



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

2A Alex and Lillian G. Lamm Living Trust (Trust)

Case No. 12CEPR00687

Atty Baldwin, Kenneth A. (of McCormick Barstow, for Allene Joyce Lamm O'Neal – Co-Trustee – Petitioner)
 Atty Poochigian, Mark (for Duane Lamm – Co-Trustee)

Petition to Compel Co-Trustee Duane Alan Lamm to File Report and Account After Written Request; to Remove Duane Alan Lamm as a Co-Trustee; to Redress Breaches of the Trust by Duane Alan Lamm; to Divide and Distribute the Trust Estate; and to Terminate the Trust [Prob. C. 15642 & 17200 et seq.]

<p>Alex Lamm DOD: 11-17-90</p>	<p>ALLENE JOYCE LAMM O'NEAL, Co-Trustee, is Petitioner and states:</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
<p>Lillian Lamm DOD: 11-19-06</p>	<ul style="list-style-type: none"> Trustors Alex and Lillian created the Alex and Lillian Lamm Living Trust (the "Trust") on 3-11-88. 	<p>Page 2B is the 6th Status Re Settlement. As of 4-3-14, nothing further has been filed.</p>
<p>Cont. from 092012, 112912, 022513, 031813, 071913, 092013, 120613, 020714</p>	<ul style="list-style-type: none"> The Trust was amended and restated on 9-21-90. 	<p>Minute Order 9-20-12:</p>
<p>Aff.Sub.Wit.</p>	<ul style="list-style-type: none"> Alex died on 11-17-90, causing the trust to be divided among the Alex Lamm By-Pass Trust, the Alex Lamm Marital Trust, and the Lillian G. Lamm Survivor's Trust, which remained revocable. 	<p>Paul O'Rourke [McCormick Barstow] is appearing via conference call. Mr. Poochigian advises the Court that he filed his objections this morning. The Court accepts Mr. O'Rourke's representation that no additional parties need to be provided notice. The Court notes that there is no objection by Mr. Poochigian regarding the issue of notice. At the request of Mr. O'Rourke, the Court orders Mr. Poochigian to prepare a formal accounting for the period commencing from the date of death to the present. The Court orders that the accounting to be completed by 11/19/12. Continued to 11/29/12, Status Conference Set on 11/29/12.</p>
<p>✓ Verified</p>	<ul style="list-style-type: none"> The Survivor's Trust was amended twice: on 6-7-04 and 2-17-05. 	<p>Minute Order 11-29-12: Parties request the matter be set for trial.</p>
<p>Inventory</p>	<ul style="list-style-type: none"> Lillian died on 11-19-06. 	<p>Matter set for Court Trial on 3/29/13 with a one-day estimate. The Court sets a Settlement Conference on 2/25/13. Counsel is directed to submit their settlement conference statements along with a courtesy copy for the Court on the Thursday before the hearing. The Court authorizes Mr. O'Rourke to file his objections. The Court advises counsel that it will accept the objections subject to any filing fees. Set on 2-25-13 at 10:30am for Settlement Conference. Additional hearing date: 3-29-13 at 10am for Court Trial.</p>
<p>PTC</p>	<ul style="list-style-type: none"> For purposes of this petition, "Trust" refers to all three trusts collectively. 	<p>1. The proposed order includes a blank for a surcharge amount to be filled in for attorney's fees. The Court may require clarification and further documentation regarding the amount requested.</p>
<p>Not.Cred.</p>	<p>Petitioner states the Trust provides that she and her brother DUANE ALAN LAMM were to become co-trustees on the death of the Trustors; however, since Lillian's death, Duane has asserted exclusive control over most of the assets of the Trust.</p>	<p>Reviewed by: skc</p>
<p>✓ Notice of Hrg</p>	<p>The Trust as amended provides that the Marital Trust and the By-Pass Trust are to terminate and be distributed to Duane and Allene in equal shares immediately following Lillian's death.</p>	<p>Reviewed on: 4-3-14</p>
<p>✓ Aff.Mail W</p>	<p>The Survivor's Trust as amended provides that the Survivor's Trust is to terminate at Lillian's death and is to be distributed as follows:</p>	<p>Updates:</p>
<p>Aff.Pub.</p>	<ul style="list-style-type: none"> To BLAKE LAMM (Trustors' grandson) a fractional portion (56.64%) of the Survivor Trust's ownership interest (45.56%) in certain real property in Reedley consisting of approx. 76 acres; and 	<p>Recommendation:</p>
<p>Sp.Ntc.</p>	<ul style="list-style-type: none"> To DUANE and ALLENE, the residue of the Survivor's Trust estate, in equal shares, which includes that the share apportioned to ALLENE is to include a certain residence ("Allene's Residence") and that the share apportioned to DUANE is to include the Trustors' residence, without affecting the equality of the shares. 	<p>File 2A - Lamm</p>
<p>Pers.Serv.</p>	<p>SEE ADDITIONAL PAGES</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>Aff. Posting</p>		
<p>Status Rpt</p>		
<p>UCCJEA</p>		
<p>Citation</p>		
<p>FTB Notice</p>		

