; she contended that the Decedent was a concurrent resident of Arizona and Mexico at the time of his death in her petition; that the Decedent held property in Mexico; that he left a "Mexican" will; that the Decedent died leaving personal and real property in Arizona; and that he had a Arizona will. All of these facts clearly establish that the Arizona court has assumed primary jurisdiction in this matter and any proceeding in California would necessarily be ancillary in nature; and further that the California Court would be duty bound to abide by and enforce the determinations of the Arizona court as to its findings as to the decedent's last will and testament and other matters as the Arizona court has primary jurisdiction in this matter as the Decedent was domiciled in that state at the time of this death.

What would the Petitioner be thinking when she filed this probate proceeding in California and fail to inform the court of pertinent relevant facts in regard to the other proceedings? There is no question that a California attorney as an officer of the Court, has an absolute duty to be ethical and forthright in her dealings and presentations of matters to the court – Rule of Professional Conduct 5-200 cited above.

Counsel is apprised of the fact that there is a motion for summary judgment scheduled and currently pending to be heard next month in the Arizona probate proceedings. A party in that proceeding is contending that the "Mexican" will is invalid as a matter of law; that the alleged power of attorney appointing the Petitioner on behalf of the alleged Mexican wife is invalid as a matter of law and that he POA limits her representation as to matters in Mexico. If these claims are found by the Arizona Court to be true (not necessarily binding on a California Court) that ruling would be most damaging to the Petitioner in this matter. The motion contends that neither will or power of attorney conform to the laws of the State of Sinaloa, Mexico, the place where the documents that were allegedly written and executed. I cannot imagine that if these documents do not conform to Mexican law that a California court would entertain them as being valid in spite of that fact. The failure of the Petitioner to inform the court of the facts in this matter amounts a serious breach of professional ethics, to his Court, as well as, to the Superior Court of Arizona, see Griffis v. S.S. Kresge Company cited above.

The Petitioner's objections are ill-founded and not supported by the holdings in the laws of the State of California or the state of Arizona. A Promissory note is personality; it assumes the domicile of the decedent. The jurisdiction in which the decedent is domiciled has the authority to make findings pertaining to the proper disposition of estate of deceased persons upon which the states' courts have acquired primary jurisdiction; in this case under the laws of the State of Arizona not California. The lack of candor on the part of the Petitioner in this matter is inexcusable; her conduct amounts to a serious breach of her ethical obligation to the courts of both Arizona and the California.

**Please see additional page**

**Dept. 303, 9:00 a.m. Monday, March 17, 2014**

**Further Reply to Objections to Petition for Probate filed by Hilda Garzon-Ayvazian on 08/26/2013** states on 06/16/2011, Robert W. Fansler went to the office of Attorney Jesus Ernesto Cardenas Fonseca, Notario, in Mazatlan, Sinaloa, Mexico to make his last Will and Testament (hereinafter the "Mexican Will"). A Notario is an attorney that is authorized by the state to handle writing wills, real property transactions, powers of attorneys and notarization of documents. No other attorney in Mexico can do so. The last will and testament of 06/16/2011 revoked any prior wills of the Decedent. The Decedent had previously executed a Will (hereinafter the "California Will") in Los Banos, California in 2006. The California Will left his estate to Geraldine Guthrie, his friend, Donna Broussard, his sister, and Barbara Stettner, his daughter that he had given up for adoption when she was a baby almost fifty years ago. The California Will was executed prior to the Decedent's marriage to Ramona Rios Rodriguez in 2009.

The Mexican Will as signed in the presence of the Notario and Sol Jennis Salazar Ortiz, the translator chosen by the Decedent to aid him because he felt that he did not have sufficient knowledge of Spanish legal terms. In the Mexican Will, the Decedent states that he is domiciled in Mazatlan. He also states that his universal heir is his wife Ramona Rios Rodriguez. The Mexican Will was filed in court in Arizona under a formal testacy proceeding but the Court refused to admit it into evidence although it had been duly authenticated according to the Hague Convention Apostille and the Notario/Attorney Cardenas Fonseca testified in court in Arizona on September 2012 regarding the Mexican Will. His testimony, however, was cut short by the court and he was unable to fully give testimony regarding the will.

On 11/13/2012, the Petitioner filed a Notice of Petition for Probate in Mazatlan, Sinaloa, Mexico (hereinafter "Mexican Probate") in the proceedings in the Arizona case. Notice of the case number and the Family Law Court was given to Mr. Droeger, counsel representing Geri, and Ms. Shepherd, counsel representing Stettner. Notice was also given to Donna who was not represented by counsel and the objector. All notices were mailed on 11/09/2012. See attached Exhibit 1, Notice of Probate of Will of Decedent in Mazatlan, Sinaloa, Mexico. No-one made an appearance in the Mexican Probate proceedings.

