1 Virgil A. Lininger Irrevocable Trust **Case No. 11CEPR00828**

Atty Sanoian, Joanne (for Robert B. Jones – Conservator – Petitioner)

Atty Laird, Scott D. (for Sarah Nardone – Beneficiary – Respondent)

Petition to Invalidate Irrevocable Trust (Prob. C. §§ 21350, 21380 and 17200)

Cont. from 011712

	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	

ROBERT B. JONES, Conservator of the person and estate of **VIRGIL ALBERT LININGER**, is petitioner.

Petitioner states that on 1/20/2011 **VIRGIL ALBERT LININGER** ("Lininger"), created an irrevocable trust. Said Trust established Lininger as the Trustee and **SARAH NARDONE ("Respondent")** as the sole beneficiary.

Petitioner contends that the Trust was created when Lininger lacked capacity or was under the undue influence of Respondent.

Petitioner alleges:

- Lininger met Respondent on or about 10/14/2009. Lininger at that time was 91 years old and Respondent was 35 years old.
- On or about 4/20/09 Respondent requested a power of attorney from Lininger to purchase a condominium in Gloucester, Massachusetts. Lininger complied with this request and signed a Power of Attorney.
- On or about 4/22/09 Lininger sent Respondent $12,250 for closing costs on the condominium. On or about 4/28/09 an additional $20,250 was sent to Gold Coast Realty on behalf of Respondent as a deposit of earnest money toward the purchase of the condominium.
- On or about 5/27/09, after having first met Respondent only 7 month previously, Lininger entirely paid for and gave title to the condominium to Respondent. Lininger paid, in cash, the sum of $429,995.40 to acquire the condominium for Respondent's exclusive benefit.

Please see additional page

NEEDS/PROBLEMS/COMMENTS:

Note (skc): These Examiner Notes are from the original hearing on 1-17-12.

See Page 6 for updates since that date.

Reviewed by: KT / skc

Reviewed on: 4-3-12

Updates:

Recommendation:

File 1B - Lininger

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

Petitioner further alleges:

Even after purchasing the condo, Lininger continued to make substantial cash payments to Respondent. A partial list of cash transfers are:

a. Town and Country Bank Checks between 10/29/09 and 3/26/10 total $101,963.34;
b. Single Brokerage wire transfer on Respondent's behalf dated 5/24/10, total transfer $406,750.00;
c. Checks written against Brokerage Account between 12/17/09 and 6/29/10 total $91,400.00;
d. Jewelry from Safety Deposit Box, given to Respondent, give tax value of $15,450.00;
e. Nordstrom Credit Card paid by Lininger for Respondent July and December 2010, total of $6,451.39;
f. Chase Credit Card expenses for trips to Hawaii and Mexico and Respondent's visits to Las Vegas and Respondent's credit card charges in Massachusetts between 8/26/10 and 2/26/11 totaling $46,553.07;
g. Bank of America Credit Card charges for Respondent between 1/11/10 and 3/4/11 totaling $4,910.48;
h. Victoria Secret Credit Card expenses for Respondent on 8/30/10 totaling $500.00;
i. Citi Bank Credit Card charges between 2/11/10 and 2/24/11 for Respondent totaling $15,217.74.

Thus, between October 2009 and February 2011 Lininger gave, cash, jewelry or paid credit card charges incurred by or on behalf of Respondent in the sum of $689,206.02. At that point, Lininger had known Respondent for approximately 14 months.

In addition, on 5/1/2010 Lininger bequeathed Respondent 30% of his 2004 Trust. That Trust is valued at approximately $933,838.95. Respondent's share therefore is approximately $280,151.00.

On 10/28/10 Lininger created a new Charles Schwab account for the benefit of Respondent. Lininger funded this account with a transfer of bonds valued at $416,813.20.

On 12/9/10 Respondent accompanied Lininger to Charles Schwab. That same day, Lininger instructed Charles Schwab to transfer additional bonds valued at $349,602.50 to the account for the benefit of Respondent. As of the date this Petition is filed the account totals $766,415.70. Respondent is the sole beneficiary of this account.

On 12/30/2010 Lininger revised his will to leave most of what he owns in terms of furniture and paintings to Respondent.

On or about 1/20/11, Lininger created the irrevocable Trust. Said Trust established Lininger as the Trustee and Respondent as the sole beneficiary. At the time of the creation of the Trust, Respondent has a power of attorney for Lininger.

Please see additional page

Petitioner states in early March 2011, Lininger informed Respondent that he did not wish to see her again. Two days later Lininger was admitted to North Vista Hospital, Las Vegas, Nevada.

On 3/28/11, Lininger was examined by Dr. Kevin Bernstein, a psychiatrist at North Vista Hospital. Lininger was diagnosed with bi-polar disorder and dementia.

Petitioner alleges that the financial gains by Respondent from Lininger are the result of undue influence and financial elder abuse.

Petitioner alleges the Trust is invalid because it was procured by means of undue influence in that Lininger's will was subjugated to that of Respondent's which caused him to dispose of his property differently than he would otherwise have done.

Petitioner is informed and believes that the Trust is contrary to Lininger's previously expressed intent to leave his Estate to his nieces and nephews; that Lininger's mental and physical condition were so deteriorated by mental and physical illness that Respondent was able to subvert his will; and that Lininger had given Respondent a Power of Attorney at her request which was in effect at the time of the creation of said Trust.

Petitioner is informed and believes that all of the above financial gains had by Respondent occurred while she was acting as a Power of Attorney for Lininger, the creating a presumption of undue influence.

Lininger has been damaged by the actions of Respondent by the loss of the cash and assets transferred to Respondent or allocated to Respondent by operation of the terms of testamentary documents.

At all times relevant to this action, Respondent had a confidential and/or fiduciary relationship with Lininger.

Respondent knew or should have known that her conduct was likely to be harmful to Lininger.

Respondent's conduct constituted financial abuse under Welfare and Institutions Code §15657.5.