Petitioner states:

- The Trust Estate includes real estate, corporate stock, gemstones and cash, including an undivided 75% ownership interest as tenant in common in certain commercial real property consisting of an office building (the "commercial building") in Reedley, which is leased to Chase Bank. (The other 25% is owned by Duane's former spouse, Linda W. Lamm.)
- Petitioner states that since Lillian's death, Duane has been and continues to collect all rent from the Commercial Building personally and deposits same into his bank account without Allene's consent and in breach of the terms of the Trust.
- The Trust Estate also includes gemstones and precious metals, including specified items, and a Wells Fargo checking account, which is under Duane's exclusive control in breach of the terms of the Trust.
- The Trust Estate also includes 55% of the issued and outstanding common stock of Al Lamm Ranch, Inc., a California corporation. Allene and Duane each own 22.5%. Petitioner states Duane possesses and controls all of the assets of the Corporation and uses those assets for the exclusive benefit of his personal farming operations to the detriment of the Corporation and its majority owner, the Trust.
- The 76 acres of farmland (the "Home Ranch") located in Reedley is owned by the Trust and leased to Rio Vista Limited Partnership under a lease dated 10-1-05 that expires 9-30-20. Petitioner states all rent from the Home Ranch has been and continues to be collected by Duane and deposited in his personal accounts over which he has exclusive control. Duane has not provided Allene with any accounting nor made any distributions of such rental income to Allene in breach of the Trust.

Examiner's Note: It is unclear if this is the same 76 acres as is specified in the devise to Blake Lamm, since the devise indicates that the Trust owns only a partial interest of 45.56%, but this section of the petition indicates that the Trust owns this real property. The Court may require clarification.

- Petitioner states that at Lillian's death, Duane unilaterally assumed the primary duties of administering the Trust Estate, and appointed himself as the Trust decision maker and used his knowledge of the family holdings to single-handedly control the management of the Trust Estate while excluding Allene as a trustee in violation of Probate Code § 15620, which requires unanimous consent of co-trustees for action. Specifically, Petitioner states Duane has insisted on exercising exclusive control over the Commercial Building, Home Ranch and Corporation because those assets provide him with his primary source of income. Duane also holds physical possession of the specified gemstones and precious metals.
- Petitioner states she formally demanded an accounting and proposed division and distribution of the Trust Estate in a letter to Duane's attorney Mark Poochigian on 5-17-12, which letter has been ignored. Duane appears reticent in providing a full and complete disclosure of this acts and proceedings involving the Trust and has been less than forthcoming in his response to Allene's requests for information. Because of Duane's refusal to provide information and his exclusive control over the assets, including all bank accounts, for over five years, Duane should be directed to file full accounting.
- Petitioner states Duane has committed numerous breaches of trust by collecting all rents in connection with the Commercial Building and Home Ranch and depositing them into his personal accounts. By doing so, he has converted assets – a clear breach of trust.
- Duane has personally benefitted from his exclusive control and use of the equipment owned by the Corporation, the controlling shares of which are owned by the Trust. Neither the Corporation nor the Trust has received any benefit from Duane's personal use of such equipment.
- Petitioner further alleges that Duane has taken unauthorized withdrawals of cash from the Trust – another clear breach of the Trust and Probate Code § 15620 – without her consent, and no equalizing distributions have been made to Petitioner.

