

1) Petition for Approval of Second and Final Account and Report of Conservator of the Person and Estate; 2) Request of Authorization to Distribute Assets to Administrator of the Estate and Named Beneficiaries; and 3) Discharge Conservator of the Estate. Probate Code 2620

DOD: 1/1/14	CRAIG MACGLASHAN , Conservator, is petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>OFF CALENDAR.</u> Amended accounting filed and set for hearing on 4/7/15.</p> <ol style="list-style-type: none"> Account period ends after the date of death. Probate Code §2620(b) requires the final account to include an accounting for the period that ended on the date of death and a separate accounting for the period subsequent to the date of death. Need property on hand schedule. Order does not comply with Local Rule 7.6.1. The order provided does not include the balance of the estate on hand nor does it state the amount of cash included in the balance.
	Account period: 6/1/11 – 3/31/14	
Cont. from 011215, 022315	Accounting - \$2,046,321.44	
Aff.Sub.Wit.	Beginning POH - \$1,661,989.40	
<input checked="" type="checkbox"/> Verified	Ending POH - \$1,575,872.55	
Inventory	Conservator - waives	
PTC	Attorney - \$7,496.00 (44.10 hours of paralegal and attorney time at \$60 - \$280 per hour.)	
Not.Cred.	Costs - \$435.00 (filing fee)	
Notice of Hrg	Petitioner states the conservatee died on 1/1/14. Petitioner has been appointed as executor of the estate of Jamie McGlashan.	
Aff.Mail N/A	Petitioner prays for an Order:	
Aff.Pub.	<ol style="list-style-type: none"> Approving, allowing and settling the second and final account and report of conservator; All acts and transactions of Conservator as set forth in the accounting are ratified, confirmed and approved; Authorizing the payment of attorney fees and costs; Transfer of the remaining property on hand to Craig MacGlashan as executor of the estate of Jamin McGlashan and to Craig MacGlashan as joint owner of the Farmers Insurance Group Federal Credit Union Account. 	
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
<input checked="" type="checkbox"/> Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		<p>Reviewed by: KT</p> <p>Reviewed on: 3/19/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1 - McGlashan</p>

Order to Show Cause RE: Failure to Appear and Failure to File the Second Account

DOD: 09/23/14	<p>HEATHER AGUIRRE, daughter, was appointed Conservator of the Estate on 04/22/2013 and Letters issued 04/23/2013.</p> <p>Heather Aguirre petitioned the Court to be appointed Conservator of the Person however the Conservatee died on 09/23/2014 and the petition for conservatorship of the person was dismissed on 11/06/2014.</p> <p>The First Account covering account period 10/18/13 through 9/30/14 was settled on 11/20/14 and the Court set a status hearing for 2/9/15 for the filing of the final account.</p> <p>At the hearing on 2/9/15, there were no appearances and the Court set this Order to Show Cause Re: Failure to Appear and Failure to File the Second Account. A copy of the minute order was mailed to Attorney Nuttall on 2/9/15.</p> <p>Declaration Regarding OSC and Filing of Second and Final Account filed 3/17/15 states the Conservatee passed away 9/23/14. A probate matter is pending in this Court in 14CEPR01003. On 11/20/14, this Court approved the Conservator's First Account, and the attorney represented to the Court that the Second and Final Account would be filed by the end of December 2014. At this time, the Second and Final Account has not been filed because despite attempts to obtain them, the attorney has only recently received the bank statements and the original facility invoices in February 2015. Ms. Nuttall states she has completed the Second and Final Account and it will be filed on or before the OSC date of 3/23/15.</p> <p>Attorney Nuttall wishes to apologize to the Court for her non-appearance at the 2/9/15 hearing. A calendaring error caused the attorney to believe the matter was scheduled for one week later. Ms. Nuttall respectfully requests that the Court excuse this oversight and any inconvenience it caused.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Second Account or current written status report 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>
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	<p>Reviewed by: skc</p> <p>Reviewed on: 3-17-15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 2 - MacMurray</p>	

Petition to Invalidate Trust Dated October 1, 2013 and any Amendments on the Grounds of Undue Influence and Incapacity; to Confirm Validity of Trust Dated April 5, 2005 as Restated on August 25, 2006 and Amended on January 14, 2009 and all Assets Held by 2005 Trust; Petition to Determine Validity of Transfer of 2005 Trust Assets; Fraud; Breach of Trust; for Financial Elder Abuse of a Dependent Adult; for Imposition of a Constructive Trust on Wrongfully Transferred Assets; for Trust Accounting; for Double Damages; for Attorney Fees and Cost of Suit; and for Punitive Damages

DOD: 10/14/13	ANTON KREMER , trustee of the GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT dated 04/05/05 as Restated on 08/24/06 and Amended on 01/14/09, and intestate heir of GLORIA E. ZSIBA, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		OFF CALENDAR Notice of Motion to Enforce Settlement filed 03/19/15 and set for hearing on 04/30/15
Cont. from 030314 060214, 101414, 101614, 111714, 011215	Petitioner alleges:	CONTINUED FROM 02/23/15 Minute Order from 02/23/15 states: The Court admonishes that this will be the last continuance regarding this matter. If a Petition to Enforce the Settlement Agreement is not filed at least two court days prior, then counsel and Petitioner are ordered to be personally present in court on 03/23/15, and a status report verified by Mr. Kremer is required.
<input type="checkbox"/> Aff.Sub.Wit.	1. GLORIA ELIZABETH ZSIBA aka GLORIA E. ZSIBA (hereinafter referred to as "Decedent") died on 10/14/13. At the time of her death, she was a resident of Fresno County and left real and personal property in Fresno County.	The following notes remain:
<input checked="" type="checkbox"/> Verified	2. Decedent had three living children, Petitioner, Kevin Lee Tracy (hereinafter "Respondent"), and Kenton N. Tracy; and one deceased daughter, Teresa Chambless. In addition, Decedent had 7 grandchildren. Decedent's spouse, Alexander J. Zsiba predeceased her.	1. Need Order.
<input type="checkbox"/> Inventory	3. On 04/05/05, Decedent executed THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT (the "2005 Trust"). Respondent was named as the successor trustee.	2. Petitioners have requested relief related to elder abuse and undue influence allegations and request an award of punitive damages. Probate Code §17200 states a trust petition can be filed concerning the internal affairs of a trust or to determine the existence of a trust. This does not include provisions for elder abuse. The allegations in the pleadings are primarily brought under the Welfare and Institutions Code concerning elder abuse, therefore, this case may be more appropriately heard in the civil court rather than the probate court.
<input type="checkbox"/> PTC	4. According to the 2005 Trust, the trust estate was to be distributed as follows to her Spouse, if he survived her:	3. Need proof of service by mail at least 30 days before the hearing of all persons entitled to notice in this matter.
<input type="checkbox"/> Not.Cred.	a. A life estate in decedent's residence, and the sum of \$70,000 to be set aside and paid monthly in the sum of \$1,000 for his living expenses.	Note: Proof of service has only been filed reflecting personal service on Peter Russo on behalf of his client, Kevin Lee Tracy. It is insufficient to serve a party in "care of" another, therefore also need proof of service by mail at least 30 days before the hearing on Kevin Lee Tracy.
<input checked="" type="checkbox"/> Notice of Hrg	Upon either her spouse's death or if he failed to survive her, the trust estate balance was to be distributed as follows:	
<input checked="" type="checkbox"/> Aff.Mail w/	a. 3/4 equally to Decedent's three children – Respondent, Kenton Tracy, and Petitioner.	
<input type="checkbox"/> Aff.Pub.	b. 1/4 equally to the children of decedents deceased daughter, Teresa Chambless.	
<input type="checkbox"/> Sp.Ntc.		Reviewed by: JF
<input type="checkbox"/> Pers.Serv.		Reviewed on: 03/18/15
<input type="checkbox"/> Conf. Screen		Updates:
<input type="checkbox"/> Letters		Recommendation:
<input type="checkbox"/> Duties/Supp		File 3A – Zsiba
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order x		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

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5. Also on 04/05/05, decedent signed a Grant Deed to Trust ("2005 Deed") transferring her residence located at 3260 E. Kerchoff in Fresno to herself as trustee under the 2005 Trust. Decedent did not execute or record any grant deed thereafter, so the decedent's real property remained in the 2005 Trust until decedent's death.
6. Petitioner alleges that decedent made a subsequent amendment to the 2005 Trust placing Petitioner as successor trustee.
7. On 08/24/06, decedent executed THE RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT ("2006 Restatement"). The 2006 Restatement revoked the prior amendment(s) made to the 2005 Trust and placed Respondent back as successor trustee. Petitioner alleges that the 2006 Restatement was drafted by Respondent after he learned that decedent had made an amendment to her 2005 Trust placing Petitioner as successor trustee.
8. Petitioner states that decedent owned a Merrill Lynch (also known as Merrill Edge) account ending in 5148 and held cash and mutual funds. This account was titled and held in the name of the 2006 Restatement. Petitioner states that the title of this account was never changed and her assets in the Merrill Lynch account remained in the name of the 2006 Restatement until her death.
9. On 01/14/09, decedent executed an AMENDMENT TO RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT (the "2009 Amendment"). The 2009 Amendment revoked Article IV of the 2006 Restatement and placed Petitioner as successor trustee with Respondent as the second alternate successor trustee. Decedent did not change the prior distribution of the trust estate.
10. Petitioner alleges that decedent also executed a LAST WILL AND TESTAMENT OF GLORIA E. ZSIBA (the "2009 Will"). The 2009 Will states specific bequests of personal items and furniture to all three of her children and then sets forth distribution of all of her furniture, furnishings, household equipment and any vehicle(s) owned to be distributed $\frac{3}{4}$ equally to her three living children and $\frac{1}{4}$ equally to the children of her deceased daughter. This follows the same distribution set forth in the 2005 Trust and 2006 Restatement.
11. The 2009 Will not only states that decedent had a deceased daughter, but it also specifically names her daughter's heirs at law. The 2009 Will also nominates Petitioner as the first executor and Respondent as the alternate executor.
12. Petitioner states that he took care of and handled decedent's day to day needs from 1997 to 09/09/13. Petitioner alleges that Respondent and his other brother, Kenton Tracy, went years without contact with decedent, and on or about the third week of August 2013, Respondent showed up at decedent's residence. Petitioner states that decedent informed Respondent that she intended to change the 2006 Restatement to leave her home to Petitioner so that the house remained in the family and Petitioner would take care of her cats. Petitioner alleges that this amendment was prepared and signed, but decedent was not able to have it notarized.
13. Petitioner states that decedent wanted to die at home, in her bed with her beloved cats nearby.
14. Petitioner states that on or about 09/09/13 and thereafter, Respondent kept Petitioner away from decedent, which was against decedent's wishes.
15. Petitioner alleges that during the week of 09/09/13, Respondent removed the decedent's check book and debit card from her possession and never returned them.
16. Petitioner alleges that on 09/16/13, Respondent took possession of the decedent's vehicle.
17. Petitioner alleges that from 09/09/13 to present, he has been denied access to decedent's house and cats, under threats of physical violence. Petitioner's vehicle is in the garage at decedent's residence and Respondent will not let Petitioner have access to it.
18. Petitioner alleges that around 09/20/13, Respondent attempted to file a Power of Attorney with Merrill Lynch granting himself control of decedent's Merrill Lynch account. On or about 09/25/13, the Power of Attorney was returned by Merrill Lynch as unacceptable.

