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.

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

1A Juventino Banda-Nieto (Estate) Case No. 05CEPR00806

Atty Alabart, Javier A. (for Petitioners Alfredo Banda Arriaga and Remedios Nieto Rodriguez, parents)
Atty Ruiz, Eddie (co-counsel by association for Petitioners Alfredo Banda Arriaga and Remedios Nieto Rodriguez, parents)
Atty Fanucchi, Edward L. (for Maria Luisa Sanchez, Respondent, purported spouse)
Atty Kruthers, Heather H. (for Public Administrator, Administrator of the Estate)
Atty Williams, Robert; Perez, Holley, of Perez, Williams & Medina (*Request for Special Notice* filed 11/17/2009)

Hearing on the Amended First and Final Account and Report of Administrator and Petition for Allowance of Ordinary and Extraordinary Commissions and Fees (Probate Code § 9202, 10800, 10810, 10951 and 11600)

DOD: 5/14/2004

Cont. from 022812, 031512

	Aff.Sub.Wit.	
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	Video Receipt	
	CI Report	
✓	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	FTB Notice	

PUBLIC ADMINISTRATOR, Administrator, is Petitioner.

Account period: 9/23/2005 – 1/12/2012

Accounting - **$214,903.66**
Beginning POH - **$203,823.43**
Ending POH - **$109,346.53** *(all cash)*

Administrator - **$2,500.00**
(amount requested is per the statement during the parties' negotiations of the exact fee request amounts that would be made by the attorney and administrator;)

Attorney - **$7,131.87**
(less than $7,298.07statutory; amount requested is per the statement during the parties' negotiations of the exact fee request amounts that would be made by the attorney and administrator;)

Attorney XO - **$6,030.00**
(per Itemization attached as Exhibit B for 40.2 hours @ 150.00/hour; for accounting of receipts from holder of funds prior to Decedent's death, addressing questions of law and fact regarding these and Mexican proceedings, and facilitating negotiations between the parties;)

Costs - **$758.00**
(filing fees and certified copies)

Bond fee - **$3,223.56** (o.k.)

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

CONTINUED TO 5/10/2012 at 1:30 p.m. in Dept. 303

Page 1B is the *Motion to Have Admissions Deemed Admitted and for Monetary Sanctions* filed by the Petitioners.

Page 1C is *Respondent Maria Luisa Sanchez's Motion in Limine to Exclude Evidence that Did Not Exist at the Time of Entry of the Orders Challenged by the Petition Filed by Petitioners in these Proceedings.*

Reviewed by: LEG
Reviewed on: 4/10/12
Updates:
Recommendation:
File 1A – Banda-Nieto

Petitioner states:

- It was agreed among the parties, attorneys and the Court that the Public Administrator would file his final account and hold the remaining funds, after payment of commissions and fees, until the matter of who is entitled to receive distribution is resolved; thus, the estate is not in a condition to be closed as the heirs, devisees and/or legatees of the Decedent entitled to final distribution of the estate have not been determined;

- The two issues that have prevented closure of the estate administration are: the persons entitled to distribution of the estate, and the sufficiency of the amount of estate assets; a brief summary of the status of these issues is as follows:
    - Decedent's 1997 California Will admitted to probate for administration on 3/27/2006 identified Decedent's parents **ALFREDO BANDA ARRIAGA and REMEDIOS NIETO RODRIGUEZ** (now represented by Attorney Javier A. Alabart) as the only beneficiaries of Decedent's estate;
    - A woman named **MARIA LUISA SANCHEZ** (represented by Attorney Edward L. Fanucchi) is asserting that she is the rightful heir of the Decedent entitled to distribution of the entire estate of Decedent; this issue has not yet been resolved;
    - The source of the Decedent's estate assets is the Decedent's Workers' Compensation benefits, which were received as part of a settlement in the 1997 Workers' Compensation Appeals Board (WCAB) case FRE 01150566 that included settlement of a third-party case by way of a *Third-Party Compromise and Release* approved by Workers' Compensation Judge George J. Perlingieri; specifically, the assets of the Decedent's estate belonging to the Decedent at the time of Decedent's death consist of the amount remaining from that settlement after distributions made to the Decedent or for his benefit;
    - At the time of Decedent's death, the remaining settlement funds were held in trust by Attorney Robert F. Perez and the law firm of Perez, Makasian, Williams & Medina ("The Perez Law Firm") at the direction of Judge George J. Perlingieri;
    - A dispute arose as to whether the amount delivered to the Public Administrator after the Decedent's death by Attorney Robert F. Perez and The Perez Law Firm was the accurate amount remaining from the WCAB case settlement;
    - Ms. Sanchez and Attorney Fanucchi contended that there should have been substantially more settlement proceeds remaining; the Public Administrator's attorney conducted an extensive review of the initial WCAB settlement amount and the distributions made therefrom in an effort to resolve this issue; after receipt of numerous documents and discussion with The Perez Law Firm, the attorney was able to confirm that all proceeds were accounted for;
    - Because Attorney Fanucchi was still questioning the amount, the Court ordered attorneys Kruthers, Perez and Fanucchi to meet; at that meeting, after reviewing the forensic accounting results and supporting documentation, attorney Fanucchi indicated that although he needed to report back to his client [Ms. Sanchez], he was satisfied that all of the settlement funds had been accurately accounted for; subsequently, Attorney Fanucchi noted in Court that his client agreed that all funds had been property accounted for;
    - Neither Attorney Alabart nor his clients have ever objected, contested or disputed that the amount turned over by Attorney Robert Perez and The Perez Law Firm was the accurate amount remaining from the WCAB case settlement proceeds.

~Please see additional page~

Petitioner states, continued:

- A preliminary distribution of the estate in the amount of **$103,000.00** was made to Attorney Fanucchi on behalf of his client, Maria Luisa Sanchez, pursuant to Court order dated 11/5/2007; the *Receipt of Distribution* signed by Attorney Fanucchi was filed with the Court on 12/12/2007;
- After payment of commissions, fees and costs in the amount of **$19,643.43**, there will be **$89,703.10** to distribute upon further Court order.

Petitioner prays for an Order:

1. Settling, allowing and approving the First and Final Account and confirming and approving all acts and proceedings of the Petitioner as Administrator;
2. That pursuant to the specific agreement and acceptance by Attorney Fanucchi and his client, Maria Luisa Sanchez, and there being no objection by Attorney Alabart and his clients, Alfredo Banda Arriaga and Remedios Nieto Rodriguez, the amount of the funds delivered to the Public Administrator by The Perez Law Firm is accepted as the correctly accounted for amount remaining from the Decedent's 1997 Workers' Compensation Case FRE 01150566 and third-party settlement proceeds subject to probate administration with no further action to be pursued regarding this issue;
3. Authorizing Petitioner to pay the statutory compensation to Petitioner, and statutory fees and extraordinary legal fees to Petitioner's attorney; and
4. Authorizing Petitioner to pay from the estate the bond fee and the costs advanced.