SEE ADDITIONAL PAGES

- Finally, Duane has refused for well over five years to cooperate with Petitioner in division and distribution of the Trust Estate to the beneficiaries notwithstanding the terms of the Trust which require termination and immediate division and distribution following Lillian's death.
- Probate Code § 15642 empowers this Court to remove a trustee who has committed a breach or whose hostility or lack of cooperation with the other co-trustees impairs the administration of the Trust. Redress should also include removal of Duane as a co-trustee for his conversion of assets, unauthorized withdrawals, and refusal to cooperate. Such redress will allow Petitioner as the sole trustee to complete the necessary division and distribution as required by the express terms of the Trust.
- Redress should also include attorneys' fees and legal costs, as Petitioner has been forced to take extreme measures to compel Duane to carry out his fiduciary duties. Section 1(f) of the Trust allows the trustee to employ attorneys on behalf of the trust to assist in carrying out her duties. Petitioner, in carrying out her duties, has been required to retain counsel and incur legal costs to compel Duane to carry out his duties. Such fees and costs should be surcharged against Duane's beneficial interest in an amount according to proof.
- The Trust was to terminate on Lillian's death, which was over five years ago. Duane has refused to cooperate with Allene in dividing and distributing the Trust Estate to beneficiaries in accordance with the express terms of the Trust. Under Probate Code §§ 17200(b)(13) and (14), this Court has the authority and should order termination and distribution.

Petitioner requests the Court Order:

- **That Duane be directed to prepare and file within 30 days an account of the Trust from Lillian's death (11-19-06) through present, accompanied by a schedule of property, current market value, and all liabilities of the Trust;**
- **That Duane be compelled to restore to the Trust all Trust assets that he has converted for his personal use and benefit;**
- **That Duane be compelled to either return to the Trust all unauthorized cash advances that he has taken from the Trust Estate as described, plus interest at the max. legal rate, or in the alternative, be compelled to cause the Trust to make an equalizing distribution to Allene, plus interest;**
- **That Duane be removed as a co-trustee of the Trust;**
- **Directing that the Trust be terminated and the Trust Estate be divided and distributed to the Trust beneficiaries in accordance with the express terms of the Trust;**
- **For attorneys' fees and legal costs incurred by Petitioner in connection with this Petition to be surcharged against Duane's share of the Trust Estate; and**
- **For such other and further orders and relief as the Court may deem appropriate.**

Further Notes re status:

On 9-20-12, at the request of Mr. O'Rourke, the Court ordered Mr. Poochigian to prepare a formal accounting for the period commencing from the date of death to the present be completed by 11-19-12.

On 11-20-12, Mr. Poochigian filed a Declaration stating that his office sent a letter to Kenneth Baldwin's office on 11-19-12 enclosing an accounting from 11-19-06 through 10-31-12 (attached).

Minute Order 9-20-12: Paul O'Rourke [*McCormick Barstow*] is appearing via conference call. Mr. Poochigian advises the Court that he filed his objections this morning. The Court accepts Mr. O'Rourke's representation that no additional parties need to be provided notice. The Court notes that there is no objection by Mr. Poochigian regarding the issue of notice. At the request of Mr. O'Rourke, the Court orders Mr. Poochigian to prepare a formal accounting for the period commencing from the date of death to the present. The Court orders that the accounting to be completed by 11/19/12. Continued to 11/29/12, Status Conference Set on 11/29/12.