Respondent was guilty of recklessness and oppression and fraud in the commission of the abuse described above.

Under Welfare and Institutions Code §15657.5(a) Respondent is liable to Petitioner for reasonable attorney fees and costs.

Under Civil Code §3294, Respondent is liable for punitive damages.

Wherefore, Petitioner prays as follows:

1. **That the Court revoke and rescind the 1/20/11 Irrevocable Trust;**
2. **An award of reasonable attorney fees incurred herein;**
3. **Punitive damages to punish and make example of Respondent;**
4. **That the Court award petitioner his costs of litigation.**

Please see additional page

Verified Objection to the Petition to Invalidate Irrevocable Trust filed by Sarah Nardone on 12/8/11. Objector admits some of the allegations in the petition and denies some of the allegations in the petition. **Objector's Affirmative Defenses are as follows:**

1. Petition and grounds to revoke the trust fail to state facts sufficient to terminate the Trust.
2. The court designated in the petition is not the proper court in which to bring the proceeding described herein.
3. The court lacks subject matter jurisdiction over any claims by Petitioner to terminate the Trust.
4. The petition and purported grounds for termination of the Trust are fatally defective in that they are vague, ambiguous, and uncertain.
5. Petitioner and the settlor of the Trust, by reason of their knowledge, statements and conduct, and by reason of the knowledge, statements of conduct of their agents, have consented to and ratified the acts of Respondent and ratified the validity and terms of the Trust.
6. At all relevant times, Respondent acting in good faith with respect to all of its dealings with Petitioner and the settlor of the Trust, including those actions alleged in the Petition.
7. Respondent did no draft the Trust as required for a presumption of fraud or undue influence under Probate Code §21380(a)(1) to apply.
8. Respondent, at all relevant times, was not in a fiduciary relationship with the transferor, nor did Respondent draft the Trust, as required for the presumption of fraud or undue influence under Probate Code §21380(a)(2) to apply.
9. Respondent, at all relevant times, was not a care custodian of the transferor, nor was transferor a dependent adult, as required for the presumption of fraud or undue influence under Probate Code §23380(a)(3) to apply.
10. Petitioner alleges that transferor executed the Trust outside of California and was not a resident of California at the time of executing the Trust, therefore, pursuant to Probate Code § 21380(f), there can be no presumption of fraud or undue influence under Probate Code 21380.
11. Respondent alleges any award of punitive damages as sought by Petitioner would violate due process and excessive fines clauses of the Fifth, Eighth and Fourteenth Amendments to the United States Constitution.

Wherefore, Respondent requests a judgment as follows:

1. **That the Petition to Invalidate Irrevocable Trust be denied;**
2. **That Respondent be awarded attorney fees and costs of suit herein.**

Declaration of Virgil Albert Lininger Regarding Petition of Robert B. Jones to Invalidate Irrevocable Trust filed on 12/13/11. Mr. Lininger states:

- He met Nardone on or about 10/14/09 on a Holland America Cruise. Nardone was one of the tour directors on board the cruise.
- On or about 10/29/09 he advised Nardone that he could not co-sign a loan for her to purchase a condo in Boston.
- In February 2010, Nardone was his guest for a trip to Cabo San Lucas, Mexico. He paid all expenses.
- In March 2010, he advised Nardone he would loan her the money for a condo she wanted in Boston.
- In April 2010, Nardone came to his home in Las Vegas and he paid for a week of shows and shopping.
- In April 2010, he executed a Power of Attorney in favor of Nardone, at her request.
- In May 2010, he executed a codicil bequeathing items of personal property to Nardone, including a safe deposit box containing jewelry, furniture and original oil paintings.
- On May 24, 2010, he had $406,705.00 wired to Nardone to complete the gift of a condo in Essex, Massachusetts for her.
- On June 29, 2010, he purchased a BMW X3 for her. It cost $44,900.00. Mr. Lininger states he was very interested in Nardone and wished to have more than a platonic relationship with her.
- In July 2010, he placed Nardone's name on numerous credit cards.
- In September, he and Nardone took a trip to Hawaii. He returned on October 6, 2010; Nardone stayed on with her "cousin Sam" until October 23, 2010.
- On October 12, 2010, he began to establish an account at Charles Schwab intending to make Nardone a beneficiary.
- On October 28, 2010, that account was established with assets totaling approximately $390,000.
- On December 3, 2010, Nardone came to Las Vegas for approximately 12 days. During that time, he gave her the contents of a safe deposit box containing a lot of jewelry, took Nardone to meet Shannon Dowd at Charles Schwab regarding the beneficiary account, and revised Will and trust provision to provide for Nardone.
- In March of 2011, he sent a letter to Nardone stating he did not want to see her again.

Mr. Lininger states he truly believes that Nardone had influence over him that he simply could not resist at the time he prepared the irrevocable trust, naming her as the remainder beneficiary. He was simply unable to resist her request for money.

Mr. Lininger respectfully requests the court grant the petition of his nephew to invalidate the irrevocable trust he executed in January 2011. He has no desire to see or further benefit Sarah Nardone.

***Additional Examiner Notes*: This petition was filed 9-14-11 and originally heard on 11-3-11. On 11-3-11, the matter was continued and set status on 1-17-12.**

***On 12-21-11**, Robert Jones and Virgil Lininger, together, as petitioners, filed an Ex Parte Application for Temporary Restraining Order Pending the Outcome of the Hearing on this petition. The TRO was granted on 12-22-11.*

***On 1-13-12,** Respondent Sarah Nardone filed Ex Parte Application for Order Shortening Time to Compel Virgil Lininger's Attendance at Deposition or in the Alternative an Order Deeming Virgil Lininger Unavailable as a Witness for All Purposes including Depositions, Hearings and Trial. Respondent's request was heard on 1-17-12 along with this petition.*

***On 1-17-12**, the Court denied the application to compel attendance and deemed Mr. Lininger "unavailable for all purposes in these proceedings." The Court continued this petition to 4-10-12.*

On 2-7-12, Respondent Sarah Nardone filed Notice of Ex Parte Hearing and Petition for Order Dissolving Temporary Restraining Order; and Petition to Appoint Independent Counsel, which was set for hearing on 3-13-12. Petitioner(s) objected and submitted evidence.