1B Juventino Banda-Nieto (Estate) **Case No. 05CEPR00806**

Atty Alabart, Javier A. (for Petitioners Alfredo Banda Arriaga and Remedios Nieto Rodriguez, parents)
Atty Ruiz, Eddie (co-counsel by association for Petitioners Alfredo Banda Arriaga and Remedios Nieto Rodriguez, parents)
Atty Fanucchi, Edward L. (for Maria Luisa Sanchez, Respondent, purported spouse)
Atty Kruthers, Heather H. (for Public Administrator, Administrator of the Estate)
Atty Williams, Robert; Perez, Holley, of Perez, Williams & Medina (*Request for Special Notice* filed 11/17/2009)

Notice of Motion and Motion to Have Admissions Deemed Admitted and for Monetary Sanctions

DOD: 5/14/2004		
Cont. from 022812, 031512		
	Aff.Sub.Wit.	
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	CI Report	
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	UCCJEA	
	Citation	
	FTB Notice	

ALFREDO BANDA ARRIAGA and REMEDIOS NIETO RODRIGUEZ, parents and Petitioners, filed a *Motion to Have Admissions Deemed Admitted and for Monetary Sanctions* on 1/20/2012.

Declaration of Javier A. Alabart in Support of Motion to Have Admissions Deemed Admitted and for Attorney's Fees and Costs was filed on 1/20/2012.

Memorandum of Points and Authorities in Support of Motion to Have Admissions Deemed Admitted and for Monetary Sanctions was filed on 1/20/2012.

Maria Luisa Sanchez' Opposition to Alfredo Banda Arriaga's Motion to Have Admissions Deemed Admitted and Request for Sanctions was filed on 2/21/2012.

Declaration of Edward L. Fanucchi in Support of Maria Luisa Sanchez' Opposition to Alfredo Banda Arriaga's Motion to Have Admissions Deemed Admitted, etc., was filed on 2/21/2012.

NEEDS/PROBLEMS/COMMENTS:

CONTINUED TO 5/10/2012 at 1:30 p.m. in Dept. 303

Note: Case files are with Research Attorney. Examiner prepared these brief outline notes from Court records of filed documents as of 2/17/2012.

Note for background: *Minute Order* dated 2/15/2012 from the hearing on the *Motion to Compel Further Responses to Form Interrogatories, Set One, and for Sanctions* states the Court deems the date of the verification to be consistent with the date of the DHL delivery receipt. The Court advises both counsel that it is not imposing sanctions at this time. The Court stays the motion pending how further motions are responded to.

Reviewed by: LEG
Reviewed on: 4/10/12
Updates:
Recommendation:
File 1B – Banda-Nieto

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

1C **Juventino Banda-Nieto (Estate)** **Case No. 05CEPR00806**

Atty Alabart, Javier A. (for Petitioners Alfredo Banda Arriaga and Remedios Nieto Rodriguez, parents)
Atty Ruiz, Eddie (co-counsel by association for Petitioners Alfredo Banda Arriaga and Remedios Nieto Rodriguez, parents)
Atty Fanucchi, Edward L. (for Maria Luisa Sanchez, Respondent, purported spouse)
Atty Kruthers, Heather H. (for Public Administrator, Administrator of the Estate)
Atty Williams, Robert; Perez, Holley, of Perez, Williams & Medina (*Request for Special Notice* filed 11/17/2009)

Respondent, Maria Luisa Sanchez's, Motion in Limine to Exclude Evidence that Did Not Exist at the Time of Entry of the Orders Challenged by the Petition Filed by Petitioners in this Proceeding; Supporting Memorandum of Points and Authorities

DOD: 5/14/2004			NEEDS/PROBLEMS/COMMENTS:
			CONTINUED TO 5/10/2012 at 1:30 p.m. in Dept. 303
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	CI Report		
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	Aff. Posting		Reviewed by: LEG
	Status Rpt		Reviewed on: 4/10/12
	UCCJEA		Updates:
	Citation		Recommendation:
	FTB Notice		File 1C – Banda-Nieto

1C

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

2 Ruth Galvan Rodriguez (CONS/PE) Case No. 07CEPR00049

Atty LeVan, Nancy J. (for Rosemary Torres – Conservator)
Atty Sanoian, Joanne

1) Third and Final Account of Conservator, (2) Petition for Allowance of Fees for Attorney and (3) Petition for Reimbursement of Expenses to Conservator

DOD: 01/15/11		
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	Letters	
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	Objections	
	Video Receipt	
	CI Report	
✓	2620(c)	
	Order	x
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

ROSEMARY TORRES, Conservator, is Petitioner.

Third and Final Account period: 03/16/10 – 01/15/11

Accounting	-	$218,125.01
Beginning POH	-	$205,350.10
Ending POH	-	$171,840.10

Subsequent to the Final Account period: 01/16/11 – 09/15/11

Accounting	-	$184,277.70
Beginning POH	-	$183,750.15
Ending POH	-	$171,403.13

Conservator - $4,037.40 (for reimbursement of expenses)

Attorney - $2,000.00

Petitioner prays for an order:

1. Approving, allowing and settling the third and final account and subsequent to the final account; and
2. Authorizing the conservator and attorney fees and commissions.

NEEDS/PROBLEMS/COMMENTS:

1. **The beginning POH of the subsequent to the final account does not match the ending POH of the Third and Final Account.**
2. **The Accounting is not presented on the mandatory Judicial Council forms as required pursuant to CRC, Rule 7.575(e).**
3. **Conservator requests reimbursement of $4,307.40; however, Petitioner provides no itemization or statement regarding what the expenses are. Need itemization of the specific expenses conservator is requesting reimbursement for.**
4. **The Petition is not signed by Petitioner.**
5. **The Petition is not verified by Petitioner. Pursuant to Probate Code § 1023, the Petitioner, as the fiduciary must verify the Petition.**
6. **Need order.**

Reviewed by: JF	
Reviewed on: 04/10/12	
Updates:	
Recommendation:	
File 2 - Rodriguez	

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

3 Thomas Dominic Greco (CONS/PE) Case No. 08CEPR00547

Atty Barrus, John E. (for Beverly A. Edlund – Conservator – Petitioner)

(1) Second Account and Report of Conservator, (2) Petition for its Approval and for (3) Allowance of Attorney Fees (Prob. C. 2620, 2320 & 2640)

DOD: not provided		
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	PTC	
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	CI Report	
✔	2620(c)	
✔	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

BEVERLY A. EDLUND, Conservator with bond of $30,000.00, is Petitioner.

Bond is sufficient.

Account period: 11-12-09 through 11-10-11

Accounting: $121,367.72
Beginning POH: $75,397.87
Ending POH: $75,179.32

Conservator: Waived

Attorney: $7,297.25 (itemized)

Petitioner states she received authorization to sell the residence, but it has not yet sold. Consequently, there are insufficient cash funds to pay the court-approved attorney's fees of David N. Knudson ($7,200.00) and John E. Barrus ($7,718.75). Petitioner states pursuant to the death of the Conservatee, the Conservator anticipates filing a Petition for Probate for appointment as Executor of the Conservatee's will. Upon appointment, the Conservator will file her Third and Final Account. Petitioner anticipates selling the residence through the probate proceeding and the attorneys will file their creditor's claims in the estate, along with approved fees associated with this petition.

NEEDS/PROBLEMS/COMMENTS:

1. **The Court may require clarification regarding the numerous overdraft charges listed under disbursements (total $455.00 between Dec. 2009 and Apr. 2010).**

   Examiner notes there was a $550.85 transfer from savings in May 2010, which appears to cover these amounts. Is there a reason why this wasn't done sooner to save the conservatorship estate these fees?