Note: The objections filed 9-20-12 state that in approx. Oct. 2007, Duane and Allene came to an agreement regarding division and distribution of trust property, only to have Allene later contend that she did not agree to the distribution. Late in 2009, without involvement of counsel, Duane and Allene came to agreement in principle re division and distribution, which was memorialized by Duane's counsel in a proposed agreement that Allene refused to sign. Allene incorrectly alleges that Duane has excluded her from administration. To the contrary, Duane was forced to assume primary responsibility due to her refusal to respond to calls for participation. Moreover, she has shown herself to be untrustworthy by her conversion of trust assets for personal use. Duane has attempted to fulfill his duties as co-trustee with the utmost good faith. Duane objects to the petition to the extent it is in conflict with these facts. Duane has not committed any breaches off trust, has not converted trust assets for his personal use and/or benefit, should not be removed as a co-trustee, and no attorney fees should be awarded to Allene. In approx. Further, Allene's conversion of trust assets of more than \$23,000 to her own personal use and that of her son should be charged and offset against her beneficial share. Objector prays the petition be denied, for attorney fees and costs, costs of suit incurred herein, and such other and further relief as the Court deems proper.

Note: No accounting has been properly filed for Court review; however, Objections to Accounting of Co-Trustee, Duane Alan Lamm were filed 11-30-12.

Examiner notes that an accounting (attached to Declaration) was sent to Petitioner's attorney; however, the accounting was not filed as a Petition for Court review.

Therefore, Examiner has not reviewed the schedules or the objections.

If the Co-Trustee's Accounting is to be reviewed by the Court, need Petition with appropriate filing fee.

Minute Order 2-25-13: Counsel informs the Court that a settlement agreement is in progress. Matter continued. Status hearing set (Page 2B).

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

Age: 4		<u>TEMPORARY EXPIRES 04/08/14</u>		NEEDS/PROBLEMS/COMMENTS:	
		ANN MARSHALL , maternal grandmother, is Petitioner.		1. Need Notice of Hearing.	
		Father: FRANK SOLIS, JR.		2. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:	
Cont. from		Mother: MICHELA SOLIS , Consents and Waives Notice		<ul style="list-style-type: none"> Frank Solis, Jr. (Father) – Unless the Court waives notice. 	
	Aff.Sub.Wit.	Paternal grandfather: FRANK SOLIS, SR., Deceased		3. 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:	
✓	Verified	Paternal grandmother: DONNA ACOSTA GALVAN		<ul style="list-style-type: none"> Donna Acosta Galvan (Paternal Grandmother) Darrell Huxley (Maternal Grandfather) 	
	Inventory	Maternal grandfather: DARRELL HUXLEY			
	PTC	Petitioner states that the child has been in her care since a month after the child's birth, he is now 4 years old. She states that the mother and the father were in an abusive relationship, and each of them have their share of criminal matters. The mother often had no home at the time and often lived on the streets or out of a trailer. Recently the child's father has threatened to remove the child from the petitioner's care. The child does not know the father and would not recognize him if he saw him. The father is a validated Bulldog gang member with a violent criminal history. The mother is currently incarcerated and not scheduled to be released until 2020.			
	Not.Cred.	Petitioner requests to be excused from noticing the father due to his affiliation with the Bulldog gang. He has several felony convictions for violent crimes and continues to have strong ties to the gang. Petitioner states that he has threatened her in the past and have come to her home uninvited for the purpose of causing harm. She fears that if she is forced to give him notice of these proceedings, her safety and the safety of the child will be compromised.			
	Notice of Hrg				
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✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
		Court Investigator Jennifer Young's report filed 04/02/2014.		Reviewed by: LV	
				Reviewed on: 04/04/2014	
				Updates:	
				Recommendation:	
				File 5 – Solis	