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19. Petitioner alleges that decedent's health declined significantly after Respondent prevented Petitioner from seeing and caring for decedent beginning on or about 09/09/13.
20. Petitioner alleges that on 09/26/13, due to Respondent's inadequate care of her health needs, decedent became very ill and her left foot became gangrenous which required amputation.
21. Petitioner alleges that on or about the night of 10/01/13, Respondent coordinated the drafting of a new Living Trust and Will with APS Document Service and hired them to come to decedent's hospital room at Kaiser. Decedent was scheduled to have her left foot amputated the next day. Petitioner alleges that decedent did not hire APS Document Service nor were they hired at her request. Petitioner alleges that while decedent was heavily medicated, she executed THE GLORIA ELIZABETH ZSIBA LIVING TRUST (the "2013 Trust").
22. Petitioner alleges that under the terms of the 2013 Trust, Respondent is the only named successor trustee. The 2013 Trust also sets forth a completely different distribution plan than any of her previous estate planning documents. Under the 2013 Trust the distribution of the trust estate will solely go to five of Decedent's grandchildren. The 2013 Trust specifically left nothing to Decedent's three living sons, never mentioned her deceased daughter and forgot two of decedent's grandchildren.
23. Petitioner alleges that along with the 2013 Trust, while decedent was heavily medicated and very ill, she executed THE LAST WILL AND TESTAMENT OF GLORIA ELIZABETH ZSIBA (the "2013 Will").
24. Petitioner alleges that the 2013 Will only mentions decedent's three living sons. It does not state that she had a predeceased daughter, nor does it mention the predeceased daughter's heirs at law. The 2013 Will gives all of the Decedent's real and personal property to the 2013 Trust and nominates only Respondent as the Executor.
25. Petitioner alleges that at the time decedent signed the 2013 Trust and the 2013 Will, Kaiser Permanente Hospital believed she was incompetent for the purposes of making medical decisions. Respondent was using a medical Power of Attorney or an Advanced Health Care Directive to make medical decisions for decedent.
26. Petitioner alleges that on 10/03/13 during a bone biopsy, a blood clot caused decedent to have a massive stroke. Petitioner alleges that Kaiser wanted to coordinate in home care so that decedent could live the rest of her days comfortably in her own home as she wanted.
27. Petitioner alleges that Respondent instead transferred decedent to Hinds Hospice and rented out all of decedent's rooms in her home.
28. Petitioner states that decedent did not recover from the stroke, remained unable to speak or communicate for two days and was then unconscious until her death 12 days later. Petitioner alleges that decedent was alienated from her family and left to die alone, in a strange place. Decedent was 79 years old at the time of her death.
29. Petitioner as the named successor trustee under the 2009 Amendment to the 2006 Restatement recorded an Affidavit of Successor Trustee-Death of Trustee and Trustee's Certification on 11/05/13.
30. Petitioner states that after decedent's death, he sent a Trustee Certification form to Merrill Lynch along with copies of the 2006 Restatement and 2009 Amendment so that Petitioner could collect the funds from decedent's Merrill Lynch account to administer them under the 2006 Restatement.
31. Petitioner alleges that Respondent separately filled out the forms and sent copies of trust documents to Merrill Lynch. Petitioner alleges that Merrill Lynch was fully aware that both Petitioner and Respondent were claiming to be decedent's successors in interest to the funds.
32. Petitioner alleges that on 11/14/13 or thereafter, Merrill Lynch transferred approximately over \$40,000.00 from the decedent's account ending in 5148 to an account a Bank of America in Respondent's name. Petitioner alleges that he and his counsel have tried several times to get information from Merrill Lynch regarding the distribution, specifically what forms were submitted by Respondent to attain the funds and why Merrill Lynch distributed the funds to Respondent instead of depositing the funds with the Court.

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33. Petitioner alleges that the transfer of the funds from decedent's Merrill Lynch account to Respondent was not a valid transfer. The account was held in the name of decedent's 2006 Restatement and the funds should have been transferred to Petitioner as the named successor trustee under the 2009 Amendment. Petitioner requests that the Court find the transfer of funds from decedent's Merrill Lynch account was not valid.
34. Petitioner alleges that Respondent is currently in possession of over \$40,000.00 in funds belonging to decedent's 2006 Restatement of Trust. Petitioner requests that these funds be transferred to Petitioner as successor trustee of the 2006 Restatement.
35. Petitioner alleges that decedent also owned a 2003 Saturn L3, a Bank of America checking account with approximately \$7,000.00 and another bank account.
36. Petitioner alleges that Respondent has possession of and is using decedent's Saturn L3 and has taken all of the funds from her Bank of America checking account. Petitioner requests that all of decedent's personal property be transferred to Petitioner as named Executor of the 2009 Will.
37. Petitioner alleges that on or about 12/10/13, Respondent recorded an Affidavit of Death of Trustee (the "December Affidavit"). Petitioner alleges that the December Affidavit states that Respondent is the successor trustee of the 2005 Trust and "designated and empowered pursuant to the terms of the trust to serve as Trustee thereof." Petitioner alleges that there are no amendments or documents known to Petitioner placing Respondent as the successor trustee of the 2005 Trust or the successor trustee of the 2006 Restatement.
38. Petitioner alleges that Respondent fraudulently recorded the December Affidavit when he was not in fact the successor trustee of the 2005 Trust and had knowledge that Petitioner was the named successor under the 2009 Amendment.
39. Petitioner alleges that the 2013 Trust and 2013 Will were executed at the direct result of undue influence exerted by Respondent over decedent, and that decedent lacked capacity to execute testamentary instruments when the 2013 Trust and Will were executed. Petitioner alleges that decedent was mentally and physically impaired due to being medicated for her severe illness as well as going through withdrawals from Ativan. Petitioner alleges that Kaiser Permanente believed decedent lacked capacity to make medical decisions.
40. Petitioner alleges that the 2013 Trust is contrary to decedent's previous expressed intent and estate plan that decedent had in place for several years and that her mental and physical condition were so deteriorated that Respondent was able to subvert his will over her to execute the 2013 Trust and Will causing her to dispose of her property differently than she would otherwise have done.
41. Petitioner has been damaged by the actions of Respondent, Respondent knew or should have known his conduct was likely to be harmful to Petitioner.
42. At all relevant times, the decedent was a dependent adult as defined by WIC § 15610.30 in that she was over the age of 65 when the alleged actions took place. Respondent had the care and custody of decedent three weeks prior to her being hospitalized.
43. Petitioner alleges that during this period of time, Respondent was influencing decedent in her affairs, secreting her from family, and causing her to make drastic changes to her estate plan that had been in place for some time. Respondent's conduct constituted financial abuse under WIC § 15610.30. Respondent is therefore liable for reasonable attorney fees and costs under WIC § 15657.5.
44. Respondent is guilty of recklessness and oppression and fraud in the commission of the abuse described in this petition.
45. Petitioner alleges that Respondent placed himself in a position of successor trustee of the 2013 Trust and took actions that altered the intended disposition of decedent's estate as set forth in her 2006 Restatement, all to the detriment of Petitioner and other family members. As a result of his actions, Respondent should be removed as trustee and should be held to account for all actions taken by him as successor trustee of the 2013 Trust and all assets he has wrongfully taken from the 2006 Restatement. Petitioner requests that the Court order Respondent to file an accounting with the Court detailing his acts as trustee of the 2013 Trust, and direct that said accounting be filed no later than thirty (30) days after the court makes its order.

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3A In Re: Gloria E. Zsiba Revocable Trust Case No. 14CEPR00034

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46. Petitioner states that under Probate Code § 859, Respondent is liable for an amount equal to twice the value of the property recovered from the invalid transfer of funds from decedent's Merrill Lynch account and the decedent's real and personal property and under Civil Code § 3294, Respondent is liable for punitive damages.

Petitioner prays for an Order:

1. The Court revoke and rescind the GLORIA ELIZABETH ZSIBA LIVING TRUST dated 10/01/13;
2. Confirming that the RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT executed 08/24/06 and the AMENDMENT TO RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT executed 01/14/09 are valid;
3. Confirming that decedent's real property residence located at 3260 E. Kerckhoff in Fresno belongs to and is an asset of the GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT dated 04/05/05 as Restated on 08/24/06;
4. Confirming the decedent's remaining personal property not titled in the name of her trust should be distributed in accordance with the LAST WILL AND TESTAMENT OF GLORIA E. ZSIBA executed on 01/14/09;
5. Confirming that the funds previously held in decedent's Merrill Lynch account ending in 5148 belong to and is an asset of the RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT executed 08/24/06;
6. Determining that the transfer of all funds from Merrill Lynch account ending in 5148 to Respondent, Kevin Lee Tracy, be deemed invalid;
7. Imposing a constructive trust on all real and personal property held by Respondent obtained by the GLORIA ELIZABETH ZSIBA LIVING TRUST dated 10/01/13 and the LAST WILL AND TESTAMENT OF GLORIA ELIZABETH ZSIBA dated 10/01/13;
8. Declaring that Respondent, Kevin Lee Tracy, committed fiduciary abuse and financial elder abuse as those terms are defined in WIC §§ 15610.30 and 15657.5;
9. For costs of suit including reasonable attorney's fees, as provided by law;
10. For an amount equal to twice the value of the property recovered, pursuant to Probate Code § 859;
11. For punitive damages as provided by law; and
12. For other relief the Court deems just and proper.