2. **There are two payments to Barrus and Roberts labeled "partial payment of costs advanced;" however, costs are not itemized with the attorney fee declaration. The Court may require clarification with reference to Local Rule 7.17 (certain costs are considered costs of doing business and not reimbursable).**

Reviewed by: skc
Reviewed on: 4-9-12
Updates:
Recommendation:
File 3 - Greco

4A Julia B. Fly (CONS/PE) Case No. 08CEPR00917

Atty Motsenbocker, Gary (for Petitioner/Conservator Public Guardian)
Atty Teixeira, J. Stanley (Court appointed for Conservatee)
Atty Knudson, David (for Virginia Greggains)

(1) Second Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorneys (Prob. C. 2620, 2623, 2640, 2942)

Age: 89 years
DOB: 8/11/1922

Cont. from 032712

	Aff.Sub.Wit.	
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	Objections	
	Video Receipt	
	CI Report	
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

PUBLIC GUARDIAN, conservator, is petitioner.

Account period: 1/20/2010 – 1/19/2012

Accounting - **$313,100.83**
Beginning POH - **$287,627.99**
Ending POH - **$140,331.40**

Conservator - **$3,660.40**
(26.95 Deputy hours @ $96/hr and 14.20 Staff hours @ $76/hr)

Attorney (County Counsel)- **$690.00** (4.6 hours @ $150/her)

Attorney (Motsenbocker) **- $6,863.83** (25.50 hours @ $250/hr plus filing fee of $395.00 and Fed Ex copies of $93.83)

Bond fee - **$1,510.50**
(o.k.)

Petitioner prays for an Order:

1. Approving, allowing and settling the Second Account and Report of Conservator;
2. Authorizing conservator's compensation;
3. Authorizing payment of attorney fees;
4. Authorizing payment of the bond fee.

Court Investigator Jennifer Young's Report filed on 1/24/12

NEEDS/PROBLEMS/COMMENTS:

Virginia Greggians, daughter of Julia Fly, filed a Petition for Confirmation of Actions of Attorney–In-Fact, Response to Petition Requesting Relief for Breach of Fiduciary Duty, for an Accounting, Etc, and Objections to the Second Account of Conservator was filed on 3/26/12 and set for hearing on 5/9/12.

Continued from 3/27/12. Minute order states the court sets the matter for status hearing. The Court indicates for the record that it will accept a status report from one of the attorneys with the permission of the other. (Please see page 4B)

Reviewed by: KT
Reviewed on: 4/9/12
Updates:
Recommendation:
File 4A - Fly

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

4B Julia B. Fly (CONS/PE) **Case No. 08CEPR00917**

Atty Motsenbocker, Gary (for Petitioner/Conservator Public Guardian)
Atty Teixeira, J. Stanley (Court appointed for Conservatee)
Atty Knudson, David (for Virginia Greggains)

Status Hearing

Age: 89 years DOB: 8/11/1922	**PUBLIC GUARDIAN**, conservator, filed the Second Account and Report of Conservator. A hearing was held on 3/27/12. Virginia Greggians, daughter of Julia Fly, filed a Petition for Confirmation of Actions of Attorney–In-Fact, Response to Petition Requesting Relief for Breach of Fiduciary Duty, for an Accounting, Etc, and Objections to the Second Account of Conservator was filed on 3/26/12 and set for hearing on 5/9/12. **Minute order from 3/27/12 set this status hearing.** The Court indicated for the record that it will accept a status report from one of the attorneys with the permission of the other.	NEEDS/PROBLEMS/COMMENTS: 1. **Need current status report.**
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Aff. Posting		Reviewed by: KT
Status Rpt		Reviewed on: 4/9/12
UCCJEA		Updates:
Citation		Recommendation:
FTB Notice		File 4B - Fly

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

5A Ronald J Olivas (Estate) Case No. 09CEPR01060

Atty **Robertson, Hugh Duff (for Robert Olivas – Brother – Administrator)**

(1) Petition for Settlement of First and Final Account and Report by Administrator, (2) for Final Distribution, and (3) for Order Fixing and Allowing Statutory Compensation, Extraordinary Compensation, and (4) Reimbursement of Costs

DOD: 9-18-08

Cont. from 010412, 031212

	Aff.Sub.Wit.	
	Verified	X
✔	**Inventory**	X
✔	**PTC**	
✔	**Not.Cred.**	
	Notice of Hrg	X
	Aff.Mail	X
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✔	**Sp.Ntc.**	X
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	CI Report	
✔	**9202**	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✔	**FTB Notice**	

ROBERT OLIVAS, Administrator, is Petitioner.

Account period: 4-29-10 through 11-4-11

Accounting: $67,500.00
Beginning POH: $67,500.00
Ending POH: $0.00

Administrator: Waived

Attorney: $2,700.00 (Statutory – See Notes)

Attorney (Extraordinary): $1,380.00

- Attorney Robertson states these extraordinary fees are calculated at $350.00/hr, a reduced rate from his ordinary billing rate of $450.00/hr.
- Declaration (Exhibit 2) itemizes 1.4 attorney hours and 8.9 law clerk's hours in connection with the foreclosure of the property.

Costs: $2,186.32 (Itemized – See Notes)

Petitioner states the estate is insolvent and there are no assets with which to pay creditors, costs of administration, or distribute to heirs. The only asset of the estate was a 50% interest in certain real property (Decedent's residence) that was foreclosed. Petitioner is aware of two Creditor's Claims. The Franchise Tax Board filed their claim and a Request for Special Notice, but another creditor did not formally file a claim. Due to the insolvency of the estate, the creditors have not been paid.

However, Petitioner's attorneys reserve their right to receive fees and costs in the event that assets are discovered.

Attorney Robertson states his office has attempted to communicate with the Administrator; however, he has not responded to letters regarding the estate. Attorney Robertson requests to withdraw as attorney of record.

NEEDS/PROBLEMS/COMMENTS:

Minute Order 1-4-12: Matter continued to 3-12-12 at the request of counsel.

Minute Order 3-12-12: Matter continued to 4-17-12.

Note: Page 5B is Attorney Robertson's Motion to be Relieved as Counsel, which was filed on 3-9-12 (prior to the last hearing).

As of 4-6-12, nothing further has been filed in connection with this petition. The following issues remain:

1. **Need proof of service of Allowance or Rejection of Creditor's Claim (Mandatory Judicial Council Form DE-174) on the Franchise Tax Board per Probate Code §9250.**

   Note: A creditor has 90 days to act on a rejected claim. Therefore, this matter cannot go forward unless the time has run or waiver of notice and/or action is provided.

   Note: The claim is $530.51.

2. **The Inventory and Appraisal is not verified by the Administrator pursuant to Probate Code §1020.**

3. **The Account is not verified by the Administrator pursuant to Probate Code §§ 1020, 1023, 11640(a).**

4. **Attorney's statutory fee calculation does not include the loss on the property.**

   Per Estate of Stein (1968) Cal.App. 2, 631, the loss on a foreclosed property is the difference between the Inventory and Appraisal value and the encumbrances.

   Therefore, need information regarding the encumbrance(s) and recalculation of statutory fee.