***On 3-13-12**, the matter was continued to 3-16-12. On 3-16-12, the Court set Evidentiary Hearing for 3-26-12.*

***The Minute Order from 3-16-12 states:** "The Court directs that the order signed on 12/22/11 remain in full force effect. The Court directs that the Petition for Preliminary Injunction and the Response be filed no later than Wednesday at noon. Parties enter into a stipulation as fully stated on the record. **The Court reserves the issue regarding conflict.** The Court orders that the hearings currently scheduled in this matter for 4-10-12 be moved to the 9:00 a.m. calendar. Evidentiary Hearing set for 3-26-12."*

***On 3-26-12**, the Court dissolved the restraining order; however, the parties agreed to stipulate that Ms. Nardone would not make any effort to acquire or be given further assets from Mr. Lininger during his lifetime.*

***The Minute Order from 3-24-12 states:** "The Court, having considered 1 - 8 [(1) Application for Preliminary Injunction, (2) 4 attachments, specifically the Lininger Declaration of 12/13/11, (3) the Robert Jones Declaration, (4) the Joanne Sanoian Declaration, (5) the Brief of Unavailable Witnesses, (6) the Opposition, (7) Respondent's Request for Judicial Notice & (8) Respondent's Objection by Sarah Nardone], as well as exhibits and applicable law, i.e. Prob. C. 526 and 527, finds the necessary findings for a preliminary injunction have not been met. The previously granted restraining order is dissolved. The Court notes it considers only admissible evidence, referencing the case of Jack Harry Bennett. Per Evidence Code, Declaration of Mr. Lininger would not be admissible for the preliminary injunction. Of final note, parties agree to enter into a stipulation to the effect that Ms. Sarah Nardone would stipulate to not making any effort to acquire or be given further assets from Mr. Lininger during his lifetime. Ms. Sanoian is to draft the stipulation, circulate to Mr. Laird for form, and lodge with the court. Petition is granted; Order to be signed ex parte.*

***Note*: The issue of conflict from 3-16-12 is still reserved.**
***Note*: The stipulation from 3-24-12 has not yet been filed.**

2 **Lori Lavonne MacIsaac (CONS/PE)** **Case No. 0562998**

Atty **Ormond, John K. (for Petitioner/Conservator Rebecca Lewis)**

(1) Sixth Account Current and Report of Conservator in Re: Conservatorship Estate and (2) Petition for its Settlement with Accompanying Declaration of John K. Ormond Re: Attorney's Fees and Costs (Prob. C. 2620)

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

REBECCA LEWIS, mother/conservator, is petitioner.

Account period: 11/1/09 – 10/31/11

Conservator - **$1,675.00**

Attorney - **$15,557.80** (per itemization and declaration, 38 hours @ $400 per hour)

NEEDS/PROBLEMS/COMMENTS:

<u>Note:</u> Please see related case on page 4, Lori MacIsaac Special Needs Trust.

Need amended accounting based on, but not limited to:

1. **Accounting does not comply with Probate Code §1060 et seq.**
2. **Summary of Account is not on the mandatory Judicial Council form.**
3. **Need bank statements pursuant to Probate Code §2620(c)**
4. **Need declaration of conservator re: request for Conservator commission.**
5. **Attorney fee request includes copy charges at $341.25. Local Rule 7.17B considers copies to be a cost of doing business and therefore is not reimbursable.**
6. **Order does not comply with Local Rule 7.6.1.**

Reviewed by: KT
Reviewed on: 4/3/12
Updates:
Recommendation:
File 2 - MacIsaac

3 Danielle Francine Ricchiuti (GUARD/E) **Case No. 07CEPR00881**

Atty Bergin, Robert (for Petitioner/Guardian Mari Ann Ricchiuti)

Petition for Termination of Guardian

Age: 20 years DOB: 8/7/1991		
Cont. from		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	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	

MARI ANN RUCCHIUTI, mother/guardian, is petitioner.

Father: Not listed (deceased)

Paternal grandparents: Not listed
Maternal grandparents: Not listed

Danielle Ricchiuti (ward) *consents and waives notice.*

Petitioner states the minor has attained the age of majority. The guardianship was established to enable the guardian to participate in litigation involving the minor's deceased father. The litigation was resolved after the minor became an adult, so the guardianship estate never had any assets.

NEEDS/PROBLEMS/COMMENTS:

<u>Continued to 5/15/12</u> at the request of the attorney.

1. **#9 of the Petition does not list the names and addresses of the parents and grandparents.**
2. **Need *Notice of Hearing.***
3. **Need proof of service of the *Notice of Hearing* on:**
   a. **Paternal grandparents**
   b. **Maternal grandparents**
4. **Need Order**

Reviewed by: KT
Reviewed on: 4/3/12
Updates: 4/5/12
Recommendation:
File 3 - Ricchiuti

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

4 **Lori MacIsaac (Special Needs Trust)** **Case No. 08CEPR00327**

Atty **Ormond, John K. (for Petitioner/Trustee Rebecca Lewis)**

(1) Sixth Account Current and Report of Conservator in Re: Special Needs Trust and (2) Petition for its Settlement (Prob. C. 2620)

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

REBECCA LEWIS, mother/conservator, is petitioner.

Account period: 11/1/09 – 10/31/11

Conservator - **$1,675.00**

Attorney - **$2,000.00**

NEEDS/PROBLEMS/COMMENTS:

<u>Note:</u> Please see related case on page 2, Lori MacIsaac conservatorship.