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

DOD: 07/21/2013		<p>DONALD P. DICK, Trustee of The Donald P. Dick and Beverly J. Dick Family Trust, is petitioner.</p> <p>40 days since DOD</p> <p>I&A - \$90,625.00</p> <p>Will dated: 02/03/2006 devises all property to the Donald P. Dick and Beverly J. Dick Family Trust.</p> <p>Petitioner requests Court determination that decedent's undivided one half interest in a 25% community property located at 44512 Lakeview, Shaver Lake, Ca pass to The Donald P. Dick and Beverly J. Dick Family Trust pursuant to the decedent's will.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Declaration pursuant to Local Rule 7.12.5 regarding distribution to Intervivos Trust.</p>
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
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			<p>Reviewed by: LV</p> <p>Reviewed on: 04/04/2014</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 7 – Dick</p>

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

DOD: 6/9/1999	<p>JUDITH WHITE was appointed Executor with full IAEA authority and without bond on 9/7/2004.</p> <p>Letters issued on 9/8/2004.</p> <p>Inventory and Appraisal was due February 2004.</p> <p>First Account or Petition for Final Distribution was due September 2005.</p> <p>Notice of Status Hearing was mailed to Attorney J. Todd Armas and to Executor Judith White on 11/20/14.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Inventory and Appraisal and First Account, 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>
Cont. from 020714		
Aff.Sub.Wit.		
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Objections		
Video Receipt		
CI Report		
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Aff. Posting		
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UCCJEA		
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FTB Notice		
		Reviewed by: KT / LV
		Reviewed on: 04/04/2014
		Updates:
		Recommendation:
		File 9 – Kachadoorian

Status Hearing Re: Filing of the Additional Bond

	<p>ROSANNA TOROSIAN was appointed Administrator with Limited IAEA with bond of \$285,000.00 on 8-6-13.</p> <p>On 1-8-14, the Court confirmed the sale of real property and ordered the bond increased to \$385,000.00.</p> <p>The Court set this status hearing for the filing of the additional bond.</p> <p>Status Hearing Report filed 1-30-14 by Attorney Natalie Nuttall requests an additional 30 days for the administrator to post the additional bond amount.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 2-7-14</u></p> <p>1. Need additional bond totaling \$385,000.00.</p> <p>Note: Ms. Torosian's original petition stated that the decedent was a widow with no children, and her only relatives in Fresno were the three children of her deceased husband's sister (one being Ms. Torosian, the others not listed). Ms. Torosian also listed a brother in Italy, and stated there were possibly other siblings, unknown.</p> <p>Soon after Ms. Torosian's appointment, Requests for Special Notice were filed on behalf of Vittoria Simone, Elisa Simone, Giuseppina Simone, Giuseppe Simone, Sebastiano Simone, Angela Simone, Cinzia Simone, Emilio Sicoli, Angela Sicoli, Gianni Sicoli, Maria Pia Sicoli, Sebastiano Sicoli, Francesco Sicoli (relationships unclear at this time).</p> <p>Also soon after her appointment, on 11-26-13, Administrator Rosanna Torosian filed a Creditor's Claim to the estate in the amount of \$59,668.00 for services provided to the decedent during her lifetime.</p> <p>On 2-19-14, Attorney Stefano Abbasciano of Walnut Creek, CA, filed "Objections to Creditor Rosanna Torosian's Claim" on behalf of 14 heirs.</p> <p>At this time, interested persons should note that the Administrator has <u>not</u> brought her claim before the Court for approval and it is not being considered. The First Account or Petition for Final Distribution is due by 10-3-14, unless a petition is brought sooner.</p> <p>However, at this time, based on the new information in the file, the Court may require an updated declaration from the Administrator as to the identities of all interested persons (pursuant to intestate succession) and their relationships to the decedent.</p>
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Citation		
FTB Notice		
		Reviewed by: skc
		Reviewed on: 4-3-14
		Updates:
		Recommendation:
		File 12 - Otrakjian