SEE PAGE 2

Reviewed by: skc

Reviewed on: 4-6-12

Updates:

Recommendation:

File 5A - Olivas

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

5A Ronald J Olivas (Estate) Case No. 09CEPR01060

Atty Robertson, Hugh Duff (for Robert Olivas – Brother – Administrator)

(1) Petition for Settlement of First and Final Account and Report by Administrator, (2) for Final Distribution, and (3) for Order Fixing and Allowing Statutory Compensation, Extraordinary Compensation, and (4) Reimbursement of Costs

NEEDS/PROBLEMS/COMMENTS:

5. **Cost itemization includes $784.32 in costs considered by the Court to be costs of doing business and not reimbursable pursuant to Local Rule 7.17, including:**
   - **Fed Ex $65.12**
   - **Runner Services $598.31**
   - **Photocopies $14.00**
   - **Research $106.89**

6. **Declaration of Angela F. Gerovac (Attorney Robertson's office) indicates that she had a telephone conversation in August with the Administrator during which he seemed agreeable; however, he then did not respond to letters.**

   The declaration states the office has not received any communications or returned mail indicating change of phone or address; however, the declaration also does not indicate any further diligence to contact the Administrator other than sending a letter and an email in August 2011 and another letter in October 2011.

   The Court may require further diligence regarding the Administrator with regard to closing this estate and with regard to the attorney's request for withdrawal as attorney of record.

<u>Note</u>: This matter cannot move forward unless these items are addressed.

<u>Note</u>: The only relatives of the decedent were the Administrator (a brother) and another brother.

Status Report filed 3-9-12 states that due to the administrator's refusal to communicate with counsel and effectively participate in the administration of the estate, it is unreasonably difficult to carry out counsel's employment.

Concurrently filed with the Status Report is a Notice of Motion and Motion to be Relieved as Counsel and supporting Declaration which is set for hearing on 4-17-12 (Page 5B).

5B **Ronald J Olivas (Estate)** **Case No. 09CEPR01060**

Atty **Robertson, Hugh Duff (Attorney for Administrator Robert Olivas – Petitioner)**

Notice of Motion and Motion to be Relieved as Counsel

	Aff.Sub.Wit.	
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	Inventory	
	PTC	
	Not.Cred.	
✔	Notice of Hrg	
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	Video Receipt	
	CI Report	
	9202	
✔	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

HUGH DUFF ROBERTSON, Attorney for Administrator Robert Olivas, is Petitioner.

Petitioner states there has been a breakdown in communication with the client. Counsel has been attempting to communicate with client since August 2011; however, the client refuses to respond to counsel's multiple attempts to contact him via mail, email, and telephone. Counsel has confirmed with the client's wife that the contact information is current and correct. No mailings or emails have been returned as undeliverable. Counsel has no reason to believe the client has not received the correspondence. To date there has been no response to the correspondence or numerous voice mail messages. The client's refusal to communicate or participate in the administration of the estate makes it unreasonably difficult for counsel to adequately represent the client in this matter and to effectively carry out counsel's employment by the client. Cal. Rules of Professional Conduct, Rule 3-700(c)(1)(d) and 30700(c)(6).

Declarations in support by attorneys Hugh Duff Robertson and Angela F. Gerovac detail the attempts at communication. Attorney Robertson states that as a result of the breakdown, the Examiner Notes on the accounting (Page 5A) cannot be addressed.

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: skc

Reviewed on: 4-6-12

Updates:

Recommendation:

File 5B - Olivas

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

6 Suzanne M. Bennetts (Estate) **Case No. 10CEPR01115**

Atty Renge, Lawson K. (for Petitioner/Executor Kimberly R.W. Bennetts)

First and Final Account and Report of Executor and (2) Petition for Final Settlement and Distribution (Prob. C. §§10800, 10810, 10831, 10900, 10951, 11640)

DOD: 10/13/10		
Cont. from 121211, 022712, 031912		
	Aff.Sub.Wit.	
✓	Verified	
✓	Inventory	
✓	PTC	
	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	W/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✓	Letters	2/9/11
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	FTB Notice	

KIMBERLY R. W. BENNETTS, Executor, is petitioner.

Accounting is waived.

I & A - **$113,976.64**

Executor - **waives.**

Attorney - **$4,419.30**
(statutory)

Costs - **$790.33**
(filing fee, publication, probate referee, certified copies)

Distribution, pursuant to Decedent's Will and Disclaimer is to:

Adrienne Vance - real property, 1/2 of $4,148.00, ½ of 5 shares of PG& E stock, ½ of 38.801 shares of PG& E stock, ½ of a 2000 Chevy, and ½ of the household furniture and furnishings.

Kimberly R.W. Bennetts - 1/2 of $4,148.00, ½ of 5 shares of PG& E stock, ½ of 38.801 shares of PG& E stock, ½ of a 2000 Chevy, and ½ of the household furniture and furnishings.

NEEDS/PROBLEMS/COMMENTS:

Continued from 3/19/12. Mintue Order states Counsel informs the court that Kimberly only has two adult children. Counsel is directed to submit a declaration. *As of 4/9/12 no additional documents have been filed.*

1. **Kimberly R. W. Bennetts disclaimed his interest in the real property.**
   The disclaimer acts as if the Kimberly pre-deceased the decedent. Therefore, if the Kimberly has issue, his issue would be entitled to the share of the estate the Kimberly disclaimed. Probate Code §275 et seq. The Court will need to know if Kimberly has issue prior to distribution. – Memorandum Re: Disclaimer filed on 2/16/12. Supplemental Brief re: Disclaimer filed on 3/8/12. ***(Please see additional page)***

2. **Order does not comply with Local Rule 7.6.1.**

Reviewed by: KT
Reviewed on: 4/9/12
Updates:
Recommendation:
File 6 - Bennetts

Memorandum Re Disclaimer filed on 2/16/12. Estate Counsel responds to said inquiry as follows: The disclaimer executed by a beneficiary under a will does not transfer the disclaimed interest to the disclaiming party's issue if prohibited by the will. Mr. Renge states only two beneficiaries are named in the decedent's Will, namely Kimberly R.W. Bennetts, the disclaiming party and Adrienne Vance. The Fifth paragraph of decedent's Will provides, in part as follows: "Except as otherwise provided in this Will, I have intentionally and will full knowledge made no provision for any other person or relative living at my death, whether claiming to be an heir of mine or not for any person who would have been entitled to share in my estate if I had died intestate and I direct that such person or persons, if any, shall take no part of my estate."

Mr. Renge concludes, unequivocally, the "Fifth" paragraph of the Will directs that the "classes" of potential beneficiaries in said paragraph "shall take no part in my estate." Accordingly, the "issue" of Kimberly R. W. Bennetts who are unnamed in the Will may be intestate heirs or beneficiaries but are precluded from taking any property in this case. The decedent, Suzanne M. Bennetts, in executing her Will made a deliberate decision to exclude all persons other than Kimberly R.W. Bennetts and Adrianne Vance from taking her estate.