Need amended accounting based on, but not limited to:

7. **Accounting does not comply with Probate Code §1060 et seq.**
8. **Summary of Account is not on the mandatory Judicial Council form.**
9. **Need bank statements pursuant to Probate Code §2620(c)**
10. **Need declaration of Trustee re: request for Trustee commission.**
11. **Need declaration of attorney re: request for attorney fees.**
12. **Order does not comply with Local Rule 7.6.1.**

Reviewed by: KT
Reviewed on: 4/3/12
Updates:
Recommendation:
File 4 - MacIsaac

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

5 Donna Carter (CONS/E) **Case No. 11CEPR01087**

Atty Romaine, William A. (of Hanford, for Petitioner Edward R. Bodley)
Atty Teixeira, J. Stanley (Court appointed for Conservatee)
Atty Kruthers, Heather (for the Public Guardian/Temporary Conservator)

Continued Settlement Conference Hearing

Age: 80 years
DOB: 1/5/1931

Cont. from

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

Temporary Granted to the Public Guardian and will expire upon issuance of Letters to a general Conservator

DONNA CARTER, by and through her attorney-in-fact, **EDWARD R. BODLEY,** is petitioner and requests **EDWARD R. BODLEY,** cousin**,** be appointed as conservator of the Estate**.**

Estimated value of the Estate:
Personal property - $40.000.00
Annual income - $33,600.00

Petitioner states he recently became alarmed after the return of a former caretaker into the proposed Conservatee's good graces, the proposed Conservatee is again losing funds from her bank accounts. Given her now favorable disposition to the former caretaker, the proposed Conservatee may well be unduly influenced to retract petitioner's power of attorney and appoint the former caretaker in his stead. If this should happen, the estate may well be dissipated before a hearing can take place.

PROBATE REFEREE: RICK SMITH

Court Investigator Jo Ann Morris' Report filed 1/19/12

NEEDS/PROBLEMS/COMMENTS:

Court Investigator Advised Rights on 1/17/12

1. **Need *Notice of Hearing*.**
2. ***Petition* names the Petitioner as Donna Carter, by and through Edward R. Bodley, her Attorney-In-Fact. The court may require a copy of the document appointing Edward R. Bodley as Attorney-In-Fact.**
3. **Petition requests that bond be fixed at $75,000.00. If bond is required, however, it should be set at $80,960.00, which includes the cost of recovery.**
4. **Need *Duties of Conservator*.**
5. **Need *Conservatorship Video Viewing Certificate.***
6. **Need *Citation* to proposed Conservatee. PrC §1823.**
7. **Need proof of personal service, 15 court days prior to the hearing, of the *Notice of Hearing* along with a copy of the *Petition on:***
   a. **Donna Carter (proposed Conservatee)**
8. **Need proof of 15 court days service by mail prior to the hearing of the *Notice of Hearing* along with a copy of the *Petition* <u>or</u> declaration of due diligence on:**
   a. **Sharon Brazil (daughter)**
   b. **Dennis Brazil (son)**
   c. **Kyle Weisenberger (brother)**
9. **Need Orders and Letters.**

Reviewed by: KT
Reviewed on: 4/3/12
Updates:
Recommendation:
File 5 - Carter

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

6 **Norvell Brown, Sr. (Estate)** **Case No. 08CEPR00473**

Atty **Franco, Paul C. (for Administrator Michele L. Brown)**

Probate Status Hearing Re: Filing of Bond and/or Issuance of Letters

DOD: 10/24/2007	**MICHELE L. BROWN** was appointed Administrator on 7/21/2008 with bond set at $150,000.00. **Bond has not been filed and Letters have not issued.** This status hearing was set for the filing of the bond and the issuance of Letters. Notice of Status Hearing was mailed to Attorney Paul Franco and Administrator Michele Brown on 2/21/12.	**NEEDS/PROBLEMS/COMMENTS:** 1. **Need Bond or current status report** 2. **Need Letters**
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		**Reviewed by: KT**
Status Rpt		**Reviewed on: 4/3/12**
UCCJEA		**Updates:**
Citation		**Recommendation:**
FTB Notice		**File 6 - Brown**

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

7 **Alberta L. Andrews (Estate)** **Case No. 08CEPR01015**

Atty **Ratzlaff, Ruth E. (for Dale Eugene Andrews – Son – Executor)**

Probate Status Hearing for Failure to File a First Account or Petition for Final Distribution (Prob. C. 12200, et seq); Failure to File Inventory and Appraisal

DOD:8-27-07		
Cont. from 022112		
	Aff.Sub.Wit.	
	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
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	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	X
	UCCJEA	
	Citation	
	FTB Notice	

DALE EUGENE ANDREWS, Son, was appointed Executor with Full IAEA without bond and Decedent's Will dated 2-18-02 was admitted to probate on 1-13-09. Letters issued on 3-6-09.

On 1-6-12, the Court set this status hearing for failure to file an Inventory and Appraisal and failure to file a first account or petition for final distribution.

Notice was mailed to Attorney Ruth E. Ratzlaff on 1-6-12.

On 2-21-12, counsel requested continuance.

As of 4-3-12, nothing further has been filed.

NEEDS/PROBLEMS/COMMENTS:

<u>Minute Order 2-21-12</u>: Counsel requests a continuance. Matter continued to 4-12-12.

<u>As of 4-3-12, nothing further has been filed. The following issues remain</u>:

1. **Need Inventory and Appraisal.**
2. **Need account or petition for final distribution or current status report.**

<u>Note</u>: The original petition estimated the value of the estate at $200,000.00 (personal property only). The Court may require clarification as to the nature and status of the assets at this time. (Local Rule 7.5)

<u>Note</u>: The decedent's will is a pour-over will that devises the entire estate to the Trustee of the Alberta Andrews Living Trust dated 2-18-02.

Reviewed by: skc

Reviewed on: 4-3-12

Updates:

Recommendation:

File 7 - Andrews

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

8 Clarabell Tobin (Estate) Case No. 08CEPR01187

Atty **Deal, Leonard E. (for Richard J. Tobin – Son – Administrator)**

First Report of Status of Administration by Richard J. Tobin, Administrator (Prob. C. 12200-12206, Fresno County Probate Rule 7.5)

DOD: 10-12-06

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

RICHARD J. TOBIN, son, was appointed Administrator with Full IAEA without bond on 1-20-09.