Objections by Respondent, Kevin Lee Tracy, to Petitioner's Petition to Invalidate Trust Dated 10/01/13 and Any Amendments on the Grounds of Undue Influence and Incapacity, etc. filed 04/01/14 states:

Respondent objects to all allegations as alleged on the grounds that the GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT dated April 5, 2005 as Restated on August 24, 2006 and Amended on January 14, 2009 is a revocable living trust which was revoked when the new and correct 2013 Trust was created. Respondent admits and denies various allegations in the Petition and further states/alleges:

1. The 2006 Trust and any will alleged to have been executed on or about 2006 as well as the Restatement in 2009 were revoked by the decedent with the execution of the 2013 Trust and 2013 Will dated 10/01/13.
2. Decedent made an amendment to the 2005 Trust placing the Petitioner as successor trustee while she was highly medicated and incapacitated. Decedent was manipulated by Petitioner and Decedent in fact did not remember what changes had been made due to her condition of sedation. Petitioner financially abused Decedent for years preceding her death.
3. On 08/26/06, Decedent executed "THE RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT" ("2006 Restatement"). The 2006 Restatement revoked the prior amendment(s) made to the 2005 Trust and placed Respondent back as Successor Trustee. The 2006 Restatement was drafted after mishandling of the Decedent's funds was discovered, perpetrated by Petitioner. The Decedent was so incapacitated during the time the amendments to the 2005 Trust were drafted; she did not even know what the Amendments entailed. No one received copies of the amendments, including the decedent. Wanting her true and correct wishes to be carried out, she revoked all amendments by drafting the 2006 Restatement.
4. The 2009 Amendment revoked Article IV of the 2006 Restatement and placed Petitioner as Successor Trustee with Respondent as the second alternate successor trustee. Decedent did not change the prior distribution of the trust estate. Decedent was still under heavy sedation due to her misuse of the drug Ativan. Petitioner once again took advantage of her debilitated state and manipulated the Decedent into making the 2009 Amendment.

Dept. 303, 9:00 a.m. Monday, March 23, 2015

5. At the same time Decedent was manipulated into making the 2009 Amendment, she also executed a "LAST WILL AND TESTAMENT OF GLORIA E. ZSIBA" ("2009 Will"). The 2009 Will states specific bequests of personal items and furniture to all three of her children and then set forth distribution of all her furniture, furnishings, household equipment, any vehicle(s) owned by decedent to be distributed 3/4ths equally to decedent's 3 children, Respondent, Petitioner, and Kenton Tracy and 1/4th equally to the children of Decedent's predeceased daughter. This was done while the Decedent was heavily sedated and highly addicted to Ativan. Decedent was not lucid or with a clear mind. Petitioner coerced Decedent into these changes for self-serving purposes.
6. Respondent alleges that Petitioner was known to the family as a drug abuser and would only come around the Decedent's home at night. Kenton Tracy lived out of town and would visit when he could and called often. Respondent visited often as work permitted and called Decedent daily. Petitioner shopped occasionally for Decedent which required use of her vehicle, credit cards, and checks. Petitioner would disappear with Decedent's car and funds for weeks at a time and refuse to return them. Petitioner only helped Decedent when it benefitted him with the use of the car and/or gain funds from her accounts.
7. Petitioner refused to visit Decedent after he was unable to maintain a hold of her finances and the mishandling of her funds by him was brought to light. He was upset he could no longer manipulate her so he refused to see her.
8. Respondent, upon request of the Decedent did remove the vehicle from Petitioner's possession and return the vehicle to Decedent. Petitioner had again mishandled funds and taken control of the Decedent's vehicle. Decedent had requested Petitioner return the vehicle and he had refused. Only after Petitioner refused to return the vehicle did Decedent give Respondent the spare key to take possession of the vehicle and return it to its owner, the Decedent.
9. Petitioner did and would have continued to mishandle and financially abuse his elderly mother, the Decedent. Decedent had been take off the Ativan she was overmedicating with and was again alert and lucid. At that time she was done getting mistreated by the Petitioner and no longer wished him to have access to her funds.
10. Petitioner refused to see his mother and was angry that he had been discovered to be financially abusing decedent and no longer had access to her funds.
11. With surgery pending, Decedent wanted her affairs to be in order in the event surgery didn't go well. She wanted her true and final wishes to be carried out. Decedent was completely alert and aware of what she was doing when she executed THE GLORIA ELIZABETH ZSIBA LIVING TRUST ("2013 Trust").
12. Under the terms of the 2013 Trust, Respondent is the only names successor trustee. This is because the Decedent had lost all trust and confidence in the Petitioner after learning he had been financially abusing her for years. The 2013 Trust also set forth a completely different distribution plan than any of her previous estate planning documents. The events in the previous years leading up to the drafting of the 2013 Trust created and enforced her desire to leave the entirety of her estate to her five grandchildren she had contact and relationships with. She did not "forget" two of her grandchildren. It was her specific intent to leave them out as well as her children, whom she felt had already received enough from her, as specifically stated in the 2013 Trust.
13. Decedent was alert, lucid, and with a clear mind when she executed THE LAST WILL AND TESTAMENT OF GLORIA ELIZABETH ZSIBA ("2013 Will").
14. Decedent was completely competent for the purpose of making medical decisions when Kaiser Permanente Hospital asked her to name a medical Power of Attorney in the event her amputation did not go well. Had she been incompetent, Kaiser would not have allowed her to choose a medical Power of Attorney herself and would have instead appointed one for her. The Decedent herself appointed the Respondent as her medical Power of Attorney in direct contradiction of the allegation that she was incompetent to make her own decisions.
15. After the foot amputation went well, Respondent had high hopes she would be able to return home, but unfortunately, a few days later a blood clot reached her brain and she became brain dead. Respondent moved her to Hinds Hospice where she spent her last days in the company of all of her loved ones, except for Petitioner, who refused to visit her. Respondent felt Hinds Hospice was the most appropriately equipped facility to care for Decedent during her final days.

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16. Decedent was surrounded by her loved ones while at Hinds Hospice with the exception of Petitioner who refused to visit her in her final days. Petitioner abandoned his mother the moment his self-serving manipulations no longer were effective. Petitioner has always and continues to only think of himself and financial gain through fraud, manipulation and lies.
17. Petitioner, through invalid trust documents, unlawfully recorded through Affidavit the deed to Decedent's house with an outdated trust, claiming to be trustee for his sole financial gain. Petitioner knew of the 2013 Trust and had a copy. He submitted outdated, invalid documents knowing they were not valid with the intention of defrauding Decedent's grandchildren.
18. Petitioner also tried to collect funds from Decedent's Merrill Lynch account using the outdated/invalid documents, claiming to be trustee for his sole financial gain. He knew the documents were not valid. Merrill Lynch eventually recognized the 2013 Trust as the true and correct trust document.
19. Respondent sent copies of the 2013 Trust, the true, correct and complete trust as desired by Decedent. Merrill Lynch was fully aware both Petitioner and Respondent were claiming to be Decedent's successor in interest to the funds. Merrill Lynch, after a brief investigation, held that the 2013 Trust was the valid trust and monies were released to Respondent who in turn executed the wishes of the Decedent by disbursing the funds to the heirs, her grandchildren she had contact with, as outlined in the 2013 Trust.
20. Decedent's 2013 Trust was the final, complete and correct trust, revoking all others. Respondent is requesting the court find the transfer of funds from the Decedent's Merrill Lynch account be held as valid.
21. All funds released to Respondent as trustee of the 2013 Trust were disbursed to the Decedent's grandchildren she had contact with per her wishes as outlined in the 2013 Trust.
22. On or about 12/09/13, Respondent recorded an Affidavit of Death of Trustee.
23. The 2013 Trust and 2013 Will were executed as a direct result of the previous undue influence exerted by Petitioner on numerous occasions while Decedent was under the influence and heavily sedated with the drug Ativan. The 2013 Trust and 2013 Will were drafted and executed by the Decedent because she finally had a clear mind without the use of the Ativan and she no longer wanted to be financially abused by Petitioner, as evidenced by her 2013 Trust leaving nothing to her children and everything to her grandchildren.
24. Decedent was more lucid than she had been in years, finally being free from Ativan. She was clear headed and her mental capacities and abilities were completely intact. In fact, she was less likely to be influenced by others than she had been in years, and having been financially abused by the Petitioner for many years, she wanted her wishes to be restated and all other previous trusts to be revoked by the drafting and execution of the 2013 Trust and 2013 Will, which she signed in front of a witness and a notary, surrounded by people who love her.
25. Decedent did place her trust in Respondent after she lost all trust in Petitioner following his mishandling of her funds and theft of tens of thousands of dollars of Decedent's money. Decedent was never secluded from Petitioner through anyone's decision but his own, when he chose to abuse his mother and take advantage of her confused state. Petitioner is in fact the one who refused to be with his mother throughout her last days and essentially abandoned her after he lost control of her finances.
26. Respondent states that he acted in good faith following the 2013 Will and 2013 Trust and requests that if the Court finds for the Petitioner, Respondent be excused from any punitive damages under Probate Code § 9601(b).

Respondent prays as follows:

1. The Court upholds and validates the GLORIA ELIZABETH ZSIBA LIBING TRUST dated 10/01/13;
2. Revoke and rescind the RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT executed 08/24/06 and the AMENDMENT TO RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT executed January 14, 2009 and hold they were revoked with the execution of the 2013 Will and 2013 Trust;
3. Deny that Decedent's real property located at 3620 E. Kerckhoff, Fresno belongs to and is an asset of the GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT dated 04/05/05 and Restated on 08/24/06;
4. Deny that the Decedent's remaining personal property not titled in the name of her trust be distributed in accordance with the LAST WILL AND TESTAMENT OF GLORIA E. ZSIBA executed on 01/14/09;

Continued on Page 8

Dept. 303, 9:00 a.m. Monday, March 23, 2015

5. Deny that the funds previously held in Decedent's Merrill Lynch account ending in 5148 belong to and is an asset of the RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT dated 08/24/06;
6. Order the transfer of all funds from Merrill Lynch account ending in 5148 to Respondent, Kevin Lee Tracy, be deemed valid;
7. Prevent imposition of a constructive trust on all real and personal property held by Respondent, Kevin Lee Tracy, obtained by use of the GLORIA ELIZABETH ZSIBA LIVING TRUST dated 10/01/13 and the LAST WILL AND TESTAMENT OF GLORIZ ELIZABETH ZSIBA dated 10/01/13;
8. Order Petitioner disclose and release any assets he may have gained through the safe deposit box or any other means with the outdated documents;
9. For a declaration holding Respondent, Kevin Lee Tracy, innocent of fiduciary abuse and financial elder abuse as those terms are defined in Welfare and Institutions Code §§ 15610.30 and 15657.5;
10. For a declaration holding Petitioner, Anton Kremer, guilty of fiduciary abuse and financial elder abuse as those terms are defined in WIC § 15610.30;
11. For a declaration holding Petitioner, Anton Kremer, guilty of fraud as those terms are defined in Penal Code § 484;
12. For costs of suit including reasonable attorney fees and extraordinary expenses as provided by law, awarded to Respondent, Kevin Lee Tracy;
13. Deny any request for an amount equal to twice the value of the property recovered, pursuant to Probate Code § 859;
14. Punitive damages awarded to Respondent, as provided by law.