Supplemental Brief re: Disclaimer filed on 3/12/12. Attorney cites the *Estate of Carroll (1956) 138 Cal.App 2d 363, 365* which gives instruction and guidance concerning the disposition of an intestate "share" considered in relation to California's Anti-Lapse statutes. Attorney Renge concludes, Suzanne M. Bennetts " is presumed to know the law (Carroll, supra) and that her intent was to preclude "any person" or "relative" whether "claiming to be an heir of mine or not" and "any person" entitled to an intestate share of her estate, "shall take no part of my estate." The effect of the disclaimer was to expose the real property to claims from the disclaimant's "issue." However, said claims are clearly negated by the decedent's intent to disinherit said claimants – employing clear, unambiguous language.

To further confirm the analysis which refers to the antilapse statute inoperative in the case as bar is the following observation from *Estate of Dye (2001) 92 Cal.App.4th 966, 986,* "It has been said that it will be assumed that the testator had [an anti-lapse] statute "in mind when he drew up his will."" Again, the decedent "opted out" from the application of intestacy laws by unequivocally and expressly declaring in her Will that "any person who would have been entitled to share in my estate if I had died intestate . . . shall take no part of my estate." Ipso facto, if disclaimant's "issue" are intestate beneficiaries of the Estate, they are disinherited from taking an intestate share.

In contrast and comparison, some of the reported "disinheritance provisions" that were decided not to result in disinheritance, considering the anti-lapse statute may be reviewed in cases such as *Estate of Tolman, (2010) 181 Cal.App4th 1433,* which was offered by the Court in the case at bar for comment. Said provision was the subject of a contest between unnamed beneficiaries claiming an interest in decedent's estate by reason of being "lineal descendants" of decedent and opposing beneficiaries asserting that they were disinherited by "Paragraph 7" as "heirs." The Tolman Court, addressing said contest, made a distinction between "heirs" which were precluded from receiving property and "lineal descendants" which the Court decided were not disinherited.

The disinheritance provision in the Will of Suzanne M. Bennetts is more inclusive than the "incomplete provision" of Tolman which was limited to disinheriting "heirs" or anyone claiming to be an "heir." Here, decedent, Bennetts, disinheritance instructions are not so limited, disinheriting not only "heirs" but "any other person or relative living at [decedent's] death, whether claiming to be an heir of mine or not" and additionally, disinheriting "any person who would have been entitled to share in my estate if I had died intestate." Accordingly the lesson learned from Tolman's "disinheritance clause" is that disinheritance language must identify the person(s) to be excluded. Because Tolman will only referenced "heirs," "lineal descendants" were decided by the Court to be unincluded in the disinheritance – with judicial distinction made that the word, "heir" was not synonymous with the word, "lineal descendants," and therefore uncovered by the "heir restriction."

In conclusion, a review of some reported cases discussing disinheritance and the application of anti-lapse confirms that if a disinheritance provision is clearly drawn, identifying the person(s) or classes of persons to be disinherited, said provisions must be given effect as being the intent of a testator or testratrix. The Estate of Suzanne M. Bennetts is not a "doubtful case" (Carroll, suprea, 366) where the imagination must be stretched for disinheritance of disclaimant's "issue" – unlike Carroll in which the sum of $1.00 was instructed, Dye in which no specific disinheritance language was employed, or Tolman which contained a limited definitional application, referencing only "heirs." Thus, the named beneficiary in the Bennetts Will should be awarded all of the real property in the Estate instead of sharing with disclaimant's "issue."

Declaration of Kimberly Bennetts filed on 3/15/12 states she has been asked by the court to identify her "issue" for the purpose of estate distribution. Ms. Bennett states her issue consists of her two children, Christopher James Winter Bennetts and Genevieve Marie Bennetts Lopardo. Both of her children are adults.

7 **Augustine J Pedemonte Trust (Trust)** **Case No. 11CEPR00192**

Atty **Matlak, Steven M. (for Petitioner Joseph Pedemonte)**

Status Hearing Re: Filing of the Bond

Cont. from 040312		
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		

JOSEPH PEDEMONTE, income beneficiary, filed a Petition for Appointment of a Successor Trustee.

By Order Appointing Successor Trustee filed on 2/14/12 the Court Appointed Bruce Bickel as the Successor Trustee and Ordered bond set at $3,496,544.24. This status hearing was set for the filing of the bond.

NEEDS/PROBLEMS/COMMENTS:

1. **Need Bond of $3,496,544.24 or current status report.**

Reviewed by: KT

Reviewed on: 4/9/12

Updates:

Recommendation:

File 7 - Pedemonte

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

8 **Susan Pedemonte Trust (Trust)** **Case No. 11CEPR00193**

Atty **Matlak, Steven M. (for Petitioner Joseph Pedemonte)**

Status Hearing Re: Filing of the Bond

Cont. from 040312		
	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	

JOSEPH PEDEMONTE, income beneficiary, filed a Petition for Appointment of a Successor Trustee.

By Order Appointing Successor Trustee filed on 2/14/12 the Court Appointed Bruce Bickel as the Successor Trustee and Ordered bond set at $3,496,544.24. This status hearing was set for the filing of the bond.

NEEDS/PROBLEMS/COMMENTS:

1. **Need Bond of $3,496,544.24 or current status report.**

Reviewed by: KT

Reviewed on: 4/9/12

Updates:

Recommendation:

File 8 - Pedemonte

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

9 **Pauline Genevieve Jessen (Estate)** **Case No. 11CEPR00218**

Atty **Herold, Kim M. (for Shirley Hacker – Executor/Petitioner)**

Petition for Preliminary Distribution

DOD: 02/03/11		
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**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	**FTB Notice**	

SHIRLEY HACKER, Executor, is Petitioner.

I & A - **$3,213,064.32**
POH - **$3,142,024.74** (all cash)

Petitioner states that she has performed all of the required duties as Executor of decedent's estate. All costs of administration incurred to date have been paid. However, until the Federal estate tax return is filed and a closing letter is received from the IRS, the estate is not in a condition to be closed.

Petitioner states that there are two individual retirement accounts (IRA) that are assets of the estate totaling $419,416.17. Petitioner states that distributing the IRA funds to the beneficiaries rather than retaining them in the probate estate will allow the funds to be taxed to the individual beneficiaries rather than the estate resulting in an estimated tax savings between $50,000.00 and $100,000.00. Therefore, Petitioner requests a Court order that these funds be distributed to the beneficiaries. There are sufficient other assets of the estate to pay any remaining tax liabilities, no loss to creditors or injury to the estate or any interested person will result from the distribution.

Proposed preliminary distribution, pursuant to decedent's will is to:

Marion Overgaard	-	$104,854.05
Janet Rutledge	-	$104,854.05
Fred Rutledge, Jr.	-	$19,064.37
Joyce Wickware	-	$19,064.37
Mike Rutledge	-	$19,064.37
Steve Rutledge	-	$19,064.37
Sharon Overgaard	-	$19,064.37
Glenn Overgaard	-	$19,064.37
Patricia Overgaard	-	$19,064.37
Scott Overgaard	-	$19,064.37
Kristi Overgaard	-	$19,064.37
Nancy Jones	-	$19,064.37
Shirley Hacker	-	$19,064.37

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: JF

Reviewed on: 04/09/12

Updates:

Recommendation:

File 9 - Jessen

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

10 Aida T. Berlese (Estate) Case No. 11CEPR00380

Atty Berlese, Margaret J

(1) Petition for Final Distribution on Waiver of Account and (2) Request for Determination of Attorney's Fees

Age:			NEEDS/PROBLEMS/COMMENTS:
DOD:			**OFF CALENDAR** **Continued to 04/30/12 per request of Counsel**
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		Reviewed by: JF
	Status Rpt		Reviewed on: 04/06/12
	UCCJEA		Updates:
	Citation		Recommendation:
	FTB Notice		File 10 - Berlese

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

11 John Jaurique (Estate) **Case No. 12CEPR00051**

Atty Walters, Jennifer L. (for Paul Jaurique – Son – Petitioner)

Petition for Letters of Administration with General Powers; Authorization to Administer Under the IAEA

DOD: 12-17-11		
Cont. from 030612		
	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	

SPECIAL ADMINISTRATION granted ex parte on 1-18-12 expires 3-6-12, extended to 4-17-12.