On 2-21-12, the Court set this status hearing for failure to file Inventory and Appraisal and failure to file a first account or petition for final distribution. Both the attorney and the personal representative are ordered to be present.

On 3-27-12, the Administrator filed a partial Inventory and Appraisal and on 4-2-12 the Administrator filed a Final Inventory and Appraisal.

The total estate value is $273,405.42 consisting of cash, real property, and a vehicle.

Status Report filed 4-2-12 states the estate is near a condition to close pending resolution of state income tax claims and possible sale of the decedent's residence.

In addition to the CA Franchise Tax Board's Creditor's Claim for $6,001.37, there is also an outstanding balance owing of $11,477.50, after payments of $72,130.00, to ResCare Home Care, Garden Grove, CA, for services provided to the decedent by the Clovis branch.

The Administrator had been unaware that since Clarabell's (the decedent's) predeceased spouse Francis' health failed in 2003, he had failed to attend to tax matters, etc. As a federal employee prior to and after World War II, Francis did not participate in the Social Security system and did not obtain a Social Security Number until age 65 for enrollment in Medicare. The Administrator went to the IRS after discovering that the tax returns had not been filed, but the IRS did not immediately have a record of him. At times, Clarabell's SSN had been used. The Administrator worked with the IRS to locate records and finally located them under another version of his name. The IRS then required two months to correct the name and provide documentation.

The Administrator then also went through this process with the California income tax returns and got those prepared and filed in August 2011.

Property on hand includes cash, the real property, and the vehicle; however, the estimated current fair market value of the real property, which was valued at $255,000.00 as of the date of death, is $120,000.00.

The only heirs are the Administrator and his brother Joseph Tobin. Joseph plans to purchase the residence to supply funds for the income taxes, the ResCare balance, and the expenses of administration.

Administrator requests an order approving this status report and allowing approx. six (6) months to file a petition for final distribution or further status report.

NEEDS/PROBLEMS/ COMMENTS:

1. **Notice of Hearing with a copy of the Status Report was sent to the CA Franchise Tax Board (per Request for Special Notice) on 3-31-12, which is 10 days prior to the hearing rather than the required 15.**

Reviewed by: skc

Reviewed on: 4-4-12

Updates:

Recommendation:

File 8A - Tobin

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

9 **The Bob and Nobuko Kawahara Trust Dated** **Case No. 09CEPR00686**

Atty **Esraelian, Robyn L. (for Donna Kesako Kawana – Co-Trustee)**
Atty **Lento, Gary N. (associated counsel for Donna Kesako Kawana – Co-Trustee**
Atty **Farley, Michael (for Diane Sanbongi – Co-Trustee and Beneficiary)**

Settled Case Status

Bob Kawahara DOD: 2-12-06		
Nobuko Kawahara DOD: 3-25-08		
	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	

DONNA KAWANA (Respondent) and DIANE SABONGI (Objector) are Co-Trustees of the BOB AND NOBUKO KAWAHARA TRUST created 4-24-03.

On 3-15-10, DIANE SABONGI (Co-Trustee) filed Petition to Compel Co-Trustee to Report Information and Account to Other Co-Trustee and Beneficiary, for an Order to Return Property to Trust, To Compel Co-Trustee to Redress Breaches of Trust, to Remove Trustee, to Compel Former Attorney-In-Fact to Submit a Report and Account of Acts as Agent, and for Claim of Financial Elder Abuse, that was heard on 6-3-10. **On 6-3-10, the Court ordered an accounting.**

On 6-30-10, DONNA KAWANA (Co-Trustee and Respondent) filed an amended accounting that was heard on 9-13-10 and continued to 10-25-10.

On 9-3-10, DIANE SABONGI (Co-Trustee and Objector to the amended accounting) filed a complaint for breach of fiduciary duty, financial elder abuse, conversion, constructive fraud, accounting, and recovery of trust property, which was heard on 10-25-10.

Both matters were set for settlement conference and trial.

On 2-7-12, a Notice of Settlement of Entire Case was filed by Attorney Michael Farley (attorney for Diane Sanbongi).

The Minute Order from the Settlement Conference on 3-2-12 states: Counsel advises the Court that the matter has been settled. The Court sets the matter for a Settled Case Status on 4-10-12. If the dismissal is filed by 4-10-12, the matter may be taken off calendar.

NEEDS/PROBLEMS/COMMENTS:

OFF CALENDAR

All matters have been dismissed.

Reviewed by: skc
Reviewed on: 4-3-12
Updates: 4-4-12, 4-5-12
Recommendation:
File 9 - Kawahara

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

10 **Matthew William Fulcher (GUARD/E)** **Case No. 11CEPR00272**

Atty **Magness, Marcus D. (for Guardian**

Status Hearing Re: Filing of the Inventory and Appraisal

Age: 15 years **DOB: 2/15/1996**	**JULIE FULCHER**, mother, was appointed guardian of the estate on 6/9/2011. Inventory and Appraisal was due October 2011. This status hearing was set for the filing of the inventory and appraisal.	**NEEDS/PROBLEMS/COMMENTS:** **1. Need Inventory and Appraisal or current status report.**
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		**Reviewed by: KT**
Status Rpt		**Reviewed on: 4/3/12**
UCCJEA		**Updates:**
Citation		**Recommendation:**
FTB Notice		**File 10 - Fulcher**

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

11 Emma L. Dibble and Aiden J. Dibble (GUARD/P) Case No. 08CEPR00980

Atty **George, Anna (Petitioner/Maternal grandmother)**
Atty **Campbell, Stacie (Guardian/maternal aunt)**

Ex Parte Petition for Modification of Visitation

Emma Age: 7 yrs DOB: 4/8/2005		
Aiden Age: 5 yrs DOB: 8/11/2006		
Cont. from		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	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	

ANNA GEORGE, maternal grandmother, is petitioner.

