

(1) First and Final Account and Report of Guardian of the Estate and (2) Petition to Deliver Assets

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| | | RHONDA SLATER , Mother and Guardian of the Estate, is Petitioner. | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> Minor turned 18 in 2008.</p> <p>1. Petitioner states she was not informed of the requirement for filing I&A or accountings for the three guardianship estates. However, Petitioner signed the Duties of Guardian and Acknowledgment of Receipt (Form GC-248) on 2-2-06, filed 2-23-06, which outlines the duties of guardians of the estate, including inventory and accounts, and further, was represented by counsel (attorney Janet Wright) when she was appointed. Examiner notes that although the Court at that time did not set status hearings for every required step in every case, it is the <u>fiduciary's</u> duty to be aware of the requirements of the office, and the attorney's duty as counsel, and the requirement of signing and filing of Form GC-248 ensures that awareness.</p> <p>2. Petitioner states the only asset of the guardianship estate is Lars' interest in the residence; however, the Stipulated Judgment in the family law action 02CEFL04083 appears to award additional assets to each of the minor children, including the interest in two retirement accounts, proceeds from the sale of two vehicles and a life insurance policy. The Court may require clarification as to the disposition of the other assets awarded pursuant to the Family Law judgment.</p> |
| | | Account period: 4-4-06 through 12-31-12 | |
| | | Accounting: \$57,115.00 | |
| | | Beginning POH: \$51,989.00 | |
| | | Ending POH: \$51,989.00 | |
| | | (An 8.887% interest in real property) | |
| <input type="checkbox"/> | Aff.Sub.Wit. | | |
| <input checked="" type="checkbox"/> | Verified | | |
| <input type="checkbox"/> | Inventory | | |
| <input type="checkbox"/> | PTC | | |
| <input type="checkbox"/> | Not.Cred. | | |
| <input checked="" type="checkbox"/> | Notice of Hrg | | |
| <input checked="" type="checkbox"/> | Aff.Mail | w/o | |
| <input type="checkbox"/> | Aff.Pub. | | |
| <input type="checkbox"/> | Sp.Ntc. | | |
| <input type="checkbox"/> | Pers.Serv. | | |
| <input type="checkbox"/> | Conf. Screen | | |
| <input type="checkbox"/> | Letters | | |
| <input type="checkbox"/> | Duties/Supp | | |
| <input type="checkbox"/> | Objections | | |
| <input type="checkbox"/> | Video Receipt | | |
| <input type="checkbox"/> | CI Report | | |
| <input type="checkbox"/> | 9202 | | |
| <input checked="" type="checkbox"/> | Order | | |
| <input type="checkbox"/> | Aff. Posting | | |
| <input type="checkbox"/> | Status Rpt | | |
| <input type="checkbox"/> | UCCJEA | | |
| <input type="checkbox"/> | Citation | | |
| <input type="checkbox"/> | FTB Notice | | |

3A John R. Panzak (Estate)

Case No. 10CEPR00505

Atty Shekoyan, James E., of Baker Manock & Jensen (for John R. Panzak, Jr., Deceased Executor; and for Petitioner Sharon Panzak, spouse)

Atty Risner, Randy J., sole practitioner (for Competing Petitioner Gordon Panzak, son)