Declaration of Kevin Lee Tracy in Support of His Objections filed 04/01/14 states:

1. Gloria Zsiba ("Decedent") has three surviving children, Anton Kremer, Kenton Tracy and Kevin Tracy. She has a total of 7 grandchildren, five of whom she had contact with – Christian Chambliss, Ronald Miears, Anton Kremer, Mathew Tracy, and Cosmo Tracy. Kyle and Zachery, last names unknown, she has never been in contact with. Her husband, Alexander Zsiba, predeceased her.
2. In 2006, Alexander and Gloria, named Respondent (Kevin Tracy), as trustee of their estate.
3. In or about 2008, Alexander passed away. Gloria became depressed and her health declined. She began taking anti-depressants and anti-anxiety medications, including Ativan, a powerful and highly addictive drug. She began displaying side effects including sedation. While on these medications she could barely get out of bed.
4. In or about 2009, while Gloria was heavily medicated and incapacitated, her son Anton Kremer had her amend her 2006 trust.
5. No one was given copies of this amended trust and Gloria was so sedated she could not recall what changes were made.
6. Gloria relied heavily on others for her care. She did not leave the house and was heavily medicated. Her sons, Anton, Kenton & Respondent all assisted.
7. Anton (Petitioner) is known to the family to abuse drugs and only came around at night. Occasionally he would assist Decedent by doing her shopping which required him to use her vehicle, checks and credit cards. In time, Anton took over her accounts and took full possession of her vehicle.
8. In or about 2011, I received a call from Decedent's stock broker at Wells Fargo who was concerned about the amount that was being withdrawn, knowing Decedent was incapacitated and confined to her home. He stated that he called Adult Protective Services and made a report.
9. Upon investigation, Respondent learned that Anton had been taking the mail to hide the bank statements. Decedent requested duplicates and after sitting down with her stock broker it was discovered that Anton had been pilfering through her accounts and stealing tens of thousands of dollars.
10. On the advice of her broker, Decedent changed her account numbers, and got new checks and credit cards with Respondent's assistance. They also closed numerous credit cards Anton had opened in Decedent's name for his sole use and benefit. Respondent urged Decedent to pursue criminal charges for identity theft, fraud, and embezzlement, but Decedent could not bring herself to report her son.

Continued on Page 9

11. It was also discovered that Anton had both sets of keys to Decedent's safety deposit box and he refused to return them to Decedent upon request.
12. Decedent remained heavily medicated at this time and Anton eventually was able to access her accounts once again. At this time, Anton even persuaded Decedent to change her stock holding again, allowing him to secure hold over her finances.
13. In 2013, after Decedent became so ill she called an ambulance, the doctors determined that she was extremely over-medicating and was in fact addicted to Ativan. The doctors determined that she needed to be taken off the medication completely.
14. After being taken off the medications, her anxiety and panic attacks returned in full force. Respondent called on the family for help, making a daily rotation so that she was never alone. Eventually a full time, live in caretaker was hired. Anton stopped coming around and was nowhere to be found. He had abandoned the Decedent, taking her car and two checks for \$1,000 each with him.
15. As Decedent's medication wore off and the haze of the Ativan faded, she had many discussions with Respondent and her other son Kenton along with their wives and children. Anton's mishandling of her funds was discussed and Decedent wondered what changes had been made to her trust while she was plagued with the mental fog caused by the Ativan.
16. Decedent decided to make a new living trust leaving everything to her five grandchildren she had contact with and her only great-grandchild. To carry out he wishes she wanted Respondent to be appointed as trustee. Decedent also requested that Respondent retrieve her vehicle from Anton.
17. Eventually Decedent developed clots in her legs. Facing partial amputation of her foot, she wanted all of her affairs in order. With a clear mind and surrounded by her family, she signed a new living trust in the presence of a notary and a witness. At the same time, the hospital required her to make someone her medical power of attorney in case she could not make her own decisions. Knowing Respondent would always keep her best interests in mind, Decedent appointed him as power of attorney.
18. The foot surgery went well, but unfortunately, a few days later a blood clot reached her brain and she became brain dead, went to hospice and passed away thereafter. Anton refused to visit her during this time.
19. On the day she passed, Anton was provided with a copy of the 2013 Trust.
20. Respondent began to carry out Decedent's wishes according to the 2013 Trust. During this process, it was discovered that Anton had cleared out Decedent's safety deposit box.
21. Now Anton is trying to steal Decedent's grandchildren's inheritance, much like he stole continuously from the Decedent while she was alive.

Status Hearing Re: Settlement Agreement

	<p>On 01/14/14, ANTON KREMER, trustee of the GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT dated 04/05/05 as Restated on 08/24/06 and Amended on 01/14/09, and intestate heir of GLORIA E. ZSIBA, filed a Petition to Invalidate Trust Dated October 1, 2013 and any amendments on the Grounds of Undue Influence and Incapacity, etc.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
<p>Cont. from 111714, 011215</p>	<p>The matter was continued from 03/03/14 to 06/02/14 to 10/14/14 to 10/16/14.</p>	<p>OFF CALENDAR Notice of Motion to Enforce Settlement filed 03/19/15 and set for hearing on 04/30/15</p>
<p>Aff.Sub.Wit.</p>	<p>Minute Order from hearing on 10/16/14 set this matter for a status hearing re: Acceptance of Terms and Conditions of the Proposed Agreement and states: Ms. Horton advises the Court that they have an agreement. The Court directs Ms. Horton to prepare the settlement agreement.</p>	<p>CONTINUED FROM 02/23/15</p>
<p>Verified</p>	<p>Status Hearing Report filed 02/17/15 states: On 10/14/14, the parties engaged in court mediation in Dept. 303 and on 10/15/14 the parties came to an agreement and settled the trust action. The terms of the settlement called for Respondent to sell decedent's house and pay \$20,000.00 to Petitioner as well as turn over certain items of personal property. A check for \$20,000.00 was delivered to Petitioner Kremer after the last hearing. On 11/14/14, Respondent did deliver some of the specified items, however other items were missing or broken beyond repair. The return of these personal items were a major factor in Petitioner's decision to settle the matter. Petitioner's attorney has communicated these issues to Respondent's attorney, but Respondent maintains that he has complied with the settlement agreement. The house was sold in December and both parties have signed the settlement agreement. Both parties and their counsel spent numerous hours working towards a final settlement. At the hearing on 01/12/15, the court instructed the parties to mediate and try to work out the situation. After the hearing as the parties were leaving the courtroom, Petitioner's attorney heard Tracy say aloud that he was not going to do any mediation and one of decedent's grandsons spoke directly to attorney Horton in a threatening manner and instructed her to "stop this". Respondent did offer to give Petitioner more furniture, however, the majority of the furniture and personal property Tracy is offering is Petitioner's own personal property that was in decedent's home and is property that Tracy previously stated had been stolen or thrown away. Efforts to settle this matter are still ongoing.</p>	<p>Minute Order from 02/23/15 states: The Court admonishes that this will be the last continuance regarding this matter. If a Petition to Enforce the Settlement Agreement is not filed at least two court days prior, then counsel and Petitioner are ordered to be personally present in court on 03/23/15, and a status report verified by Mr. Kremer is required.</p>
<p>Inventory</p>		<p>As of 03/18/15, nothing further has been filed in this matter.</p>
<p>PTC</p>		<p>Reviewed by: JF</p>
<p>Not.Cred.</p>		<p>Reviewed on: 03/18/15</p>
<p>Notice of Hrg</p>		<p>Updates:</p>
<p>Aff.Mail</p>		<p>Recommendation:</p>
<p>Aff.Pub.</p>		<p>File 3B – Zsiba</p>
<p>Sp.Ntc.</p>		
<p>Pers.Serv.</p>		
<p>Conf. Screen</p>		
<p>Letters</p>		
<p>Duties/Supp</p>		
<p>Objections</p>		
<p>Video Receipt</p>		
<p>CI Report</p>		
<p>9202</p>		
<p>Order</p>	<p>The Court has stated that it would order all personal property sold and divided. Petitioner has received some of decedent's personal property pursuant to the settlement agreement, but the issue is that Respondent has not complied with all of the terms in the settlement agreement. The next step procedurally would be filing of a Petition to Enforce the Settlement Agreement pursuant to CCP § 664.6. Petitioner asks that the court set a status hearing in 30 days for the filing of this petition.</p>	
<p>Aff. Posting</p>		
<p>Status Rpt</p>		
<p>UCCJEA</p>		
<p>Citation</p>		
<p>FTB Notice</p>		

- Atty Rube, Melvin K., sole practitioner (for Petitioners James Espinola and Irene Espinola St. Martin, Co-Trustees)
- Atty Esraelian, Robyn, of Richardson, Jones & Esraelian (also for Petitioners James Espinola and Irene Espinola St. Martin, Co-Trustees)
- Atty Kaufman, Jeffrey; Brawley, Mason, of Berliner Cohen of Merced (for Eugene Espinola, Marvin Espinola, and Margaret Corvello, Beneficiaries)

First Report and Account of Co-Trustees and Petition for its Settlement [2011, 2012, 2013]

	<p>IRENE E. ST. MARTIN and JAMES D. ESPINOLA, Co-Trustees of the SURVIVOR'S TRUST, the RESIDUAL TRUST and the MARITAL TRUST (Sub-trusts under the ESPINOLA FAMILY TRUST of 1990), are Petitioners.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;">This matter will be heard in Department 72 at 8:30 a.m.</p> <p>Note: Order Granting Ex Parte Application to Continue Trial filed 2/3/2015 reschedules the Court Trial of this matter to 4/7/2015 at 8:30 a.m. in Department 72.</p>
Cont. from		
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<input type="checkbox"/>	Not.Cred.	
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<input type="checkbox"/>	Letters	
<input type="checkbox"/>	Duties/Supp	
<input type="checkbox"/>	Objections	
<input type="checkbox"/>	Video Receipt	
<input type="checkbox"/>	CI Report	
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<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	
		Reviewed by: LEG
		Reviewed on: 3/20/15
		Updates:
		Recommendation:
		File 5A - Espinola

**Property to Successor Trustee, And Directing the Successor Trustee to Transfer to
Petitioner an Intestate Share of Trust Property**