ANNA GEORGE was appointed Guardian on 1/14/2009 and her guardianship terminated was on 2/6/12.

STACY CAMPBELL, maternal aunt, was appointed successor guardian on 2/6/12.

Minute Order from 2/6/12 granted **ANNA GEORGE** visitation with the minors on the 1st, 3rd and 5th weekend of each month from Friday at 5 p.m. to Sunday at 6 p.m. at Anna George's mother's home. The Court further ordered that the children not be in the presence of "Rick."

Petitioner states that the court ordered her to have visits at her mother's home. That is not possible any more. Petitioner states she is asking the Court to change where the visits take place to her home in Selma. Everything else in the Court order will remain the same.

Order on Ex Parte Petition for Modification of Visitation signed on 3/16/12 ordered the matter set for hearing and Notice of Hearing to be mailed to all interested parties at least 15 days prior to the hearing.

NEEDS/PROBLEMS/COMMENTS:

1. **Need *Notice of Hearing.***
2. **Need proof of service of the *Notice of Hearing* on:**
   a. **Stacy Campbell (guardian)**
   b. **Jessica Dibble (mother)**

Reviewed by: KT
Reviewed on: 4/3/12
Updates:
Recommendation:
File 11 - Dibble

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

12 Kylie Mae Sylvester (GUARD/P) **Case No. 10CEPR00405**

Atty Sylvester, Mickey (pro per Guardian/paternal grandfather)
Atty Sylvester, Rhonda (pro per Guardian/paternal grandmother)
Atty Wright, Erica Dawn (pro per Petitioner/mother)

Petition for Termination of Guardianship

Age: 2 years
DOB: 7/15/2009

Cont. from

	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	W/O
	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	

ERICA WRIGHT, mother, is petitioner.

MICKEY SYLVESTER and **RHONDA SYLVESTER**, paternal grandparents were appointed guardians on 10/12/10. – *Mailed notice on 2/24/12*

Father: **JEROD SYLVESTER –** *mailed notice on 2/24/12.*

Maternal grandfather: John Wright
Maternal grandmother: Catherine Wolfe.

Petitioner states the guardianship is no longer necessary.

Declaration of Guardians Mickey Sylvester and Rhonda Sylvester filed on 3/22/12 states they feel the guardianship should remain for the following reasons:

1. Mom has no financial support for the minor.
2. Mom has had another child and they know little about the father. Will this person have contact with the minor with no known background?
3. They believe mom has not completed her court ordered drug testing.
4. The minor is currently in a safe and loving environment.
5. They believe the minor's emotional well-being will be compromised if she is removed from the only home she has known since birth.
6. Mom has no grounds for seeking termination of the guardianship.

NEEDS/PROBLEMS/COMMENTS:

1. **Need proof of service of the Notice of Hearing on:**
   a. **John Wright (maternal grandfather)**
   b. **Catherine Wolfe (maternal grandmother)**

Court Investigator Samantha Henson to provide:

1. **Court Investigator's Report**

Reviewed by: KT
Reviewed on: 4/3/12
Updates:
Recommendation:
File 12 - Sylvester

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

13 Sally Rios (Estate) **Case No. 12CEPR00009**

Atty Alanis, Phillip Roger (Pro Per – Son – Petitioner)

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

DOD: 6-21-11			**PHILLIP ROGER ALANIZ**, Son, is Petitioner and requests appointment as Administrator with Full IAEA without bond.
Cont. from 021412			Full IAEA – *Need publication*
	Aff.Sub.Wit.		Decedent died intestate
✔	**Verified**		
	Inventory		Residence: Fresno
	PTC		Publication: *Need publication*
	Not.Cred.		
✔	**Notice of Hrg**		**Estimated Value of Estate:**
✔	**Aff.Mail**	W	Personal property: $2,500.00
	Aff.Pub.	X	Real property: ($2,500.00)
	Sp.Ntc.		(Value of $87,500 less $90,000.00 encumbrance)
	Pers.Serv.		Total: $0.00
	Conf. Screen		**Probate Referee: Rick Smith**
✔	**Letters**		
✔	**Duties/Supp**		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✔	**Order**		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

NEEDS/PROBLEMS/COMMENTS:

<u>Minute Order 2-14-12</u>: Examiner notes provided to Petitioner. Petitioner is directed to cure the defects.

<u>As of 4-3-12, the following issue remains</u>:

1. **Need proof of publication (Probate Code §§ 8120-8124).**

<u>Note to Judge</u>: If granted, please set status hearings:
- **4 months for filing of the inventory and appraisal**
- **14 months for filing of the first account**

Reviewed by: skc

Reviewed on: 4-3-12

Updates:

Recommendation:

File 13 - Rios

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

14 Miah Rose Rivera (GUARD/P) **Case No. 12CEPR00127**

Atty Rivera, Mary (pro per Petitioner/maternal aunt)

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

Age: 2 years		
DOB: 12/14/2009		
Cont. from		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✓	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
	Objections	
	Video Receipt	
✓	CI Report	
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

THERE IS NO TEMPORARY. No temporary was requested.

MARY RIVERA, maternal aunt, is petitioner.

Father: **RUDY ROJAS, JR**. – *Declaration of Due Diligence filed on 4/2/12*.

Mother: **ANGELA RIVERA** – *Consents and waives notice.*

Paternal grandparents: Unknown – *Declaration of Due Diligence filed on 2/28/12*.
Maternal grandfather: Ernest Rivera - *deceased*
Maternal grandmother: Margaret Gervacio – *consents and waives notice.*

Petitioner states the minor has been living with her for the past 1 ½ years. Mom is not making good choices right now.

Court Investigator Julie Negrete's Report filed on 4/3/12.