On 03/11/2013, Petitioner filed a Notice of Hearing of the Mexican probate in the Arizona proceedings. The notice specifically stated that the hearing was to determine the validity of the Mexican Will and confirm the heirs of the estate and would take place on 04/09/2013. Notice was once again given to the counsel representing Gerie and counsel representing Stettner. Notice was also given to Donna Broussard who was not represented by counsel and the Objector. All notices were mailed on 03/06/2013. See attached Exhibit 2, Notice of Hearing of Probate of Will of Decedent in Mazatlan, Sinaloa, Mexico. No one made an appearance at the hearing on 04/09/2013 except for Ramona and Abelardo Rios Rodriguez, the Executor named in the Mexican Will. On 03/26/2013, Ms. Shepherd, counsel for Stettner served discovery requests upon Ramona, including a request for copies of all documents filed in the Mexican Probate. See Exhibit 3, Discovery Requests to Ramona Rios Rodriguez, page 6 of 7 lines 1-3.

On 04/09/2013, the Mexican Family Law Court found the Mexican Will was valid, the decedent was domiciled in Mazatlan, Sinaloa, Mexico and Ramona was declared the universal heir of the decedent's estate. The Certified Copy and duly Apostille Mexican Will and Order for Probate from the Mexican Family Law Court was filed with this Court on 06/21/2013.

**Please see additional page**

The Mexican Will was declared valid by the Mexican Probate Court, therefore it is in accord with the laws of the place where it was executed. Furthermore, it is also executed in accordance with California law. Probate Code Section 6110 provides that a will has to be in writing, signed by the testator and the signing by the testator has to be witnessed by at least two people. The Mexican Will was in writing. It was witnessed by the Attorney/Notario that drafted the will and the interpreter sol Jennis Salazar Ortiz.

The Probate Court in Nogales, Arizona has ruled via Summary Judgment Motion that Stettner was not given notice of the Mexican Probate, refused to give comity to the **final order for probate from Mexico**, and declared the will invalid. Ms. Shepherd, counsel for Stettner requested attorney fees and costs pursuant to her Motion and the court has not ruled on that issue. According to Arizona law, the granting of the Summary Motion is no a final judgment until the issue of the fees is ruled on by the court. When the issue is ruled on by the court or the court certifies the judgment as final, Ramona will timely file her appeal. Therefore, the Summary Judgment order of the Arizona court is not a final order.

**Conclusion:** based on the California Probate Code and Case Law, the Mexican Will must be admitted to probate since the Order admitting the will and holding it valid in Mexico **is a final order and cannot be collaterally attacked** since all interested parties were given notice of the Mexican proceedings and had an opportunity to contest the probate in Mexico but failed to do so. Furthermore, the Mexican court found the decedent to be domiciled in Mexico and California has held that Mexico's judicial system does provide impartial tribunals or procedures compatible with the requirements of due process.

Wherefore, Petitioner requests that this Court enter an order that:

1. The Mexican Will of 06/16/2011 will be given comity and is admitted to probate.
2. Petitioner is Administrator with Will Annexed.
3. California has jurisdiction to hear the Probate Petition.
4. The three Deeds of Trust are an interest in Real Property.
5. For purposes of Administration, the situs of the Deeds of Trust is California where the debtors are subject to suit.
6. Attorney fees and costs.

**Supplemental Information and Argument in Support of the Objections made to the Petition for Probate of "Mexican" Will filed by Attorney G. L. Motsenbocker on 08/27/2013** states Mr. Robert B. Fleming is duly appointed Special Administrator of the Estate of Robert Warren Fransler, deceased, Superior Court of the State of Arizona, County of Santa Cruz, Case No. PB-12-001 and is currently action in that capacity. He was appointed by the Arizona Superior Court upon the Court's determination that the appointment of a special administrator was in the best interest of the estate and was needful and necessary due to the ongoing conflict and disputed claims among various the parties as to the proper and appropriate personal representative of the Decedent's estate and conflicting testamentary instruments. The Respondent previously submitted copies of the court Order appointing him as Special Administrator by the Santa Cruz County Superior Court, Arizona and a copy of the Letters of Special Administration that were issued by the clerk. Since the date of his appointment he has been acting as and is currently acting on behalf of the Estate. Currently his authority is in full force and effect and it has not been modified or revoked by the Court. He was charged by the court to act as the interim special administrator to hold and preserve the assets of the estate and to do whatever was needful and necessary to protect the estate during the pendency of the other proceedings before the court; those matters included, inter alia, the validity of the decedent's alleged "Mexican" will that was submitted in this matter.