	ROYCE H. CHILTON is petitioner.		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 1/5/15. Minute Order states the parties request a continuance for discussion and possible mediation. As of 3/18/15 there have been no additional documents filed.</p> <p>1. Need Order. Local Rule 7.1 states a proposed Order shall be submitted with all pleadings that request relief. If the proposed order is not received in the Probate Filing Clerk's Office ten (10) days before the scheduled hearing, a continuance may be required.</p>
	Petitioner states he is the "pretermitted" surviving spouse of FRANCES E. NELSON ("Decedent").		
	On May 4, 1993, settlors CHARLES R. NELSON and Decedent established the CHARLES R. NELSON AND FRANCES E. NELSON REVOCABLE LIVING TRUST AGREEMENT.		
	On May 4, 1993, Decedent also executed a Last Will and Testament.		
	Settlor Charles R. Nelson died on 6/5/05.		
	Petitioner and Decedent married on 5/29/2012,		
	Decedent died on 4/5/14.		
	The Trust is now irrevocable.		
	RICHARD L. NELSON is the successor Trustee.		
	At Decedent's death the assets of the Trust consisted of real property located in Fresno and tangible personal property consisting of but not limited to household furniture and furnishings, jewelry, personal effects, a Hyundai Santa Fe and intangible personal property consisting of bank accounts and Iraqi dinar of uncertain value.		
	The Decedent's testamentary instruments were executed by the Decedent on 5/29/1993. Neither instrument was amended or revoked by Decedent prior to her death.		
	Petitioner and Decedent were married after Decedent's testamentary instruments were executed.		
	Please see additional pages		
	Aff.Sub.Wit.		
✓	Verified		
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	Conf. Screen		
	Letters		
	Duties/Supp		
✓	Objections		
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	CI Report		
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	Citation		
	FTB Notice		
Reviewed by: KT			
Reviewed on: 3/19/15			
Updates:			
Recommendation:			
File 6 - Nelson			

Decedent's testamentary instruments failed to provide for Petitioner who was Decedent's surviving spouse at the time of her death.

Decedent's failure to provide for Petitioner in her testamentary instrument was not intentional in that:

- a. Neither of the Decedent's testamentary instruments contain an express intent on the part of the Decedent to fail to provide for Petitioner;
- b. Decedent did not provide for Petitioner by transfer outside of Decedent's estate of Decedent's Trust; and
- c. Petitioner did not make a valid agreement waiving his right to share in Decedent's Estate or Trust.

Under Probate Code §21610(c) and 21612, petitioner is and was at all times mentioned herein entitled to receive from the Trust a share of Decedent's separate property equal to a value to that which Petitioner, as Decedent's surviving spouse, would have received if Decedent had died without having executed a testamentary instrument.

On May 20, 2014, Respondent, Richard L. Nelson, in his capacity as the Successor Trustee of the Trust, executed a Grant Deed conveying to subject real property from himself as Successor Trustee to Richard L. Nelson, a married man as his sole and separate property and Janet Sparre, and unmarried woman as joint tenants.

Petitioner is informed and believes that upon the death of the Decedent, Respondent Richard L. Nelson, in his capacity as Successor Trustee of the Trust, conveyed to himself and to Janet Sparre all of Decedent's tangible personal property and all of Decedent's intangible personal property including all of Decedent's bank accounts.

The conveyances are in violation of Probate Code 21610 thereby depriving Petitioner, as a pretermitted surviving spouse of Frances E. Nelson, of an intestate share of the Trust property.

Please see additional pages

Wherefore Petitioner prays for an Order:

1. Determining that under Probate Code §21610(c) Petitioner is an omitted spouse and entitled to a one-third share of the assets of the Charles R. Nelson and Frances E. Nelson Revocable Living Trust.
2. That Richard L. Nelson in his individual capacity and Janet Sparre in her individual capacity are constructive trustees of all tangible personal property, intangible personal property and the real property located in Fresno distributed to them as assets of the Charles R. Nelson and Frances E. Nelson Revocable Living Trust by Richard L. Nelson, Successor Trustee.
3. Directing Richard L. Nelson in his individual capacity and Janet Sparre in her individual capacity to convey to Richard L. Nelson, Successor Trustee of the Charles R. Nelson and Frances E. Nelson Revocable Living Trust:
 - a. All tangible personal property and intangible personal property each received from Richard L. Nelson, Successor Trustee as their distributive share of said trust;
 - b. Their respective interests in the real property located in Fresno, each received from Richard L. Nelson, Successor Trustee of the Trust as their distributive share;
4. Directing Richard L. Nelson, in his capacity as Successor Trustee of the Trust to convey to Petitioner Royce H. Chilton, a 1/3 interest in all of the tangible personal property, intangible personal property and real property located in Fresno.
5. Compelling Richard L. Nelson in his individual capacity and Janet Sparre in her individual capacity to provide Petitioner Royce H. Chilton with an accounting of all Trust property received by each of them as their distributive share of the Charles R. Nelson and Frances E. Nelson Revocable Living Trust.
6. Awarding Petitioner Royce H. Chilton his attorney's fees and costs of the suit herein.

On 12-22-14, Ricahrd L. Nelson, individually and as Successor Trustee, and Janet Charlene Sparre, individually, filed a Response. See additional pages.

Respondents state they were unaware of any interest of Petitioner in any of the assets of the trust, as they had been told repeatedly by their mother, in front of Petitioner and third parties, that all assets of the trust would be distributed to them. They properly recorded the Affidavit of Death of the original Trustee and Appointment of Successor Trustee on 5-14-14 and as the sole beneficiaries, pursuant to its terms, Richard L. Nelson executed the grant deed conveying the property to himself and to Janet Charlene Sparre as joint tenants.

Respondents state Petitioner had an opportunity to remove all personal property belonging to him from the property, but failed to cooperate, resulting in the commencement of an eviction action against Petitioner, during which time no rent, utilities, or other expenses or maintenance of the property were paid. Once Petitioner was removed from the property, a substantial amount of debris had to be removed and substantial repairs made to the property. It is alleged that Petitioner was responsible for the damage for which Respondent Nelson was caused to advance funds to repair.

Respondents state Petitioner is not an omitted spouse nor entitled to an interest in Frances E. Nelson's interest in the irrevocable trust, as the decedent did provide for him by way of reduced rent and other accommodations during their marriage, which were outside of the trust. In addition, it is alleged that Petitioner did make a valid agreement waiving his right to share in the trust assets in front of family members who will testify that they witnessed the decedent explain in front of Petitioner that he had no interest in the property and that the real and personal property were going only to her children.

Respondents pray for an order as follows:

- 1. That Petitioner not be determined to be an omitted spouse or a pretermitted spouse;**
- 2. That Petitioner be charged for expenses incurred by Nelson in the following categories according to proof:**
 - Unpaid rent**
 - Utilities**
 - Repairs to clean, maintain and repair the subject property**
 - Attorney's fees as determined by the Court**
- 3. That Petitioner be denied any attorney's fees or costs incurred herein.**

Proof of Electronic Service was filed 12/29/2014, showing that Attorney Melvin K. Rube on behalf of Royce H. Chilton was served by email on 12/29/2014 with a copy of the ***Response to Petition for an Order Determining Interest in Trust Property; Compelling the Beneficiaries of a Trust to Return Trust Property to Successor Trustee, and Directing the Successor Trustee to Transfer to Petitioner an Intestate Share of Trust Property.***

Ninth Account and Report of Trustee of Jude William Tinsley Special Needs Trust and Petition for Allowance of Fees to Attorney [Probate Code 17200(b)(5)]

	HELEN WILSON , Paternal Grandmother and Trustee, is Petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	
	Account period: 1-1-13 through 12-31-14		
	Accounting: \$242,374.47		
	Beginning POH: \$186,895.00		
	Ending POH: \$237,255.51		
	(\$235,453.44 is cash)		
	Trustee waives compensation.		
	Attorney: \$4,483.00 (for 8.7 attorney hours @ \$325/hr plus 15.05 paralegal hours @ \$110/hr for legal services in connection with trust accounting and various proceedings in the conservatorship matter)		
	Costs: \$682.50 (filing fees, certified copies, plus \$20.00 in fees charged by court service)		
	Current bond: \$18,000.00. In addition, \$8,500.00 was to be deposited into a blocked account pursuant to Order Approving Eighth Account 4-18-13.		
	Petitioner states of the property on hand, \$55,445.53 is in an unblocked account. Trust income is currently \$826.42/month, or \$9,917.04. After payment of the attorney fees and costs, the new bond should be \$65,958.67. Rather than increase the bond, Petitioner requests an order authorizing her to deposit \$44,045.00 into a new blocked account. After blocking \$44,045.00, the current bond of \$18,000.00 would be adequate.		
	Petitioner requests an order:		
	1. Approving, allowing and settling the attached account and report of Conservator <i>[sic]</i> as filed;		
	2. Authorizing the attorney's fees and costs; and		
	3. For such other relieve as the Court considers proper.		
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<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Reviewed by: skc

Reviewed on: 3-17-15

Updates:

Recommendation:

File 7 - Tinsley

Page 2 – NEEDS/PROBLEMS/COMMENTS:

Note: Helen Wilson, Paternal Grandmother, is trustee of this special needs trust established 3-5-98. Ms. Wilson is also the Conservator of the Person and Estate in 0584764. However, it appears that the entirety of the conservatorship of the estate was included in the special needs trust; therefore, although the conservatorship of the estate technically exists, no accountings have been filed for the conservatorship estate since the creation of the special needs trust. It appears that prior accounts for this special needs trust continued to be filed within the Conservatorship Case; however, pursuant to Local Rule 7.1.2., the Special Needs Trust has now been separated from the conservatorship case and assigned this Case No. 15CEPR00123.