NEEDS/PROBLEMS/COMMENTS:

1. **Need *Notice of Hearing***
2. **Need proof of personal service of the *Notice of Hearing* or *Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
   a. **Rudy Rojas, Jr. (father)** – *unless the court dispenses with notice.*
3. **Need proof of service of the *Notice of Hearing* or *Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
   a. **Paternal grandparents** – *unless the court dispenses with notice.*
4. **UCCJEA is incomplete. Need minor's residence information from 12/14/09 to 7/1/10.**

Reviewed by: KT
Reviewed on: 4/4/12
Updates: 4/5/12
Recommendation:
File 14 - Rivera

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

15A Angelina Delilah Malagon (GUARD/P) **Case No. 12CEPR00136**

Atty **Malagon, Miguel (pro per – maternal grandfather/Petitioner)**

Atty **Torres, Teresa DeJesus (pro per – paternal grandmother/Competing Petitioner)**

Petition for Appointment of Guardian of the Person (Prob. C. 1510) (as to Miguel Malagon)

Age: 4
DOB: 03/04/08

Cont. from

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

NO TEMPORARY REQUESTED

MIGUEL MALAGON, maternal grandfather, is Petitioner.

Father: **SALVADOR REYES TORRES**

Mother: **KIMBERLY MALAGON**

Paternal grandfather: SALVADOR TORRES
Paternal grandmother: TERESA TORRES

Maternal grandmother: TRINIDAD GUILLEN

Petitioner states that the minor has lived with him since birth. The mother comes in and out of the home and does not provide for the child's day to day needs. The mother is gang affiliated and uses drugs. In January 2012, mother took the minor from Petitioners home and left her with the paternal grandmother, Teresa Torres. Ms. Torres brought the minor back to Petitioners home and stated that she could not keep her safe. She stated that some men with guns came to her home demanding to take Angelina and said they were looking for the mother. Petitioner states that he fears for the minor's safety if her mother takes her because of her gang affiliation.

Court Investigator Jennifer Young's report was filed 03/29/12.

NEEDS/PROBLEMS/COMMENTS:

See Page 15B for competing Petition of Paternal Grandmother, Teresa Torres.

1. **Need *Notice of Hearing.***
2. **Need proof of personal service at least 15 days before the hearing of *Notice of Hearing* with a copy of the *Petition for Appointment of Guardian of the Person* or Consent and Waiver of Notice or Declaration of Due Diligence for:**
   - Salvador Reyes Torres (father)
   - Kimberly Malagon (mother)
3. **Need proof of service by mail at least 15 days before the hearing of *Notice of Hearing* with a copy of the *Petition for Appointment of Guardian of the Person* or Consent and Waiver of Notice or Declaration of Due Diligence for:**
   - Salvador Torres (paternal grandfather)
   - Teresa Torres (paternal grandmother)
   - Trinidad Guillen (maternal grandmother)

Reviewed by: JF

Reviewed on: 04/03/12

Updates:

Recommendation:

File 15A - Malagon

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

15B Angela Delilah Malagon (GUARD/P) **Case No. 12CEPR00136**

Atty Malagon, Miguel (pro per – maternal grandfather/competing Petitioner)

Atty Torres, Teresa DeJesus (pro per – paternal grandmother/Petitioner)

Petition for Appointment of Temporary Guardian of the Person (Prob. C. 2250) (as to Teresa De Jesus Torres)

Age: 4
DOB: 03/04/08

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	

GENERAL HEARING 05/29/12

TERESA DeJESUS TORRES, paternal grandmother, is Petitioner.

Father: **SALVADOR REYES TORRES** – *consent and waiver of notice filed 03/27/12*

Mother: **KIMBERLY MALAGON**

Paternal grandfather: SALVADOR TORRES –*consent & waiver of notice filed 03/27/12*

Maternal grandfather: MIGUEL MALAGON – *competing Petitioner*
Maternal grandmother: TRINIDAD GUILLEN

Petitioner states that the minor has not received stable adult guidance and supervision. Her mother is gang affiliated and is constantly exposing the minor to gangs. Petitioner states that the temporary guardianship is necessary to provide a safe and stable home to the minor.

Declaration of Petitioner filed 03/27/12 attaches a notarized letter dated 01/31/12 in which the mother grants legal guardianship of the minor to Petitioner in the mother's absence. There is also a letter from the mother dated 02/26/12 that states that her father (competing Petitioner, Miguel Malagon) is a very aggressive man and wants things done his way. The declaration also states that the maternal grandfather/competing Petitioner tricked her (Paternal grandmother) into signing a consent & waiver of notice for his guardianship Petition. Petitioner states that he bullied her into signing the paper and she did not know what it was for. Further attached to the declaration are letters of reference from friends and associates attesting to Ms. Torres' character, as well as documents from various social service agencies from whom she receives assistance.

NEEDS/PROBLEMS/COMMENTS:

See Page 15A for competing Petition.

1. **Need *Notice of Hearing.***
2. **Need proof of personal service at least 5 court days before the hearing of *Notice of Hearing* with a copy of the *Petition for Appointment of Temporary Guardian of the Person* or Consent and Waiver of Notice or Declaration of Due Diligence for:**
   - Kimberly Malagon (mother)

Reviewed by: JF
Reviewed on: 04/03/12
Updates:
Recommendation:
File 15B - Malagon

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

16 Mary Sinor (Det Succ) **Case No. 12CEPR00209**

Atty Sinor, Reid (Pro Per – Petitioner)

Atty Sinor, Jaime (Pro Per – Petitioner)

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

DOD: 1-31-11			**REID SINOR and JAIME SINOR**, children of Decedent, are Petitioners. 40 days since DOD No other proceedings I&A: $67,500 Decedent died intestate Petitioners request Court determination that Decedent's 50% interest in certain real property in Fresno County passes to them pursuant to intestate succession.	**NEEDS/PROBLEMS/COMMENTS:** 1. **Need order.**
	Aff.Sub.Wit.			
✔	**Verified**			
	Inventory			
	PTC			
	Not.Cred.			
N/A	**Notice of Hrg**			
N/A	**Aff.Mail**			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	X		
	Aff. Posting			**Reviewed by:** skc
	Status Rpt			**Reviewed on:** 4-3-12
	UCCJEA			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 16 - Sinor**