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

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| DOD: 3/12/2010 | <p>JOHN R. PANZAK, JR., son, was appointed Executor of the estate and <i>Letters</i> issued on 8/11/2010.</p> <p>John Panzak, Jr., served as Trustee of the JOHN ROBERT PANZAK TRUST dated 2007 since Decedent's death in March 2010; beneficiaries of the Will are John R. Panzak, Jr., Gordon Panzak, and the Trust; beneficiaries of the Trust are John R. Panzak, Jr., and Gordon Panzak.</p> <p>Petitions by Claimants GORDON PANZAK, son, and CHARLES PANZAK, son, were filed on 3/9/2011 seeking the Court's determination of ownership of specific items of property including a pick-up truck and real property located in Santa Cruz. Following the filing of demurrers, amended petitions, and amended demurrers, an <i>Order on Demurrer to Second Amended Petition to Determine Ownership of Real Property</i> signed on 1/31/2012 sustains the general demurrer to the second amended petition without leave to amend.</p> <p style="text-align: center;">~Please see additional page~</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Page 3B is the <i>Petition for Letters of Administration with Will Annexed</i> (for successor administration) filed by SHARON PANZAK, which has been continued to 4/29/2013.</p> <p>Page 3C is the <i>Petition for Letters of Administration with Will Annexed</i> (for successor administration) filed by GORDON PANZAK, which has been continued to 4/29/2013.</p> <p>Continued from 1/11/2013. Minute Order states the Court informs counsel that an accounting will be needed. Matter continued to 4/19/2013.</p> <p>Note: <i>Petition for Letters of Administration with Will Annexed</i> filed by SHARON PANZAK states the Executor, JOHN R. PANZAK, JR., died on 2/15/2013.</p> <p>1. Need First Account for the period of 8/11/2010 to 2/15/2013, representing the administration of the deceased personal representative, JOHN R. PANZAK, JR., pursuant to Probate Code § 10953(c), which provides, in pertinent part, if a personal representative is appointed for the deceased personal representative, the Court may compel the attorney of record in the estate proceeding to file an account of the administration of the deceased personal representative.</p> |
| Cont. from 090712, 011113 | | |
| Aff.Sub.W | | |
| Verified | | |
| Inventory | | |
| PTC | | |
| Not.Cred. | | |
| Notice of Hrg | | |
| Aff.Mail | | |
| Aff.Pub. | | |
| Sp.Ntc. | | |
| Pers.Serv. | | |
| Conf. Screen | | |
| Letters | | |
| Duties/S | | |
| Objection | | |
| Video Receipt | | |
| Stat. Report | | |
| 9202 Order | | |
| Aff. Post | | |
| Status Rpt | | |
| UCCJEA | | |
| Citation | | |
| FTB Notice | | |
| Reviewed by: LEG | | |
| Reviewed on: 4/12/13 | | |
| Updates: | | |
| Recommendation: | | |
| File 3A - Panzak | | |

Additional Page 3A, John R. Panzak (Estate), Case No. 10CEPR00505

Status Report of Personal Representative filed 1/8/2013 by John R. Panzak, Jr., states:

- The probate estate has a single asset which is a brokerage account with Merrill Lynch; most of Decedent's assets were in his living trust which are not part of the probate estate;
- Gordon Panzak filed two litigation matters between himself and Petitioner, as the Executor of the estate; one of the litigation matters involves the probate estate;
- The second matter is a civil litigation action filed by Mr. Panzak (Case #11CECG00789) regarding the Decedent's trust and trust assets; the issues in the civil litigation matter are entwined with the issues in the probate estate;
- The Petitioner was prepared to commence trial in the civil litigation action, which was scheduled to begin on 12/12/2012;
- On 12/6/2012, just six days prior to the scheduled civil litigation action trial date, Gordon Panzak dismissed this case without prejudice, and on the same day [emphasis in original], he filed a new civil litigation action (Case #12CECG03842) citing the same causes of action and the same grievances as alleged in the action he just dismissed – the new complaint is basically a copy of the complaint that was dismissed the same day (please refer to copy of new complaint filed 12/6/2012 attached as Exhibit A);
- As previously stated, the issues in the civil litigation matter are entwined with the issues in the probate estate; as soon as the civil litigation is resolved, Petitioner intends to close the probate estate.
- **Petitioner requests the Court order that the administration of the estate be allowed to continue.**

Notes for background:

- **The filing of demurrers to the petition and to amended petitions resulted as follows:** Court issued an Order on Demurrer to First Amended Petition to Determine Ownership of Real Property on 11/1/2011, which sustained the demurrer filed by John Panzak, Jr. to the first amended petition filed by Gordon Panzak. Second amended petition to determine ownership was filed by Gordon Panzak on 11/21/2011, and demurrer was filed on 12/30/2011.
- **Notice of Status Hearing filed on 7/26/2012** set a status hearing on 9/7/2012 for failure to file a first account or petition for final distribution in the estate. Clerk's Certificate of Mailing shows the notice of status hearing was mailed to Attorney James Shekoyan and John R. Panzak, Jr. on 7/26/2012.
- **Status Report of Personal Representative filed by John R. Panzak, Jr. on 8/23/2012 states:**
 - The probate estate has a single asset which is a brokerage account with Merrill Lynch; most of Decedent's assets were in his living trust which are not part of the probate estate;
 - There are currently two pending litigation matters between Petitioner and his brother, Gordon Panzak; one of the litigation matters involves the probate estate, and the second matter involves a civil litigation action filed by Gordon Panzak in Case #11CECG00789 regarding Decedent's Trust and Trust assets; the issues in the civil litigation matter are entwined in the probate estate matter, therefore as soon as the civil litigation is resolved, Petitioner intends to close the probate estate; a Mandatory Settlement Conference in the civil litigation has been scheduled for **11/13/2012**, and a trial date is set of **12/12/2012**;
 - Several creditor's claims were filed with the Court or presented against the estate and have been rejected by Petitioner, in sum as follows: Gordon Panzak filed on 12/8/2010 several claims including ½ interest in Santa Cruz property, rent waste and damage, pick-up truck and furniture, for a claimed value totaling in excess of **\$1 million**; all rejected on 2/1/2011;
 - An Inventory and Appraisal was filed on 4/25/2011 showing an estate value of **\$520,693.06** (please refer to Schedule A attached for summary of the inventory);
 - The devisee of the estate pursuant to Decedent's Will admitted to probate on 8/22/2010 is John R. Panzak, Jr., Trustee of the John R. Panzak Living Trust.