Status Hearing Re: Establishment of Guardianship in Nevada

		ADRIANNE MOUTON , Maternal Aunt is Guardian.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>OFF CALENDAR</u></p> <p>On 2-4-14, the Guardian submitted the Order Appointing Guardian filed 1-30-14 in Clark County Nevada was submitted via declaration.</p> <p>Note: The Court may call this matter on the record in order to formally terminate this California guardianship at this time via Minute Order.</p>
		Guardian's Petition to Fix Residence Outside the State of California was granted on 7-18-13.	
Cont. from 111913, 123113, 020414		The Court set this Status Hearing Re: Establishment of Guardianship in Nevada.	
Aff.Sub.Wit.		<p>On 9-17-13, Petitioner filed a declaration with an attached copy of a petition for guardianship filed 8-12-13 in Clark County, Nevada. The document indicates a court date of 9-12-13.</p>	
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Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202		<p>Reviewed by: skc</p> <p>Reviewed on: 4-3-14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 13 – Collins</p>	
Order			
Aff. Posting			
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Citation			
FTB Notice			

Pro Per Nix, Jeannie (Pro Per Executor)

Petition for Settlement of First and Final Account, for Final Distribution, and Fixing and Allowing Compensation

DOD: 9/6/2012		<p>JEANNIE NIX, sister and Executor with Full IAEA authority without bond appointed on 12/10/2012, is Petitioner.</p> <p>Account period: 9/6/2012 – 1/31/2014</p> <p>Accounting - \$14,022.20 Beginning POH - \$14,119.85 Ending POH - \$ 1,601.83 (all cash)</p> <p>Executor - \$303.96 or less <i>(Petitioner sets forth statutory compensation as \$600.00, which exceeds statutory of \$582.87, calculated on fee base of \$14,571.85 [\$1,252.00 gain less \$800.00 loss.]</i></p> <p>Executor Costs - ~\$7,913.03 (paid) - \$1,297.87 (not paid) <i>(costs advanced listed on Exhibit H, including funeral expenses, space rental for mobile home, truck insurance, storage, essential repairs, gas/mileage, photocopies, meals, publication, postage, probate referee, moving expenses;)</i></p> <p>Closing - \$303.96 (exceeds available cash)</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> Exhibit A lists all claims filed against the estate; the Decedent's estate is insolvent; pro-rated payments were made to claimants according to Probate Code § 11420 and 11421; [Creditor's Claim filed 3/6/2013 by the Department of Health Care Services (DOH) for \$4,802.32 was partially paid by the Executor in the amount of \$4,642.07; Dismissal of Creditor's Claim and Withdrawal of Request for Special Notice Receipt was filed 2/27/2014]; Partial reimbursement to Petitioner has been made of funds advanced by her on behalf of the estate to preserve the estate assets during the time frame when the estate was without any funds; <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>Page 14B is the <i>Petition to Waive Fee</i>.</p> <p>Note: Minute Order dated 2/7/2014 from the Status Hearing Re: filing of the first account states Ms. Nix is directed to submit documentation regarding the funds advanced.</p> <ol style="list-style-type: none"> Petitioner requests reimbursement to her of costs advanced, as well as a closing reserve. Filing fees are considered costs of administration to be paid prior to authorization of a closing reserve. Therefore, it appears a filing fee is due in the amount of \$435.00 for filing of the final accounting. Prayer of the <i>Petition</i> is contradictory in its request for both payment of \$303.96 or any lesser amount remaining as compensation to Petitioner, and also for withholding of \$303.96 for closing expenses and as a reserve for liabilities of the estate. Proposed order is similarly contradictory with the prayer of the <i>Petition</i>. Proposed order may be interlineated following the Court's ruling to reflect the correct amounts. <p>~Please see additional page~</p>
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
✓ Inventory			
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Letters	121012		
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Aff. Posting			
Status Rpt			
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Citation			
✓ FTB Notice	011514		

Reviewed by: LEG
Reviewed on: 4/3/14
Updates:
Recommendation:
File 14A – Bezona

Petitioner states, continued:

- Petitioner performed the following actions without Court supervision after giving *Notice of Proposed Action* with proof of service:
 - Sold Decedent's mobile home residence for **\$13,000.00**; the mobile home was held jointly with Decedent's ex-wife, **LINDY JO LANE**, and the proceeds were divided 50/50 according to the declarations in the final Divorce Decree, Case #10CEFL00438 filed on 8/26/2010 [*copy of Judgment attached as Exhibit G*]; net proceeds of **\$5,514.78** were deposited into the estate checking account; *Notice of Proposed Action* was given on 11/5/2012 to all persons whose interest was affected by the sale, and no objections were received; *Notice of Proposed Action* was filed with the Court [on 11/27/2012.]
 - Sold Decedent's vehicle for **\$5,000.00** cash; *Notice of Proposed Action* was given on 11/5/2012 to all persons whose interest was affected by the sale, and no objections were received; *Notice of Proposed Action* was filed with the Court [on 11/27/2012.]
 - On 9/16/2012, the Executor allowed the estate's sole beneficiary, **TYLER BEZONA**, Decedent's grandchild, to take possession of items of Decedent's household furniture, furnishings and personal effects; presumably he was entitled to those items as authorized by Probate Code § 9650(c).
 - On 10/2/2012, after a burglary of Decedent's residence, the Executor preserved the value of the assets and relocated the remaining household furniture, furnishings and personal effects into storage and later the items were sold for cash; *Notice of Proposed Action* was given on 11/5/2012 to all persons whose interest was affected by the sale, and no objections were received; *Notice of Proposed Action* was filed with the Court [on 11/27/2012.]
- The beneficiary **TYLER BEZONA** has requested a final account; Executor attaches Exhibits D, E, and F, a summary of income, expenses and payments made to date on behalf of the estate;
- No compensation has been paid from estate assets to the [Executor]; the [Executor] has been partially reimbursed for advances of monies to the estate from her personal funds to pay essential expenses of the estate, including but not limited to: space rental, insurance, storage and essential repairs; the financial advances from the [Executor] were essential to preserve the assets of the estate pending sale(s) of the non-liquid assets of the estate;
- After acquisition of some cash through the sale of some of Decedent's household items, [Executor] opened an estate checking account to facilitate accounting and administration of the estate; no deposits or withdrawals were made to or from the savings account in existence prior to Decedent's death; however, the Decedent's savings account was held open until 9/16/2013, when **\$85.05** from the closed savings account was deposited on 9/25/2012 into the estate checking account;
- The estate is insolvent; Exhibit A, Known Creditors and Creditor Claims shows the creditors' claims totaled **\$14,721.33**; prorated payments were made to claimants according to Probate Code § 11420 and 11421, as stated on Exhibit I, Creditors' Claims Proration Worksheet;
- See Exhibit B, Property on Hand at date of death; the assets were appraised at **\$14,119.85**, and the realized value was **\$13,596.90**.

Petitioner requests:

1. Administration of this estate be closed, and the Court ratify, approve and confirm all acts, transactions and sales of the personal representative;
2. The filing fee for the First and final Accounting be waived due to insolvency of the estate;
3. The Court settle, allow and approve the First and Final Account as filed;
4. The Court ratify, approve and confirm the reimbursement made to Petitioner on 2/14/2013;
5. The Court authorize reimbursement of **\$1,297.87** to Petitioner for monies advanced to the estate and not yet reimbursed, as listed on Exhibit H;
6. The Court authorize Petitioner be allowed compensation of **\$303.96** or any lesser amount remaining after all closing expenses and liabilities are determined from Decedent or the estate; and
7. The Court authorize Petitioner to withhold **\$303.96** for closing expenses and as a reserve for liabilities of the estate.