1. Attorney requests reimbursement of costs totaling \$20.00 for fees charged by “court service.” Pursuant to Local Rule 7.17.B, runner services are considered by the Court to be a cost of doing business and not reimbursable. Therefore, the Court will reduce reimbursement by \$20.00.
2. Attorney requests fees for various legal services and costs related to the conservatorship matter, including various attorney and paralegal hours and \$435 in filing fees on 3-20-13 relating to an objection to a petition for appointment of a successor conservator filed by Janice Lingenfelter in the conservatorship case. Because these services and costs are not associated with the special needs trust, the Court may disallow reimbursement from the special needs trust. The Court may require a revised declaration setting forth only those fees and costs associated with this special needs trust, or authority to include them.
3. The Court may also require clarification as to the following disbursements as appropriate special needs trust expenditures:
 - Court investigation fees associated with the annual conservatorship reviews
 - Dental cleaning \$89.00. Does the beneficiary not have basic dental coverage?
 - Shoes \$147.97. Basic items of clothing are not considered a special need and may reduce benefits.
 - Ceiling fan, price unclear (does not appear on disbursements schedule). Basic shelter-related expenses are not considered a special need and may reduce benefits.
 - Entertainment expenses including: \$333 for dinner theater tickets, \$650 for dance lessons, \$306 for Philharmonic tickets, \$400 for Fresno Grand Opera tickets (total \$1,689.00)
4. Schedule E Property On Hand includes items that do not appear in the disbursements schedule, including a ceiling fan (see above) and an iPad. Need revised schedules, possibly revised accounting, for balance.
5. Current bond is \$18,000.00. Petitioner states \$55,445.53 is currently in an unblocked account, and trust income is currently \$826.42/month. The Court may require clarification with reference to Cal. Rule of Court 7.204 (Duty to apply for increased bond).
6. The Order Approving Eighth Account filed 4-18-13 authorized \$1,261.00, plus a fee not to exceed \$450.00 for services to be rendered after the date of this petition through the hearing on the account (4-18-13), for a total of \$1,711.00, plus a \$435.00 filing fee (total \$2,146.00). The Disbursements Schedule indicates \$2,146.00 was paid 4-23-13.

However, this attorney fees requested in this petition date back to 3-4-13. Therefore, need clarification: What did the \$450.00 cover? It does not appear to be referenced anywhere.

7. It appears the Trustee’s bond may need to be reissued to reference this Special Needs Trust case.

Page 2

1. The decedent's will devises the residue of his estate to the trustee(s) of the Jeffrey Charles Lester and Elizabeth Suzanne Lester Revocable Living Trust dated 12-17-11. Later, the "Concluding Provisions" of Article 5, Section 5.01 indicate a possible alternative for community property to pass via nonprobate transfer; however, it appears to specifically exclude any community property included in a trust.

The Court may require further clarification as to how this property falls under Article 5, Section 5.01, including why this property is/was not included in the trust.

Note: Interestingly, the box at #11 is not checked re whether Petitioner is the trustee of a trust that is a devisee under the decedent's will. Does the referenced trust exist? If so, who is the trustee? If the trustee is someone other than Petitioner, he or she is entitled to notice.

2. If the property is to pass to the surviving spouse outside of probate or the trust pursuant to this section, need details relevant to the property and the marriage, including the date of marriage, the date of acquisition of the property, the decedent's interest in the property, whether the property was community or separate property. See Probate Code §13651(a)(3).
3. The decedent's will is witnessed by only two witnesses: Petitioner Elizabeth S. Lester (Surviving Spouse and Petitioner herein), and her attorney, Tyler H. Lester. Pursuant to Probate Code §6112, unless there are at least two other subscribing witnesses to the will who are disinterested witnesses, a devise to a subscribing witness creates a presumption of undue influence affecting burden of proof. The Court may require clarification with reference to this section as to why the property should pass to Petitioner via this nonprobate transfer rather than to the trust pursuant to the Section 3.01 of the will.
4. Petitioner lists the same address for herself and all four of the decedent's adult children, and Notice of Hearing was sent to everyone at this one address. The Court may require clarification: Do all of the decedent's adult children reside together with Petitioner at this address?

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

DOD: 11/19/14	DEANNA L. CUMMINGS, THERESA A. CUMMINGS, JON S. CUMMINGS, and YU-SUN CUMMINGS, are Petitioners.	NEEDS/PROBLEMS/COMMENTS:
	40 days since DOD.	
Cont. from	No other proceedings in California	
<input type="checkbox"/> Aff.Sub.Wit.	I & A - \$9,925.00	
<input checked="" type="checkbox"/> Verified		
<input checked="" type="checkbox"/> Inventory		
<input type="checkbox"/> PTC	Decedent died intestate	
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	Petitioners requests Court determination that decedent's 100% interest in real property described as APN: 085-030-47s pass to them pursuant to intestate succession.	
<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 type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: JF
		Reviewed on: 03/18/15
		Updates:
		Recommendation: SUBMITTED
		File 10 - Cummings

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

DOD: 12-1-02	RICHARD ALLEN CANADA , Son, was appointed Administrator with Full IAEA with bond of \$17,000.00 on 5-4-04 . Bond of \$17,000.00 was filed and Letters issued on 5-7-04.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 1-5-15. Per Minute order, if accounting is filed at least two court days prior, no appearance is necessary on 3-23-15.</u> 1. Need first account or petition for final distribution or current status report. 2. Need proof of service of Notice of Hearing with a copy of the status report on parties that have requested special notice pursuant to Probate Code §1252. <u>Note:</u> The file indicates that the decedent left a spouse who relocated to Lapu Lapu City, Philippines, after the decedent's death, and two adult children, including the Administrator, who reside in Fresno. <u>Note:</u> There have been numerous creditor's claims filed in this estate totaling \$11,748.70.
Cont. from 041213, 062113, 092013, 120613, 022714, 052814, 072314, 082614, 100714	Inventory and Appraisal filed 7-6-04 indicates a total estate value of \$90,000.00 consisting of real property located at 2365 South Lily in Fresno.	
Aff.Sub.Wit.	On 6-21-13, the Court removed Mr. Canada and appointed the FRESNO COUNTY PUBLIC ADMINISTRATOR .	
Verified		
Inventory		
PTC		
Not.Cred.	Status Report filed 9-9-13 states the Public Administrator has attempted to contact the former administrator by contacting his daughter and the attorney; however, has not been able to make contact. The former administrator's former attorney, C. Michael Farmer, reported that the former administrator may have distributed the proceeds from the sale of the house, the only asset, to him and his sister. If so, the surviving spouse did not receive her 1/3 share, and none of the several creditors were paid. The Public Administrator will continue to attempt to find the former administrator, and requests the Court set an Order to Show Cause requiring Mr. Canada to personally appear, and that this matter be set out for at least 60 days to allow time to investigate.	
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order	On 10-10-14, the Court granted Public Administrator's Petition for Surcharge in the amount of \$92,000.00 against the Former Administrator.	
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice	Status Report filed 1-2-15 states the Public Administrator has made written demand to the bond company and is waiting for a response. The PA therefore requests that the next status hearing be set no sooner than two months from now.	
		Reviewed by: skc
		Reviewed on: 3-17-15
		Updates:
		Recommendation:
		File 11 - Canada

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution

	ROQUE RODRIGUEZ , son, appointed administrator with full IAEA authority with bond set at \$22,500.00 on 03/07/2006.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Notice of Proposed Action filed 11/24/2014.</p> <p>Minute Order of 12/08/2014: Counsel represents that they have a sale for the property and will proceed with escrow; requests a 120 days.</p> <p>1. Need First Account or Petition for Final Distribution or current written status report 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>
	Letters issued on 03/16/2006.	
Cont. from 022814, 053014, 092214, 120814	Inventory and Appraisal filed 03/16/2006 shows an estate valued at \$22,500.00 consisting of real property.	
Aff.Sub.Wit.	First Account or Petition for Final Distribution was due 05/2007.	
Verified	Notice of Status Hearing was mailed to Attorney Mortimer and Roque Rodriguez on 11/22/2013.	
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: 03/18/2015
		Updates:
		Recommendation:
		File 12 – Rodriguez

Probate Status Hearing RE: Proof of Bond

Age:		NEEDS/PROBLEMS/COMMENTS: <p style="text-align: center;"><u>OFF CALENDAR</u></p> Bond filed 2-23-15; Letters issued 2-23-15.
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: 3-18-15
		Updates:
		Recommendation:
		File 13 - Carmody

Probate Status Hearing RE: Receipt for Blocked Account

Age:		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>OFF CALENDAR</u></p> <p>Receipt filed 2-17-15.</p>
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: 3-18-15
		Updates:
		Recommendation:
		File 14 - Logiudice

Probate Status Hearing Re: Filing Inventory and Appraisal

DOD: 12-27-13	<p>LISA MARIE TERAN, Spouse, was appointed Administrator with Full IAEA without bond on 9-29-14 and Letters issued on 10-2-14.</p> <p>At the hearing on 9-29-14, the Court set this status hearing regarding the filing of the Inventory and Appraisal.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>OFF CALENDAR</u></p> <p>Petition for Termination of Proceedings filed 2-23-15 is set for hearing on 4-15-15.</p>
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: skc
		Reviewed on: 3-17-15
		Updates:
		Recommendation:
		File 15 - Teran

Pro Per Moore, Martin (Pro Per Petitioner, Co-Guardian)
 Pro Per Moore, Amber Michelle (Pro Per Petitioner, Co-Guardian)

Petition to Fix Residence Outside the State of California

		<p>MARTIN E. MOORE and AMBER M. MOORE, paternal grandfather and step-grandmother, Guardians appointed on 3/19/2013, are Petitioners.</p> <p>Father: JOSE ALFREDO FUENTEZ; personally served 2/1/2015.</p> <p>Mother: JENNIFER HOWELL; personally served 11/13/2014 (for reference, Petition was filed 11/10/2014).</p> <p>Paternal grandmother: Rebecca Fuentez; Proof of Service by Mail filed 2/19/2015.</p> <p>Maternal grandfather: Shawn Howell; Proof of Service by Mail filed 2/19/2015.</p> <p>Maternal grandmother: Karen Kinzel; Proof of Service by Mail filed 2/19/2015.</p> <p style="text-align: center;">~Please see Petition for details~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 2/23/2015.</p> <p>Minute Order states Petitioner [Jennifer Howell] is to cure the defect regarding service to Jose Fuentez, father of the minor. The Court orders that the March visitation will begin on the 28th at noon and end on the 29th at noon and occur at the home of Jennifer Howell, as agreed to by the parties in open court.</p>	
Cont. from 010515				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			W/
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input checked="" type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		<p>Reviewed by: LEG</p> <p>Reviewed on: 3/20/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 17B - Fuentez</p>		