Atty Shekoyan, James E., of Baker Manock & Jensen (for John R. Panzak, Jr., Deceased Executor; and for Petitioner Sharon Panzak, spouse)
Atty Risner, Randy J., sole practitioner (for Competing Petitioner Gordon Panzak, son)

Petition for Probate of Will and for Letters of Administration with Will Annexed [filed by Sharon Panzak], Authorization to Administer Under the Independent Administration of Estates Act

| | | |
|---|---|--|
| DOD: 3/12/2010 | SHARON PANZAK , spouse, is Petitioner. | NEEDS/PROBLEMS/COMMENTS: CONTINUED TO 4/29/2013 Per Attorney Request |
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| Cont. from | | |
| <input type="checkbox"/> Aff.Sub.Wit. | | |
| <input type="checkbox"/> Verified | | |
| <input type="checkbox"/> Inventory | | |
| <input type="checkbox"/> PTC | | |
| <input type="checkbox"/> Not.Cred. | | |
| <input type="checkbox"/> Notice of Hrg | | |
| <input type="checkbox"/> Aff.Mail | | |
| <input type="checkbox"/> Aff.Pub. | | |
| <input type="checkbox"/> Sp.Ntc. | | |
| <input type="checkbox"/> Pers.Serv. | | |
| <input type="checkbox"/> Conf. Screen | | |
| <input type="checkbox"/> Letters | | |
| <input type="checkbox"/> Duties/Supp | | |
| <input type="checkbox"/> Objections | | |
| <input type="checkbox"/> Video Receipt | | |
| <input type="checkbox"/> CI Report | | |
| <input type="checkbox"/> 9202 | | |
| <input type="checkbox"/> Order | | |
| <input type="checkbox"/> Aff. Posting | | |
| <input type="checkbox"/> Status Rpt | | |
| <input type="checkbox"/> UCCJEA | | |
| <input type="checkbox"/> Citation | | |
| <input type="checkbox"/> FTB Notice | | |
| | Reviewed by: LEG | |
| | Reviewed on: 4/12/13 | |
| | Updates: | |
| | Recommendation: | |
| | File 3B - Panzak | |

Atty Shekoyan, James E., of Baker Manock & Jensen (for John R. Panzak, Jr., Deceased Executor; and for Petitioner Sharon Panzak, spouse)
 Atty Risner, Randy J., sole practitioner (for Competing Petitioner Gordon Panzak, son)

Petition for Probate of Will and for Letters of Administration with Will Annexed [filed by Gordon Panzak], Authorization to Administer Under the Independent Administration of Estates Act

| | | |
|---|--|---------------------------------|
| DOD: 3/12/2010 | GORDON PANZAK , son, is Petitioner. | NEEDS/PROBLEMS/COMMENTS: |
| | | CONTINUED TO 4/29/2013 |
| | | Per Attorney Request |
| Cont. from | | |
| <input type="checkbox"/> Aff.Sub.Wit. | | |
| <input type="checkbox"/> Verified | | |
| <input type="checkbox"/> Inventory | | |
| <input type="checkbox"/> PTC | | |
| <input type="checkbox"/> Not.Cred. | | |
| <input type="checkbox"/> Notice of Hrg | | |
| <input type="checkbox"/> Aff.Mail | | |
| <input type="checkbox"/> Aff.Pub. | | |
| <input type="checkbox"/> Sp.Ntc. | | |
| <input type="checkbox"/> Pers.Serv. | | |
| <input type="checkbox"/> Conf. Screen | | |
| <input type="checkbox"/> Letters | | |
| <input type="checkbox"/> Duties/Supp | | |
| <input type="checkbox"/> Objections | | |
| <input type="checkbox"/> Video Receipt | | |
| <input type="checkbox"/> CI Report | | |
| <input type="checkbox"/> 9202 | | |
| <input type="checkbox"/> Order | | |
| <input type="checkbox"/> Aff. Posting | | |
| <input type="checkbox"/> Status Rpt | | |
| <input type="checkbox"/> UCCJEA | | |
| <input type="checkbox"/> Citation | | |
| <input type="checkbox"/> FTB Notice | | |
| | | Reviewed by: LEG |
| | | Reviewed on: 4/12/13 |
| | | Updates: |
| | | Recommendation: |
| | | File 3C - Panzak |