PAUL JAURIQUE, Son, is Petitioner and requests appointment as Administrator with Full IAEA without bond.

Full IAEA – ok

Decedent died intestate

Residence: Fresno
Publication: Fresno Business Journal

Estimated Value of Estate:

Personal Property:	$ 50,000.00
Real Property:	$ 300,000.00
Total:	$ 350,000.00

Probate Referee: Rick P. Smith

NEEDS/PROBLEMS/COMMENTS:

Note: Petitioner was granted power as Special Administration to make decisions related to Decedent's business and grape harvest.

1. **Petitioner states all heirs waive bond; however, no waivers are provided.**

   Therefore, need bond of $350,000.00 or waivers of bond from appropriate heirs.

Reviewed by: skc
Reviewed on: 4-9-12
Updates:
Recommendation:
File 11 - Jaurique

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

12 John Henry Morris (Det Succ) Case No. 12CEPR00079

Atty Russo, Peter (for Petitioner Dan C. Morris)

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

DOD: 8/5/11		
Cont. from 022812		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

DAN C. MORRIS, brother, is petitioner.

40 days since DOD.

No other proceedings.

Decedent died intestate.

I & A - **$87,000.00**

Petitioner requests court determination that Decedent's 100% interest in real property and $5,000.00 pass pursuant to intestate succession, in equal shares, to:

1. Archa Boozer
2. Dan Morris
3. Barbara Meadows
4. Jimmie Morris, Jr.
5. Rose Mary Bryant
6. Mary Conner
7. Anthony Morris
8. Angela Davis
9. Jamel Felker
10. Brian Felker
11. Jernell Sanders
12. Dixie Tatum
13. Carl Lee Ward
14. E.C. Morris
15. Angie Davenport
16. Cathy Sloan
17. Jamesetta Smith
18. Joetta Spencer
19. Wendy Crenshaw
20. Gail Brame
21. Rodney Smith
22. Steven Smith
23. Samantha Smith
24. Irvin Thatch, Jr.
25. Alex Thatch
26. Clarence Thatch
27. Charles Thatch

NEEDS/PROBLEMS/COMMENTS:

Continued from 2/28/12. As of 4/9/12 the following issues remain:

Need Amended Petition based on, but not limited to, the following:

1. **The Petition must be joined by all those who succeed to the property. Therefore need an amended petition with all those succeeding to the property as petitioners.**
2. **#9a(3) of the petition was not answered re: issue of a predeceased child.**
3. **Proposed distribution appears incorrect. Pursuant to the Petition the decedent had 15 siblings, some of whom predeceased without issue and some of whom predeceased leaving issue and at least 1 who post deceased. Pursuant Probate Code §240 the property shall be divided into as many equal shares as there are living members of the nearest generation of issue then living and deceased members of that generation who leave issue then living, each living member of the nearest generation who leave issue then living receiving one share and the share of each deceased member of that generation who leave issue then living divided in the same manner among his or her then living issue.**
4. **Decedent's sister, Josephine Thatch died on 10/15/2011 <u>after</u> the decedent. Therefore her estate would be entitled to her share of this decedent's estate. Her personal representative would need to join in as a petitioner as well.**
5. **Siblings Rosie Lee Morris, Dorothy Swaggert and Jimmie Morris are listed as predeceased date unknown. Need date of death pursuant to Local Rule 7.1.1D.**

Reviewed by: KT
Reviewed on: 4/9/12
Updates:
Recommendation:
File 12 - Morris

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

13 Deborah Decker (Det Succ) **Case No. 12CEPR00213**

Atty Chiu, Henry Y. (for Shannon Decker – child of decedent/Petitioner)

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

DOD: 12/01/06		
Cont. from		
	Aff.Sub.Wit.	s/p
✓	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	

SHANNON DECKER, child of decedent, is Petitioner.

40 days since DOD

No other proceedings

I & A - $56,250.00

Will dated 09/06/02 devises entire estate to Shannon Decker.

Petitioner requests Court determination that decedent's 25% interest in real property located at 1562 N. Wilson Avenue, Fresno passes to him/her pursuant to decedent's will.

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: JF

Reviewed on: 04/09/12

Updates:

Recommendation: SUBMITTED

File 13 - Decker

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

Application for Order Authorizing Modification of Restrictions on, and Transfer of, Endowment Funds

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	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

SCHOOL OF MINISTRY WESTERN DIVISION is petitioner.

Petitioner states they are a non-profit religious corporation. Petitioner is affiliated with the California-Nevada Church of God, a California non-profit religious corporation ("CA-NV Church"). Petitioner operated a school of ministry known as Western School of Christian Ministry (the "School of Ministry") until 2009. The School of Ministry was at one time known as the West Coast Christian College.

Petitioner states on or about October 22, 1987, Petitioner established the School of Ministry Endowment Fund (the "Endowment Fund"). The Endowment Fund was funded in part, with the following three gifts (the "Component Gifts"):

a) Northwest Memorial Scholarship Fund - $24,000.00
b) Paul T. and Vivian I Stroud Scholarship Fund - $10,000.00
c) William Drummond Estate Gift - $77,422.27.

In accordance with the charitable purposes expressed in the gift instruments of the three Component Gifts, Petitioner used their earnings to fund scholarships and tuition assistance awarded to students attending the School of Ministry.

Presently, the corpus of the Endowment Fund is invested in an interest-bearing checking account held at Educational Employees Credit Union and in a loan to Iglesia de Dios Church. On January 24, 2012 the remaining principal balance on the obligation of Iglesia de Dios Church was approximately $39,259.41.

Please see additional page

NEEDS/PROBLEMS/COMMENTS:
Reviewed by: KT
Reviewed on: 4/9/12
Updates:
Recommendation:
File 14 - Ministry

All assets and property with this the School of Ministry operated were owned by the NV-CA Church. Except amounts which became available from the Endowment Fund, the funds to operate the School of Ministry came entirely from the CA-NV Church. In fact, Petitioners sole asset was the Endowment Fund. Due to declining enrollment, on or about May 2009 Petitioner ceased the operation of the School of Ministry. On or about April 6, 2011, Petitioner's board of directors elected to wind up and dissolve Petitioner and transfer possession of the Endowment Fund to the CA-NV Church.

Petitioner now finds it necessary to modify the restrictions on the three Component Gifts and authorize the transfer of the Endowment Fund. Restrictions on the Component Gifts requiring that they be administered by Petitioner are impractical because Petitioner is winding up and dissolving. The restrictions on the Component Gifts that they fund scholarships and tuition assistance awarded to students attending the School of Ministry are impractical because the School of Ministry has closed its doors and no longer has students.