**Dept. 303, 9:00 a.m. Monday, March 17, 2014**

On July 31, 2013 the Superior Court of the State of Arizona, County of Santa Cruz, Case No. PB 12-001 the Honorable Judge Anna M. Montoya-Paez ruled on the Motion for Summary Judgment filed on behalf of Barbara Stettner by Attorney Denise R. Sheppard and on the Cross Motion for Summary Judgment filed on behalf of Ramona Rios Rodriguez by Attorney James McMahon and the replies that followed. A certified copy of the court's order after finding and determinations that were made is attached hereto as Exhibit "A" and incorporated by reference as though fully set forth herein. Inter alia, the pertinent findings of Arizona Court and its order, on pages 5 and 6, were as follows: 1 that the Mexican will is invalid; 2 that the Judgment of Mazatlan, Mexico Court is not given full faith and credit; 3 that Rios Ramos is found to be an omitted spouse; and 4 that the appointment of Hilda Garzon-Ayvazian as personal representative is denied.

**Conclusion:** It would seem that all of the points that the petitioner has presented to this court were addressed in the Arizona Court proceedings and that the petitioner had full and ample opportunity plead and argue her case before that court and that the upshot of that proceeding was that the court determined all the questions of law and fact before that court (and also this court) against her client. Given the findings and order of the Arizona court the Petitioner's redress, if any, lies with the Arizona State Supreme Court along with her arguments in regard to the Hague Convention, etc.

As a matter of information Robert B. Fleming, Esq., the Special Administrator of the Arizona matter, is in the process of filing a petition for appointment as special administrator here in California. While he does not agree with the assertions or representations of the petitioner in this matter in regard to the nature of the property rights of the notes and deeds of trust held by the Decedent he is on the opinion that his application for appointment would essential end to the attempts of the Petitioner to circumvent the lase and the jurisdiction of California and Arizona courts in this matter.

**Objection to Petition for Probate and Motion to Dismiss filed by Attorney Robert L. Sullivan, Jr. on 12/30/2013** states Barbara A. Stettner, daughter of the decedent, Robert Warren Fansler, objects to the Petition for Probate and Motion to Dismiss.

On 05/13/2013, Hilda Garzon-Ayvazian filed a Petition for Probate of Will and for Letters of Administration with the Will Annexed (the "Petition for Probate"). The Petition for Probate alleges that the decedent, Robert Warren Fansler, was, at the time of his death, a resident of Santa Cruz County, Arizona, and the apparent basis for probate jurisdiction in Fresno County, California is the fact that the decedent at the time of his death owned three promissory notes secured by deeds of trust to three separate parcels of real property located in California (two in Calaveras County and one in Fresno County).

The Petition for Probate must be dismissed for lack of subject matter jurisdiction. The secured promissory notes which form the basis for the Petition for Probate are items of transitory personal property which follow the decedent and are, therefore, deemed to have their situs in Santa Cruz County, Arizona, not Fresno County, California. In order to have jurisdiction over a non-domiciliary decedent's property, Probate Code §8005(b)(1)(B) requires the Court to find that the decedent "left property in this state at the time of death." The decedent was a domiciliary of Santa Cruz County, Arizona at the time of his death. Accordingly, the promissory notes which form the basis for the Petition for Probate, being transitory in nature, are likewise deemed to have their situs in Santa Cruz County, Arizona. Since the decedent left no property in this state, the Court has no in rem jurisdiction, and, accordingly, the Petition for Probate must be dismissed.

**Please see additional page**

**Relevant Facts:** On 05/10/2013, the Petitioner filed her Petition for Probate of Will and for Letters of Administration with Wills Annexed. In her Petition, the petitioner acknowledges that the decedent was not a resident of California at the time of his death. The petitioner attempts to create jurisdiction in California by pointing to three promissory notes which are secured by deeds of trust. However, the notes do not constitute property left by Mr. Fansler in this state. Rather, the note documents were held by the decedent in Arizona at the time of his death. Furthermore, the decedent held no possessory interest in the parcels of real property which secured payment of the notes. He merely held a security interest. The Petition for Probate does not allege any other property located in this state or in this county at the time of the decedent's death. Accordingly, this Court has no jurisdiction over the subject matter of the Petition for Probate.

**Law & Argument in Support of Objection is provided.**

**Conclusion:** This Court lacks jurisdiction to hear the Petition for Probate. The decedent was a non-domiciliary who left no property within the State of California. The situs of intangible personal property in question –the promissory notes-follows the person of the decedent and as such falls under the jurisdiction of the State of Arizona. Accordingly, the Petition for Probate must be dismissed.

1C Robert Warren Fansler (Estate)

Case No. 13CEPR00399

Atty Garzon-Ayvazian, Hilda (Competing Petitioner – Attorney of Alhambra, California)

Atty Motsenbocker, Gary L (for Robert B. Fleming- Petitioner – Special Administrator)

Contested Hearing on Pleadings

		NEEDS/PROBLEMS/COMMENTS:  <u>Examiner did not prepare Examiner Notes in light of the Tentative Ruling</u>
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	
		Reviewed by: LV
		Reviewed on: 03/14/2014
		Updates:
		Recommendation:
		File 1C – Fansler

1C