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS, continued:

Notes: Summary of Account at Exhibit F does not technically comply with Probate Code § 1061(b) and (c), nor do the other Exhibits submitted in support of the First Account comply with the provisions for estate accountings pursuant to Probate Code §§ 1061 et seq. However, the Court may find substantial compliance in that the Exhibits contain the required information. The following notes are provided for the Court's consideration with respect to approval of the First and Final Account:

- It appears from the attached exhibits that the Executor has reimbursed herself from the estate the sum of **~\$7,913.03**. The Executor should be aware that reimbursement of funds advanced by the personal representative is authorized by Probate Code § 9252 to be done after Court approval of the reimbursement, including payment for funeral expenses, which appear to have been reimbursed in the sum of **~\$1,313.73** (Note: Funeral/burial expenses include Petitioner's purchase of a plot for 3 persons (Petitioner being one of the 3) for cost savings to the estate, with a charge to the estate of 1/3 of the cost (**\$840.00**, plus **\$592.00** for headstone/permit/install). It is unclear what portion of payment is attributable to the Decedent, particularly given that there are no receipts submitted with the First Account for any of the expenditures made by the Petitioner.)
- Many expenditures of the Executor detailed in the First and Final Account on Exhibits appear to be expenses not typically authorized by Local Rule 7.17(B), such as gas for travel to court (**\$294.29** = \$52.82; \$181.46; \$60.01; \$45.44 is listed as not yet reimbursed); postage and photocopies (**\$15.27** (\$1.07; \$5.45, \$1.15; \$6.40; \$1.20); \$3.92 is listed as not yet reimbursed;) and **\$35.00** for legal advice.
- Petitioner states Decedent's mobile home was held jointly with Decedent's ex-wife, **LINDY JO LANE**, and the proceeds were distributed by Petitioner to Ms. Lane per the Divorce decree issued in the Family Law case. The Probate Court did not authorize such distribution of estate assets by the Executor. In support of the Court approving such distribution is a partial copy of the Judgment in Case #10CEFL00438 filed 8/26/2010, showing "Paragraph i" which finds that ½ of the net proceeds of the sale of the mobile home shall be distributed to Decedent, though it is not completely clear based upon the partial copy of the Family Court Judgment that Petitioner provided.
- Executor's actions in these matters cannot be considered authorized under IAEA, and while the Executor appears to be forthcoming with reporting the information, the actions appear to violate many Probate Code provisions. However, it appears that the Executor is diligent in record-keeping and in disclosure to the Court of the actions and transactions made during her administration of the estate. Court may require that the Executor pay back to the estate any sums which the Court finds in its discretion should not have been reimbursed to the Executor without prior Court authorization pursuant to Probate Code § 9252.

Note: Property on hand in the estate as stated on Exhibit B as of 1/22/2014 is **\$1,601.83**. Proposed order does not but should state that the sole beneficiary of Decedent's Will, **TYLER BEZONA**, will have no distribution from Decedent's estate based upon Petitioner's First and Final Account. Proposed order has been interlineated to include this finding due to lack of assets.

Pro Per Nix, Jeannie (Pro Per Executor)

Petition to Waive Fee [CONFIDENTIAL]

DOD: 9/6/2012		NEEDS/PROBLEMS/COMMENTS:
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: LEG
		Reviewed on: 4/3/14
		Updates:
		Recommendation:
		File 14B - Bezona

Amended Petition for Appointment of Probate Conservator of the Person

Age: 18	<u>NO TEMPORARY REQUESTED</u>	NEEDS/PROBLEMS/COMMENTS:
	CYNTHIA DRAPER , mother and SABRINA KELLEY , mother's domestic partner, are Petitioners and request appointment as Conservators of the Person with medical consent powers.	Court Investigator advised rights on 01/31/14.
Cont. from	Declaration of Merle Martin, M.D. filed 03/04/2014 supports the request for medical consent powers.	
<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	Petitioners state that Kaycee is intellectually disabled and requires assistance in activities of daily living. She is not able to provide for her own needs of housing, food, etc.	
<input checked="" type="checkbox"/> Aff.Mail	w/	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input checked="" type="checkbox"/> Pers.Serv.	Court Investigator Samantha Henson filed a report on 02/14/14.	
<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: LV
		Reviewed on: 04/04/2014
		Updates:
		Recommendation:
		File 15 – Draper