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

17 **Serenity Baby Delara, Isabella Hollowa Delara, Cassandra Yesenia Delara, Nicholas Ray Marquez, and Jonathen Wayne Taylor (GUARD/P)** **Case No. 12CEPR00283**

Atty **Marquez, Eva (Pro Per – Paternal Grandmother – Petitioner)**

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

Serenity Baby Delara (2) **DOB: 11-17-09**		
Isabella Holloway Delara (5) **DOB: 9-10-06**		
Cassandra Yesenia Delara (8) **DOB: 3-21-04**		
Nicholas Ray Marquez (9) **DOB: 9-29-02**		
Jonathen Wayne Taylor (11) **DOB: 10-3-00**		
	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**	X
	Citation	
	FTB Notice	

EVA MARQUEZ, Paternal Grandmother, is Petitioner.

Father: **NICHOLAS MARQUEZ DELARA**
Mother: **MEMORY VAELLEANE TAYLOR**

Paternal Grandfather: Deceased
Maternal Grandfather: Deceased
Maternal Grandmother: Deceased

Petitioner states all five grandchildren have been raised and cared for since birth. Petitioner shares time with each child and has given a steady living environment. She has taught them to love and have patience with their parents as they are going through tough issues. The children are well-mannered and loving children. Petitioner would like to take over all five grandchildren and keep them together and safe.

The UCCJEA indicates that the children have always lived with their parents.

File documents indicate the children are in foster care.

NEEDS/PROBLEMS/COMMENTS:

Court records indicate that all five (5) children are currently subject to the jurisdiction of the Juvenile Court. Therefore, a probate guardianship cannot be considered at this time. (Local Rule 7.15.7.B.)

If this matter goes forward, the following issues exist:

1. **UCCJEA is incomplete at #4-6 (re other cases involving the children). Need completed UCCJEA.**
2. **Need Notice of Hearing.**
3. **Need proof of personal service of Notice of Hearing with a copy of the Temporary Petition or consent and waiver of notice on:**
   - Nicholas Marquez Delara (Father)
   - Memory Vaellean Taylor (Mother)

Reviewed by: skc	
Reviewed on: 4-3-12	
Updates:	
Recommendation:	
File 17 – Delara, Marquez, Taylor	

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012

18 **Luis Velasquez, Samuel Rene Velasquez, and Fernando Velasquez (GUARD/P)** **Case No. 12CEPR00293**

Atty **Dominguez, Guadalupe S. (Pro Per – Maternal Aunt – Petitioner)**
Atty **Dominguez, Samuel (Pro Per – Maternal Uncle – Petitioner)**

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

Samuel Rene Velasquez (7) **DOB: 5-5-07**		
Fernando Nicoles Velasquez (3) **DOB: 11-24-08**		
Luis Ernesto Velasquez (1) **DOB: 5-7-10**		
	Aff.Sub.Wit.	
✔	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✔	**Conf. Screen**	
✔	**Letters**	
✔	**Duties/Supp**	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✔	**Order**	
	Aff. Posting	
	Status Rpt	
✔	**UCCJEA**	
	Citation	
	FTB Notice	

GENERAL HEARING 6-5-12

GUADALUPE S. and SAMUEL DOMINGUEZ, Maternal Aunt and Uncle, are Petitioners.

Father: **JAIME VELASQUEZ CHAVEZ**
- *Nomination filed 4-2-12*
Mother: **VENESSA RENE VELASQUEZ**
- *Signed*
Paternal Grandfather: Unknown
Paternal Grandmother: Unknown

Maternal Grandfather: Albert Ledesma
Maternal Grandmother: Cindy Martinez
- *Deceased*

Siblings: Richard Gomez, Albert Ledesma

Petitioners state the home is not stable due to domestic violence by both parents. The mother does not provide the children with their needs: there is no food in the home. Mother is using drugs and abuses the benefits and assistance she receives from the county for her own needs. She sells the food stamps for gas and alcohol. All of this has been reported to Monica Fitzgerald, Social Services/CPS in Bakersfield. The children have no clothing, food, and have not been properly cared for by the mother.

The UCCJEA indicates that the children have been with Petitioners since 3-24-12 and previously lived with their mother for approx. a year in Bakersfield, and before that with their grandmother Lupe Navarro, also in Bakersfield.

NEEDS/PROBLEMS/COMMENTS:

1. **Need proof of *personal* service of Notice of Hearing with a copy of the Temporary Petition at least five (5) court days prior to the hearing or consent and waiver of notice on:**
   - Jaime Velasquez Chavez (Father)
   - Venessa Rene Velasquez (Mother)
   Note: Petitioner requests to be excused from giving notice to the parents due to the domestic violence issues and states they have both moved out of the home.
   Note: Father signed a Nomination of Guardian nominating Guadalupe S. Dominguez only, but did not sign the "Consent and Waiver of Notice;" therefore, notice is still required.
   Note: Mother signed a notarized statement giving Petitioners permission to care for the children and for the children to live with Petitioners in Firebaugh, Fresno County, but did not sign a "Consent and Waiver of Notice;" therefore, notice of this proceeding is still required.
   Note: Petitioner filed a proof of mailed service; however, Probate Code §2250(e) requires personal service.
2. **UCCJEA is incomplete at #5 regarding whether domestic violence restraining/protective orders in effect.**
   Petitioners indicate domestic violence between the parents and that the father moved out of the home, but do not indicate whether the children are protected parties under any restraining order (in Bakersfield or elsewhere) or if there are any custody orders stemming from restraining order, if any.

Reviewed by: skc
Reviewed on:
Updates:
Recommendation:
File 18 - Velasquez

Dept. 303, 9:00 a.m. Tuesday, April 10, 2012