It would be consistent with the charitable purpose expressed in the gift instruments governing the Component Gifts to modify the restrictions contained in such gift instruments to provide that they be held and administered by the CA-NV Church to be used solely to fund scholarships and tuition assistance awarded to students of an institution of higher learning affiliated with the CA-NV Church.

Petitioner's proposed modifications to the restrictions on the Component Gifts are in accordance with their donor's probable intention and are consistent with the charitable purpose expressed in the gift instruments governing them. Further, Petitioner's proposed modifications with further the purposes of the Component Gifts. Petitioner's proposed modifications are, therefore, appropriate under the authorized provisions of Probate Code Sections 18506(b) and 18506(c).

Wherefore, Petitioner prays that:

1. The Court enter and Order that the restrictions on the Northwest Memorial Scholarship Fund, the Paul T. and Vivian I. Stroud Scholarship Fund and the William Drummond Estate Gift be modified to provide that they be held and administered by the California-Nevada Church of God, a nonprofit religious corporation, to fund scholarships or tuition assistance to students attending institutions of higher learning affiliated with the California-Nevada Church of God, but that they will otherwise be held and administered by the gift instruments.

2. The Court make an order authorizing and directing Petitioner to transfer the corpus of the Endowment Fund to the California-Nevada Church of God, to be held managed and distributed in accordance with the gift instruments.

15 John H. Taylor (Estate) **Case No. 12CEPR00238**

Atty Shepard, Jefferson S. (for Leslie Ann Sparks – daughter/Petitioner)

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

DOD: 03/05/12		
Cont. from		
	Aff.Sub.Wit.	s/p
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	w/
	Aff.Pub.	x
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

LESLIE ANN SPARKS,
daughter/named Executor without bond, is Petitioner.

Full IAEA – **NEED**

Will dated 10/07/11.

Residence: Selma
Publication: **NEED**

Estimated Value of the Estate:

Personal property	-	$200,000.00
Annual income	-	20,000.00
Total	**-**	**$220,000.00**

Probate Referee: **STEVEN DIEBERT**

NEEDS/PROBLEMS/COMMENTS:

1. **Need Affidavit of Publication.**

Reviewed by: JF
Reviewed on: 04/09/12
Updates:
Recommendation:
File 15 - Taylor

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

16A Richard Reyes, III & Terrance Reyes(GUARD/P) Case No. 12CEPR00151

Atty Davis, Deborah (pro per Petitioner/maternal aunt)
Atty Fearnside, William L. (for Objector Anita Luna)

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

Age: 3 years (twins)
DOB: 11/14/2008

Cont. from

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

TEMPORARY EXPIRES ON 4/17/12

DEBORAH DAVIS, maternal aunt, is petitioner.

Father: **UNKNOWN** – *notice dispensed with per minute order dated 2/29/12.*

Mother: **CASSANDRA ROBLES** – *consents and waives notice.*

Paternal grandparents: unknown
Maternal grandfather: Pete Robles
Maternal grandmother: Tracey Behn

Petitioner states mom is struggling with health problems and is unable to care for the minors.

Objections to Petition for Guardianship filed by Anita Luna, non-relative on 3/28/12. Objector states she has had the children in her home and provided for their physical, emotional and other needs, with the consent of the mother, for over two years. Objector states appointment of Deborah Davis is not in the best interest of the minors. The minors have no real relationship or bond with Ms. Davis and the mother has, up until February 1, 2012 been indifferent toward her children and in a sense abandoned them until recently and allowed objector to take total custody, care and control of the children.

NEEDS/PROBLEMS/COMMENTS:

1. **It appears the court dispensed with notice to the father because the petitioner alleged he was unknown. Competing Petition lists the father as Richard Reyes II. Mr. Reyes is listed as incarcerated at Wasco State Prison. Now that the father is known, Court may require notice of this hearing to Mr. Reyes.**

2. **Need *Notice of Hearing.***

3. **Need proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on:**
   a. **Paternal grandparents**
   b. **Pete Robles (maternal grandfather)**
      Tracy Behn (maternal grandmother)

Court Investigator Jennifer Daniel to provide:
1. **Court Investigator Report**
2. **Clearances**

Reviewed by: KT
Reviewed on: 4/9/12
Updates:
Recommendation:
File 16A - Reyes

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

16B Richard Reyes, III & Terrance Reyes (GUARD/P) Case No. 12CEPR00151

Atty Davis, Deborah (pro per /maternal aunt)

Atty Fearnside, William L. (for Petitioner Anita Luna)

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

Age: 3 years (twins)		
DOB: 11/14/2008		
Cont. from		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	W/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✓	**Conf. Screen**	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
	CI Report	X
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

Deborah Davis, maternal aunt, was appointed as temporary guardian.
Temporary Expires 4/17/12.

ANITA LUNA, non-relative, is petitioner.

Father: **RICHARD DANIEL REYES, II** – *incarcerated at Wasco.*

Mother: **CASSANDRA ROBLES**

Paternal grandfather: Richard Reyes
Paternal grandmother: Mary Ann Robinson– *served by mail on 3/23/12*
Maternal grandfather: Tracy Behear
Maternal grandmother: not listed

Petitioner states the mother is disabled and unable and has been unwilling for two years to take care of her minor sons. Petitioner has cared for the minors with the consent of the mother for over two years. The minors have a bond with petitioner.

NEEDS/PROBLEMS/COMMENTS:

1. **Need proof of personal service of the *Notice of Hearing* along with a copy of the Petition or *Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
   a. **Richard Daniel Reyes, II (father)** *Note: Father was served by mail however Probate Code 1511 requires personal service.*
   b. **Cassandra Robles (mother)** *Note: Father was served by mail however Probate Code 1511 requires personal service.*
2. **Need proof of service of the *Notice of Hearing* along with a copy of the Petition or *Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
   a. **Richard Reyes (paternal grandfather)**
   b. **Tracy Behear (maternal grandfather?)**
   c. **Maternal grandmother**
3. **Need Order**

Court Investigator Jennifer Daniel to provide:

1. **Court Investigator's Report**
2. **Clearances**

Reviewed by: KT
Reviewed on: 4/9/12
Updates:
Recommendation:
File 16B - Reyes

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

17 Mariah Vivian Ortega (GUARD/P) **Case No. 11CEPR00756**

Atty Colmenero, Vivian (pro per Guardian/paternal great grandmother)

Atty Mojarro, Yvette (pro per Petitioner/mother)

Petition for Termination of Guardianship

Age: 4 years		
DOB: 11/27/07		
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	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

YVETTE MOJARRO, mother, is petitioner.

VIVIAN COLMENERO, paternal great-grandmother, was appointed guardian on 1/26/12.

Father: **VINCENT ORTEGA**

Paternal grandfather: George Ortega
Paternal grandmother: Alice Perez
Maternal grandfather: Unknown
Maternal grandmother: Margaret Gonzalez

Petitioner states ???

Court Investigator Dina Calvillo's Report filed on 3/19/12 states it appears premature to terminate the guardianship at this time, as it was just established on 1/26/12. It is therefore recommended that the termination of the guardianship be **DENIED**.