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

Age: 1	TEMPORARY EXPIRES 03/23/2015		NEEDS/PROBLEMS/COMMENTS: Minute Order of 01/29/2015 (Judge Sanderson): Mr. Fuentes consents for the record. The Court orders that parental visits are to be supervised only. Petitioner requests visitation occur at a third-party agency. 1. 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"> Maternal Grandfather (Unknown) – Unless the Court dispenses with notice. Note: Declaration of Due Diligence filed 03/04/2015 states petitioner has never met this person. Petitioner states she spoke with Laney who became upset and said she “don't know nothing about him.” <ul style="list-style-type: none"> Rosemary Smith (Maternal Grandmother) – Unless the Court dispenses with notice. Note: Declaration of Due Diligence filed 03/04/2015 states petitioner never met this person and the minor's mother does not know where her own mother resides.
	<u>Please see petition for details</u>		
Cont. from			
<input type="checkbox"/> Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified			
Inventory			
PTC			
Not.Cred.			
<input checked="" type="checkbox"/> Notice of Hrg			
Aff.Mail	x		
Aff.Pub.			
Sp.Ntc.			
<input checked="" type="checkbox"/> Pers.Serv.	w/		
<input checked="" type="checkbox"/> Conf. Screen			
<input checked="" type="checkbox"/> Letters			
<input checked="" type="checkbox"/> Duties/Supp			
Objections			
Video Receipt			
CI Report	x		
9202			
<input checked="" type="checkbox"/> Order			
Aff. Posting			
Status Rpt			
<input checked="" type="checkbox"/> UCCJEA			
Citation			
FTB Notice			
			Reviewed by: LV
			Reviewed on: 03/18/2015
			Updates:
			Recommendation:
			File 19 - Fuentes

Santino Corsaro, & Luciano Corsaro

Atty Corsaro, Lesley Ann (Pro Per – Petitioner – Paternal Grandmother)

Atty Corsaro, Alyssa N (Pro Per – Petitioner – Paternal Aunt)

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

Gianna Age: 3	<u>Please see petition for details</u>	NEEDS/PROBLEMS/ COMMENTS:
Katalina Age: 2 DOB:		
Santino Age: 1		
Luciano Age: 6 mos. DOB:		
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 checked="" type="checkbox"/> Notice of Hrg		
<input type="checkbox"/> Aff.Mail n/a		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input checked="" type="checkbox"/> Pers.Serv. w/		
<input checked="" type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input checked="" type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: LV
		Reviewed on: 03/18/2015
		Updates:
		Recommendation:
		File 20 - Corsaro

Atty Goodell, Jon-Annette (pro per – mother/Petitioner)

Atty Partida, Marcos Meneses (pro per – father/Petitioner)

Petition for Appointment of Probate Conservator of the Person (Prob. C. 1820, 1821, 2680-2682)

Age: 17	<p align="center"><u>NO TEMPORARY REQUESTED</u></p> <p>JON-ANNETTE GODDELL and MARCOS MENESES PARTIDA, parents, are Petitioners and request appointment as Co-Conservators of the Person with medical consent powers.</p> <p>Petitioners state [See Petition for Details]</p> <p>Court Investigator Dina Calvillo filed a report on 03/13/15.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Court Investigator advised rights on 03/10/15.</p> <p>Voting rights affected need minute order.</p> <ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i>. 2. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Conservator of the Person or Consent & Waiver of Notice or Declaration of Due Diligence</i> for: <ol style="list-style-type: none"> a. Sara Partida (sister) b. Starlene Martinez (sister) c. Andrew Partida (brother) d. Maternal grandparents e. Paternal grandparents 	
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 checked="" type="checkbox"/> Pers.Serv.			w/
<input checked="" type="checkbox"/> Conf. Screen			
<input checked="" type="checkbox"/> Letters			
<input checked="" type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input checked="" type="checkbox"/> Video Receipt			
<input checked="" type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input checked="" type="checkbox"/> Order			
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input checked="" type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
Reviewed by: JF			
Reviewed on: 03/18/15			
Updates:			
Recommendation:			
File 22 - Partida			

		NEEDS/PROBLEMS/COMMENTS: <u>OFF CALENDAR</u> Request for Dismissal filed by Petitioner on 03/20/15	
Cont. from			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		x
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		x
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		
		Reviewed by: JF	
		Reviewed on: 03/18/15	
		Updates: 03/20/15	
		Recommendation:	
		File 23 - Kenyon	

24 Mary Lou Hernandez (CONS/PE)
Atty Bagdasarian, Gary G. (for Michelle Ann Torres – Granddaughter – Petitioner)
Atty Horton, Lisa (Court appointed for proposed Conservatee)
Atty Fray, Brian H. (for Santos Torres – Daughter – Objector)

Case No. 15CEPR00130

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C. 1820, 1821, 2680-2682)

		See petition for details.	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p><u>Note: Santos Torres, Daughter, filed an objection and a competing petition that is set for hearing on 4-15-15.</u></p> <p><u>Minute Order 3-17-15:</u> The Court orders no visitation at this time until there is a resolution as to supervision and a place. Parties are to bring suggestions on 3-23-15 as to the visitation.</p> <p>Court Investigator advised rights on 2-26-15.</p> <p>Voting rights affected – need minute order.</p> <ol style="list-style-type: none"> The objection indicates that the proposed Conservatee is the beneficiary of her deceased son’s accounts and retirement. Has the proposed Conservatee or Petitioner taken control of these funds? Need clarification and estimated value for increased bond. Need Capacity Declaration in support of dementia medication, placement powers as requested.
Cont 031715			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail W		
	Aff.Pub.		
	Sp.Ntc.		
✓	Pers.Serv. W		
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
✓	Objections		
✓	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
✓	Citation		
	FTB Notice		
		Reviewed by: skc	
		Reviewed on: 3-18-15	
		Updates:	
		Recommendation:	
		File 24 - Hernandez	

5A Espinola Family Trust of 1990

Case No. 14CEPR00430=

Atty Rube, Melvin K., sole practitioner (for Petitioners James Espinola and Irene Espinola St. Martin, Co-Trustees)

Atty Esraelian, Robyn, of Richardson, Jones & Esraelian (also for Petitioners James Espinola and Irene Espinola St. Martin, Co-Trustees)

Atty Kaufman, Jeffrey; Brawley, Mason, of Berliner Cohen of Merced (for Eugene Espinola, Marvin Espinola, and Margaret Corvello, Beneficiaries)

First Report and Account of Co-Trustees and Petition for its Settlement [2011, 2012, 2013]

Oliver DOD: 9/1/2006	<p>IRENE E. ST. MARTIN and JAMES D. ESPINOLA, Co-Trustees of the Sub-trusts under the ESPINOLA FAMILY TRUST of 1990 (namely, the MARITAL TRUST, the RESIDUAL TRUST, and the SURVIVOR'S TRUST), are Petitioners.</p> <p>Petitioners and the Respondents, EUGENE ESPINOLA, MARVIN ESPINOLA, and MARGARET CORVELLO, are beneficiaries of the Sub-trusts entitled to 20% interest each.</p> <p>Marital Trust Account 2011 period: 1/1/2011 – 12/31/2011 Beginning POH - \$2,677,889.00 Ending POH - \$2,295,203.00 Trustee Fee (St. Martin)- waived for 2011, 2012, 2013 Trustee Fee (Espinola) - \$20,000.00 for 2011, 2012, 2013</p> <p>Marital Trust Account 2012 period: 1/1/2012 – 12/31/2012 Beginning POH - \$2,295,203.00 Ending POH - \$1,804,364.00 Trustee Fee (St. Martin)- waived for 2011, 2012, 2013 Trustee Fee (Espinola) - \$20,000.00 for 2011, 2012, 2013</p> <p>Marital Trust Account 2013 period: 1/1/2013 – 12/31/2013 Beginning POH - \$1,804,364.00 Ending POH - \$1,823,544.00 Trustee Fee (St. Martin)- waived for 2011, 2012, 2013 Trustee Fee (Espinola) - \$20,000.00 for 2011, 2012, 2013</p> <p>Petitioners pray for an Order:</p> <ol style="list-style-type: none"> Approving, allowing and settling the <i>First Account and Report of Co-Trustees</i>, and ratifying, confirming and approving all acts and transactions of Petitioners as set forth in the account; Authorizing Co-Trustees to pay James. D. Espinola the sum of \$20,000.00 [for 2011, 2012, 2013, for all Trusts] as Co-Trustee for his services; and Authorizing Co-Trustees to pay James. D. Espinola the sum of \$5,000.00 as compensation for work on the residence located on Robertson Blvd. in Chowchilla [as set forth in Paragraph 14(a) to 14(c) of the instant First Report]. 	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>Page 5A is the MARITAL TRUST First Account.</p> <p>Page 5B is the RESIDUAL TRUST First Account.</p> <p>Page 5C is the SURVIVOR'S TRUST First Account.</p> <p>Note: Order Granting Ex Parte Application to Continue Trial filed 2/3/2015 reschedules the Court Trial of this matter to 4/7/2015 at 8:30 a.m. in Department 72.</p> <p align="center">~Please see additional page~</p>
Virginia DOD: 4/29/2012		
Cont. from		
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
✓ Notice of Hrg		
✓ Aff.Mail w/		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order X		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
Reviewed by: LEG		
Reviewed on: 3/20/15		
Updates:		
Recommendation:		
File 5A - Espinola		

NEEDS/PROBLEMS/COMMENTS, continued:

Note: Paragraph 10 of the *First Report and Account* states that during the accounting period (2011, 2012, 2013), professional advisors were retained, consisting of Attorney **ROBYN ESRAELIAN** (for legal services rendered), Petitioner **IRENE ST. MARTIN, CPA**, (for accountancy services), and **JOHN ST. MARTIN**, spouse of Irene St. Martin (for inspections and assessments), and states that the amounts paid to each of them are set forth in the disbursement schedules, *Exhibits 1 through 8*. Due to the volume of disbursements itemized in the schedules, and the number of accountings (total of 8 accountings) contained within the instant *First Report and Account*, and also because the amounts paid to each advisor (specifically, attorney, accountant and inspector) are not separately designated by category in the disbursements schedules, the payments to each advisor are not totaled and listed in the center column as would typically be shown in examiner notes for accountings; the disbursements schedules are cumbersome and not categorized, and sorting through the itemizations would prove inordinately time-consuming and prohibitive.

1. Each *Summary of Account* submitted for each sub-trust and for each accounting period does not comply with the requirement that Charges must equal Credits as provided by Probate Code § 1061(c). Court may require amendment of each of the accounting summaries pursuant to Probate Code § 1060 et seq. and § 1061(c).
2. Paragraph 13 of the *First Report and Account* states that neither Petitioner Espinola nor Petitioner St. Martin have taken any trustee fees to date, that Petitioner St. Martin is waiving her right to take trustee fees for the services she rendered to the Sub-trusts as Co-Trustee for 2011, 2012 and 2013, and that Petitioner Espinola is requesting trustee fees of **\$20,000.00** for the services he rendered to the Sub-trusts as Co-Trustee for 2011, 2012 and 2013. However, Paragraph 29 of the *First Report and Account* states that Pursuant to the **ESPINOLA FAMILY TRUST** terms applicable to the Sub-trusts, Petitioners are entitled to compensation, but that Petitioners hereby waive their right to compensation for their administration of the Sub-trusts for the years 2011, 2012 and 2013. Need clarification regarding the inconsistency and/or an amended request or waiver of trustee fees for Petitioner James Espinola.
3. Need proposed order pursuant to Local Rule 7.1.1(F) providing that a proposed order shall be submitted with all pleadings that request relief.