Probate Status Hearing Re: Filing of the Third Account

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| Age: 12 years | <p>THE CYNTHIA WELCH SPECIAL NEEDS TRUST was established pursuant to an ORDER ESTABLISHING TERMS OF CYNTHIA WELCH SPECIAL NEEDS TRUST AND FOR CONTINUING COURT JURISDICTION UPON CREATION OF TRUST IN UNDERLYING ACTION on 05/02/05.</p> <p>ORDER APPROVING PETITION TO EXCLUDE FUNDS FROM THE ESTATE AND TO DIRECT PAYMENT TO SPECIAL NEEDS TRUST was entered in the underlying civil action on 05/12/05.</p> <p>Trustee, CAROLYN BATES-WELCH, filed a bond in the amount of \$125,000.00 on 07/22/05.</p> <p>The First Account and Report of Trustee for the period of 06/01/05 – 12/31/06 was approved on 09/10/07.</p> <p>The Second Account and Report of Trustee for the period of 01/01/07 – 12/31/10 was approved on 09/21/12.</p> <p>Notice of Status Hearing filed 03/13/13 set this matter for status regarding filing of the 3rd Account. Clerk’s Certificate of Mailing states that a copy of the Notice of Status Hearing was mailed to Attorney Lanier Thomas on 03/13/13.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need 3rd Account and report of Trustee. |
| DOB: 7/9/2000 | | |
| Cont. from | | |
| <input type="checkbox"/> Aff.Sub.Wit. | | |
| <input type="checkbox"/> Verified | | |
| <input type="checkbox"/> Inventory | | |
| <input type="checkbox"/> PTC | | |
| <input type="checkbox"/> Not.Cred. | | |
| <input type="checkbox"/> Notice of Hrg | | |
| <input type="checkbox"/> Aff.Mail | | |
| <input type="checkbox"/> Aff.Pub. | | |
| <input type="checkbox"/> Sp.Ntc. | | |
| <input type="checkbox"/> Pers.Serv. | | |
| <input type="checkbox"/> Conf. Screen | | |
| <input type="checkbox"/> Letters | | |
| <input type="checkbox"/> Duties/Supp | | |
| <input type="checkbox"/> Objections | | |
| <input type="checkbox"/> Video Receipt | | |
| <input type="checkbox"/> CI Report | | |
| <input type="checkbox"/> 9202 | | |
| <input type="checkbox"/> Order | | |
| <input type="checkbox"/> Aff. Posting | | |
| <input type="checkbox"/> Status Rpt | | |
| <input type="checkbox"/> UCCJEA | | |
| <input type="checkbox"/> Citation | | |
| <input type="checkbox"/> FTB Notice | | |
| | | Reviewed by: JF |
| | | Reviewed on: 04/12/13 |
| | | Updates: |
| | | Recommendation: |
| | | File 4 – Welch |

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|---------------|--|--|
| Age: | | NEEDS/PROBLEMS/COMMENTS: OFF CALENDAR Corrected First Account and Report of Guardian filed 03/22/13 and set for hearing on 04/30/13 |
| DOD: | | |
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| Cont. from | | |
| Aff.Sub.Wit. | | |
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| Letters | | |
| Duties/Supp | | |
| Objections | | |
| Video Receipt | | |
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| Order | | |
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| Status Rpt | | |
| UCCJEA | | |
| Citation | | |
| FTB Notice | | |
| | | Reviewed by: JF |
| | | Reviewed on: 04/12/13 |
| | | Updates: |
| | | Recommendation: |
| | | File 5 - Mommer |

6 Minerva Clover (CONS/P)

Case No. 08CEPR00234

Atty Walters, Jennifer L. (for Petitioner/conservator Frances Kennedy)
Atty Rindlisbacher, Curtis (court appointed for conservatee)