NEEDS/PROBLEMS/COMMENTS:

1. **Petition does not indicate why terminating the guardianship is in the minor's best interest.**
2. **Need *Notice of Hearing.***
3. **Need proof of service of the *Notice of Hearing* on:**
   a. **Vivian Colmenero (guardian)**
   b. **Vincent Ortega (father)**
   c. **George Ortega (paternal grandfather)**
   d. **Alice Perez (paternal grandmother)**
   e. **Margaret Gonzalez (maternal grandmother)**

Reviewed by: KT
Reviewed on: 4/9/12
Updates:
Recommendation:
File 17 - Ortega

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

18 Angel Miramontes and Yareli Miramonte (GUARD/P) Case No. 12CEPR00048

Atty Corona, Maria (for Petitioner/maternal grandmother Maria Corona)

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

Angel age: 8 years DOB: 12/8/2003		
Yareli age 7 months DOB: 6/2/2011		
Cont. from 031312		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✓	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
	Objections	
	Video Receipt	
✓	CI Report	
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

Temporary Expires 4/17/2012

MARIA CORONA, maternal grandmother, is petitioner.

Angel's father: **ANGEL MIRANDA** – *present in Court on 3/13/12.*

Yareli's father: **LUIS FABIAN GUTIERREZ**

Mother: **YAIRA MIRAMONTES –** *consents and waives notice.*

Angel's paternal grandfather: Fernando Miranda
Angel's paternal grandmother: Liliana Miranda
Yareli's paternal grandfather: Luis Gutierrez - *Notice dispensed with by minute order dated 3/13/12.*
Yareli's paternal grandmother: Mrs. Gutierrez - *Notice dispensed with by minute order dated 3/13/12.*
Maternal grandfather: Hector Miramontes – *Notice dispensed with by minute order dated 3/13/12.*

Petitioner states on 1/8/2012 the mother was arrested for hitting her oldest child Angel. CPS place a safety plan where Petitioner was to continue caring for the children and was to keep the mother away from the home where the children were residing. Petitioner is fearful that once released the mother will come and pick up the children. Petitioner is also concerned that the fathers will come and pick up the children. Angel's father has a history of spousal abuse and Yareli's father is an alcoholic and abuses drugs.

Court Investigator Dina Calvillo's Report filed on 2/24/12.

NEEDS/PROBLEMS/COMMENTS:

Continued from 3/13/12. Minute order states the court orders visitation remain as long as the guardian believes they are going well. The court orders an investigator to interview Angel Miranda and Yaira Miramontes and also look into the status of childcare.

1. **Need *Notice of Hearing*.**
2. **Need proof of personal service of the *Notice of Hearing* along with a copy of the petition or *Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
   a. **Luis Fabian Gutierrez (Aareli's father)**
3. **Need proof of service of the *Notice of Hearing* along with a copy of the petition or *Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
   a. **Fernando Miranda (Angel's paternal grandfather)**
   b. **Liliana Miranda (Angel's paternal grandmother)**

Court Investigator Dina Calvillo to provide supplemental investigation report.

Reviewed by: KT
Reviewed on: 4/9/12
Updates:
Recommendation:
File 18 - Miramontes

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

19 Taylor Michelle Morgenstern (GUARD/P) **Case No. 12CEPR00154**

Atty Morgenstern, Jacqueline (pro per – step-mother/Petitioner)

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

Age: 14
DOB: 02/11/98

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	x
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

NO TEMPORARY IN PLACE; TEMPORARY DENIED ON 03/01/12

JACQUELINE MORGENSTERN, step-mom, is Petitioner.

Father: **ROBERT MORGENSTERN** – *consent & waiver of notice filed 02/14/12*

Mother: **ERIN ELSTON**

Maternal grandfather: DENISE LYNCH
Maternal grandmother:DECEASED

Paternal grandmother: SHARON KARRAKER
Paternal grandfather: HERBERT MORGENSTERN

Petitioner states that the minor has been living in an unstable environment and has been bounced around various family members' homes. Father is currently incarcerated and the minor and her mother have a volatile relationship that has included emotional neglect, abandonment and physical altercations which required law enforcement intervention. Petitioner states that the minor is not currently attending school, has had problems at school, been expelled and suspended from school in the past. Further, Petitioner states that due to lack of supervision, the minor has started smoking marijuana. Petitioner states that she can provide a safe and stable home for the minor.

Declaration of mother, Erin Elston, filed 03/01/12 objects to the Petitioner being appointed as guardian of the minor. The Declaration states that she has had ongoing problems with Petitioner who she claims has falsified information or manipulated facts to get what she wants. Ms. Elston states that Petitioner and Taylor's father have a volatile relationship and has only seen Taylor a handful of times in her life. Ms. Elston states that she has had a rocky relationship with Taylor, but has sent Taylor to live with her paternal grandmother, Sharon Karraker, and she is doing well. Ms. Elston wants Taylor to remain living with her paternal grandmother. Also attached to the declarations are letters attesting to Sharon Karraker's character and fitness to care for Taylor as well as letters from a church youth group that Taylor has been attending.

Court Investigator Dina Calvillo's report was filed – NEED REPORT.

NEEDS/PROBLEMS/COMMENTS:

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:**
   - Erin Elston (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:**
   - Denise Lynch (maternal grandmother)
   - Sharon Karraker (paternal grandmother)
   - Herbert Morganstern (paternal grandfather)
4. **Need CI report and Clearances (CI to provide).**

Reviewed by: JF

Reviewed on: 04/09/12

Updates:

Recommendation:

File 19 – Morgenstem

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012

20 Ryan Jacob Franklin-Powles, Christopher Allen Franklin-Powles, and Mariah Lynn Proctor-Powles

Case No. 12CEPR00157

Atty Powles, Vada Jean (pro per – maternal grandmother/Petitioner)

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

Ryan, 5 **DOB: 09/07/06**		
Christopher, 3 **DOB: 11/29/08**		
Mariah, 2 **DOB: 02/14/10**		
Cont. from		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	x
	Aff.Mail	x
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	n/a
✓	**Conf. Screen**	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
	CI Report	x
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

NO TEMPORARY REQUESTED

VADA JEAN POWLES, maternal grandmother, is Petitioner.

Father: **CODI RYAN HEFLIN-FRANKLIN** – *consent and waiver of notice filed 02/15/12*

Mother: **MIRANDA LYNN-POWLES** – *consent and waiver of notice filed 02/15/12*

Paternal grandparents: NOT LISTED

Maternal grandfather: CHRISTOPHER FRANKLIN POWLES, SR.

Petitioner states that the parents gave her temporary custody in writing before they disappeared. Petitioner states that she has helped care for all three children since birth and has their best interests at heart.

Court Investigator Julie Negrete's report was filed – NEED REPORT.

NEEDS/PROBLEMS/COMMENTS:

1. **Need *Notice of Hearing.***
2. **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:**
   - Christopher Franklin Powles, Sr. (maternal grandfather)
   - paternal grandparents
3. **Need CI report and clearances (CI to provide).**

Reviewed by: JF	
Reviewed on: 04/09/12	
Updates:	
Recommendation:	
File 20 - Powles	

Dept. 303, 9:00 a.m. Tuesday, April 17, 2012