5B Espinola Family Trust of 1990

Case No. 14CEPR00430=

Atty Rube, Melvin K., sole practitioner (for Petitioners James Espinola and Irene Espinola St. Martin, Co-Trustees)
Atty Esraelian, Robyn, of Richardson, Jones & Esraelian (also for Petitioners James Espinola and Irene Espinola St. Martin, Co-Trustees)
Atty Kaufman, Jeffrey; Brawley, Mason, of Berliner Cohen of Merced (for Eugene Espinola, Marvin Espinola, and Margaret Corvello, Beneficiaries)

First Report and Account of Co-Trustees and Petition for its Settlement [2011, 2012, 2013]

Oliver DOD: 9/1/2006	<p>IRENE E. ST. MARTIN and JAMES D. ESPINOLA, Co-Trustees of the Sub-trusts under the ESPINOLA FAMILY TRUST of 1990 (namely, the MARITAL TRUST, the RESIDUAL TRUST, and the SURVIVOR'S TRUST), are Petitioners.</p> <p>Petitioners and the Respondents, EUGENE ESPINOLA, MARVIN ESPINOLA, and MARGARET CORVELLO, are beneficiaries of the Sub-trusts entitled to 20% interest each.</p> <p>Residual Trust Account 2011 period: 1/1/2011 – 12/31/2011 Beginning POH - \$2,066,748.00 Ending POH - \$2,197,342.00 Trustee Fee (St. Martin)- waived for 2011, 2012, 2013 Trustee Fee (Espinola) - \$20,000.00 for 2011, 2012, 2013</p> <p>Residual Trust Account 2012 period: 1/1/2012 – 12/31/2012 Beginning POH - \$2,197,342.00 Ending POH - \$2,290,889.00 Trustee Fee (St. Martin)- waived for 2011, 2012, 2013 Trustee Fee (Espinola) - \$20,000.00 for 2011, 2012, 2013</p> <p>Residual Trust Account 2013 period: 1/1/2013 – 12/31/2013 Beginning POH - \$2,290,889.00 Ending POH - \$2,174,751.00 Trustee Fee (St. Martin)- waived for 2011, 2012, 2013 Trustee Fee (Espinola) - \$20,000.00 for 2011, 2012, 2013</p> <p>Petitioners pray for an Order:</p> <p>4. Approving, allowing and settling the <i>First Account and Report of Co-Trustees</i>, and ratifying, confirming and approving all acts and transactions of Petitioners as set forth in the account;</p> <p>5. Authorizing Co-Trustees to pay James. D. Espinola the sum of \$20,000.00 [for 2011, 2012, 2013, for all Trusts] as Co-Trustee for his services; and</p> <p>6. Authorizing Co-Trustees to pay James. D. Espinola the sum of \$5,000.00 as compensation for work on the residence located on Robertson Blvd. in Chowchilla [as set forth in Paragraph 14(a) to 14(c) of the instant First Report].</p>	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>Page 5A is the MARITAL TRUST First Account.</p> <p>Page 5B is the RESIDUAL TRUST First Account.</p> <p>Page 5C is the SURVIVOR'S TRUST First Account.</p> <p>Note: Order Granting Ex Parte Application to Continue Trial filed 2/3/2015 reschedules the Court Trial of this matter to 4/7/2015 at 8:30 a.m. in Department 72.</p> <p>~Please see additional page~</p>
Virginia DOD: 4/29/2012		
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Aff.Sub.Wit.		
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PTC		
Not.Cred.		
✓ Notice of Hrg		
✓ Aff.Mail w/		
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Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order X		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	<p>Reviewed by: LEG</p> <p>Reviewed on: 3/20/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 5B - Espinola</p>	

NEEDS/PROBLEMS/COMMENTS, continued:

Note: Paragraph 10 of the *First Report and Account* states that during the accounting period (2011, 2012, 2013), professional advisors were retained, consisting of Attorney **ROBYN ESRAELIAN** (for legal services rendered), Petitioner **IRENE ST. MARTIN, CPA**, (for accountancy services), and **JOHN ST. MARTIN**, spouse of Irene St. Martin (for inspections and assessments), and states that the amounts paid to each of them are set forth in the disbursement schedules, *Exhibits 1 through 8*. Due to the volume of disbursements itemized in the schedules, and the number of accountings (total of 8 accountings) contained within the instant *First Report and Account*, and also because the amounts paid to each advisor (specifically, attorney, accountant and inspector) are not separately designated by category in the disbursements schedules, the payments to each advisor are not totaled and listed in the center column as would typically be shown in examiner notes for accountings; the disbursements schedules are cumbersome and not categorized, and sorting through the itemizations would prove inordinately time-consuming and prohibitive.

4. Each *Summary of Account* submitted for each sub-trust and for each accounting period does not comply with the requirement that Charges must equal Credits as provided by Probate Code § 1061(c). Court may require amendment of each of the accounting summaries pursuant to Probate Code § 1060 et seq. and § 1061(c).
5. Paragraph 13 of the *First Report and Account* states that neither Petitioner Espinola nor Petitioner St. Martin have taken any trustee fees to date, that Petitioner St. Martin is waiving her right to take trustee fees for the services she rendered to the Sub-trusts as Co-Trustee for 2011, 2012 and 2013, and that Petitioner Espinola is requesting trustee fees of **\$20,000.00** for the services he rendered to the Sub-trusts as Co-Trustee for 2011, 2012 and 2013. However, Paragraph 29 of the *First Report and Account* states that Pursuant to the **ESPINOLA FAMILY TRUST** terms applicable to the Sub-trusts, Petitioners are entitled to compensation, but that Petitioners hereby waive their right to compensation for their administration of the Sub-trusts for the years 2011, 2012 and 2013. Need clarification regarding the inconsistency and/or an amended request or waiver of trustee fees for Petitioner James Espinola.
6. Need proposed order pursuant to Local Rule 7.1.1(F) providing that a proposed order shall be submitted with all pleadings that request relief.

5C Espinola Family Trust of 1990

Case No. 14CEPR00430=

Atty Rube, Melvin K., sole practitioner (for Petitioners James Espinola and Irene Espinola St. Martin, Co-Trustees)

Atty Esraelian, Robyn, of Richardson, Jones & Esraelian (also for Petitioners James Espinola and Irene Espinola St. Martin, Co-Trustees)

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First Report and Account of Co-Trustees and Petition for its Settlement [2011, 2012, 2013]

Oliver DOD: 9/1/2006	<p>IRENE E. ST. MARTIN and JAMES D. ESPINOLA, Co-Trustees of the Sub-trusts under the ESPINOLA FAMILY TRUST of 1990 (namely, the MARITAL TRUST, the RESIDUAL TRUST, and the SURVIVOR'S TRUST), are Petitioners.</p> <p>Petitioners and the Respondents, EUGENE ESPINOLA, MARVIN ESPINOLA, and MARGARET CORVELLO, are beneficiaries of the Sub-trusts entitled to 20% interest each.</p> <p>Survivor's Trust Account - No 2011 accounting Beginning POH - No 2011 accounting Ending POH - No 2011 accounting Trustee Fee (St. Martin)- waived for 2011, 2012, 2013 Trustee Fee (Espinola) - \$20,000.00 for 2011, 2012, 2013</p> <p>Survivor's Trust Account 2012 period: 4/29/2012 – 12/31/2012 Beginning POH - \$3,624,668.00 Ending POH - \$3,640,846.00 Trustee Fee (St. Martin)- waived for 2011, 2012, 2013 Trustee Fee (Espinola) - \$20,000.00 for 2011, 2012, 2013</p> <p>Survivor's Trust Account 2013 period: 1/1/2013 – 12/31/2013 Beginning POH - \$3,640,846.00 Ending POH - \$3,692,940.00 Trustee Fee (St. Martin)- waived for 2011, 2012, 2013 Trustee Fee (Espinola) - \$20,000.00 for 2011, 2012, 2013</p> <p>Petitioners pray for an Order:</p> <p>7. Approving, allowing and settling the <i>First Account and Report of Co-Trustees</i>, and ratifying, confirming and approving all acts and transactions of Petitioners as set forth in the account;</p> <p>8. Authorizing Co-Trustees to pay James. D. Espinola the sum of \$20,000.00 [for 2011, 2012, 2013, for all Trusts] as Co-Trustee for his services; and</p> <p>9. Authorizing Co-Trustees to pay James. D. Espinola the sum of \$5,000.00 as compensation for work on the residence located on Robertson Blvd. in Chowchilla [as set forth in Paragraph 14(a) to 14(c) of the instant First Report].</p>	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>Page 5A is the MARITAL TRUST First Account.</p> <p>Page 5B is the RESIDUAL TRUST First Account.</p> <p>Page 5C is the SURVIVOR'S TRUST First Account.</p> <p>Note: Order Granting Ex Parte Application to Continue Trial filed 2/3/2015 reschedules the Court Trial of this matter to 4/7/2015 at 8:30 a.m. in Department 72.</p> <p>~Please see additional page~</p>
Virginia DOD: 4/29/2012		
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Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
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Letters		
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Objections		
Video Receipt		
CI Report		
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Order X		
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Citation		
FTB Notice		
Reviewed by: LEG		
Reviewed on: 3/20/15		
Updates:		
Recommendation:		
File 5C - Espinola		

NEEDS/PROBLEMS/COMMENTS, continued:

Note: Paragraph 10 of the *First Report and Account* states that during the accounting period (2011, 2012, 2013), professional advisors were retained, consisting of Attorney **ROBYN ESRAELIAN** (for legal services rendered), Petitioner **IRENE ST. MARTIN, CPA**, (for accountancy services), and **JOHN ST. MARTIN**, spouse of Irene St. Martin (for inspections and assessments), and states that the amounts paid to each of them are set forth in the disbursement schedules, *Exhibits 1 through 8*. Due to the volume of disbursements itemized in the schedules, and the number of accountings (total of 8 accountings) contained within the instant *First Report and Account*, and also because the amounts paid to each advisor (specifically, attorney, accountant and inspector) are not separately designated by category in the disbursements schedules, the payments to each advisor are not totaled and listed in the center column as would typically be shown in examiner notes for accountings; the disbursements schedules are cumbersome and not categorized, and sorting through the itemizations would prove inordinately time-consuming and prohibitive.

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