Status of Accounting

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|--------------------------|---|--|
| Age: 76 years | <p>FRANCES KENNEDY, conservator, filed the Second Account Current and Report of Conservator and Petition for its Settlement which was heard on 1/4/2011.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 3/15/13. Minute order states Ms. Walters informs the court that they are having difficulty selling the house. Ms. Walters requests a continuance.</p> <ol style="list-style-type: none"> 1. Filing fee of \$355.00 for the filing of the Second Account is past due. 2. Need current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties. |
| | | |
| | <p>Minute order from that date does not indicate whether or not the Second account was approved or denied and the order was not signed.</p> | |
| | <p>Minute order states the court orders that the bond of \$10,000 remain. The debt is added to the lien. The authorization to sell the residence is granted. The Court denies the fee waiver.</p> | |
| Cont. from 031513 | | |
| Aff.Sub.Wit. | | |
| Verified | | |
| Inventory | | |
| PTC | | |
| Not.Cred. | | |
| Notice of Hrg | | |
| Aff.Mail | | |
| Aff.Pub. | | |
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| Duties/Supp | | |
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| Video Receipt | | |
| CI Report | | |
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| Order | | |
| Aff. Posting | | |
| Status Rpt | | |
| UCCJEA | | |
| Citation | | |
| FTB Notice | | |
| | | Reviewed by: KT |
| | | Reviewed on: 4/16/13 |
| | | Updates: |
| | | Recommendation: |
| | | File 6 - Clover |

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

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| DOD: 3/8/2006 | <p>ARACELI SOTO GOMEZ was appointed Administrator without bond with full IAEA authority on 7/27/2009.</p> <p>Letters issued on 7/27/2009. Inventory and appraisal was due 12/27/2009.</p> <p>First Account or Petition for Final Distribution was due 7/27/2010. Notice of Status Hearing was mailed to attorney Robert W.M. Cross and administrator Araceli Soto Gomez on 9/6/12.</p> <p>Status Report filed 11/8/12 states they are not yet able to furnish the court with an inventory and appraisal. They are requesting a continuance for at least a month to allow sufficient time to complete both the inventory and appraisal and to filing accounting report.</p> <p>I&A filed 12-4-12 reflects a total estate value of \$68,035.00 consisting of a 1/3 interest in real property, various personal property items, and three vehicles.</p> <p>Status Report (unverified) filed 3-14-13 requests continuance to at least 4-19-13 because clearance of title has not yet been completed.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 11-9-12, 12-14-12, 2-1-13, 3-15-13</u></p> <p>Status Report filed 12-12-12 states Attorney Cross has only a few days ago learned of a title problem which he is in the process of addressing. Apparently after the decedent's divorce in 1983, the decedent was awarded the property; however, because the judgment does not contain a full property description or even the APN, there is no record of transfer to the decedent alone. It appears application will need to be made in the dissolution action to either modify the judgment or have the clerk sign a deed conveying title in accordance with the judgment. Attorney Cross is unable to attend the hearing on time, and requests the matter be trailed, or preferably, continued to any date between Jan 15-Feb 15, 2013.</p> <p>Minute Order 2-1-13: Counsel informs the Court that he is working on getting the title cleared. Counsel is directed to submit a status report.</p> <p>Minute Order 3-15-13: Counsel informs the Court that title to the property has not been cleared. Counsel requests a continuance.</p> <p>As of 4-15-13, nothing further has been filed.</p> <p>1. Need first account or petition for final distribution <u>or</u> current written status report pursuant to Local Rule 7.5.</p> |
| Cont. from 110912, 121412, 020113, 031513 | | |
| Aff.Sub.Wit. | | |
| Verified | | |
| Inventory | | |
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| Not.Cred. | | |
| Notice of Hrg | | |
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| Aff.Pub. | | |
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| Duties/Supp | | |
| Objections | | |
| Video Receipt | | |
| CI Report | | |
| 9202 | | |
| Order | | |
| Aff. Posting | | |
| Status Rpt | X | |
| UCCJEA | | |
| Citation | | |
| FTB Notice | | |
| Reviewed by: KT / skc | | |
| Reviewed on: 4-15-13 | | |
| Updates: | | |
| Recommendation: | | |
| File 7 - Soto | | |

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

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| DOD: 09/03/07 | <p>ROSARIO GUIZAR, sister, was appointed Administrator with full IAEA and bond set at \$70,000.00 on 04/15/10. Bond was filed on 10/15/10 and Letters were issued on 10/15/10.</p> <p>Inventory & Appraisal filed 11/03/10 shows an estate value of \$70,327.73.</p> <p>Notice of Status Hearing filed 10/19/12 set this matter for status. Clerk's certificate of mailing states that the Notice of Status Hearing was mailed to Edward L. Fanucchi on 10/19/12.</p> <p>Minute order dated 12/14/12 states Counsel informs the Court that there may be a step-son whom they've been unable to find. The Court indicates to counsel that an accounting will be to be filed by the next hearing as well as a declaration as to what is being done to locate the heir and bring this matter to closure.</p> <p>Status Report filed on 2/6/13 states the Administrator Rosario Guizar is currently having a skip trace performed by First Legal Network in an attempt to locate the step-son. The family has had no contact with him in years past. The paralegal is hopeful to have additional information by the end of February 2013.</p> <p>Skip Trace Report on Juan Garza filed on 3/5/13 states they were unable to locate Juan Garza.</p> <p>Unverified Status Report filed on 3/13/13 states that since the heirs of the estate do not wish to cooperate with the sale or transfer of the ½ interest in real property belonging to the estate, and due to the Creditor's Claim of the Department of Health Services, an accounting of the assets will be prepared and filed for distribution of the estate's ½ interest in the real property to the heirs-at-law subject to the Department of Health Services lien. Said accounting should be ready for filing by April 15, 2013.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 3/15/13. Minute order states Counsel informs the court that the accounting should be filed by 4/15/13. As of 1/16/13 the accounting has not been filed.</p> <p>1. Need current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p> | |
| Cont. from 121412, 020813, 031513 | | | |
| Aff.Sub.Wit. | | | |
| Verified | | | |
| Inventory | | | |
| PTC | | | |
| Not.Cred. | | | |
| Notice of Hrg | | | |
| Aff.Mail | | | |
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| Duties/Supp | | | |
| Objections | | | |
| Video Receipt | | | |
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| 9202 | | | |
| Order | | | |
| Aff. Posting | | | |
| Status Rpt | | | |
| UCCJEA | | | |
| Citation | | | |
| FTB Notice | | | |
| Reviewed by: KT | | | |
| Reviewed on: 4/15/13 | | | |
| Updates: | | | |
| Recommendation: | | | |
| File 8 - Garcia | | | |

Atty Keeler, Jr., William J.; Marshall, Jared; Burnside, Leigh (of Dowling Aaron Inc., for Bertha Law, Special Administrator)

Probate Status Hearing Re: Filing of the Petition for Final Distribution

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| DOD: 3/17/2007 | <p>BERTHA LAW, grandmother, was appointed Special Administrator on 5/13/2010 with special powers and bond of \$1,000.00. <i>Letters of Special Administration</i> expired 11/18/2010; extended to 4/19/2013.</p> <p>Order for Probate dated 5/13/2010 grants the following special powers to the Special Administrator: To request and obtain any and all medical and pharmaceutical records and files relating to or pertaining to the Decedent from Community Regional Medical Center in Fresno; Rite-Aid on Fresno Street; Westside Pharmacy on Fresno Street; and any other health care provider or pharmaceutical provider.</p> <p>Status Report filed by Bertha Law on 4/16/2013 states:</p> <ul style="list-style-type: none"> On 5/13/2010, this Court appointed Petitioner Special Administrator for the purpose of enabling her to obtain copies of medical and pharmaceutical records pertaining to Decedent's care at Community Regional Medical Center; Decedent died while or shortly after she received medical care at the Center, and Petitioner had reason to believe that Decedent's death was the result of negligence or unsafe medications; Petitioner ultimately retained counsel in Lafayette, Louisiana, to pursue claims against GlaxoSmithKline in the U.S. District Court for the Eastern District of Pennsylvania; Pending in that Court is "multi district litigation" again GlaxoSmithKline and SmithKlineBeecham, Corp., involving claims by plaintiffs across the United States arising out of the use of certain diabetes drugs known as Avandia, Avandamet and Avandaryl; Decedent was allegedly taking one or more such medications prior to her death; <p style="text-align: center;">~Please see additional page~</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 10/18/2012. Minute Order states Counsel informs the Court that the class action lawsuit is nearly resolved and everything should be completed within six months. He further advises that the letters of special administration have expired. The Court advises counsel that it will consider this a hearing for extension of special administration powers and grant the request with an expiration date of 4/19/2013.</p> <ol style="list-style-type: none"> <i>Status Report</i> filed 4/16/2013 is not verified as required by Local Rule 7.5(B), which provides that in all matters set for Status Hearing, except if the required document is filed, a verified Status Report must be filed no later than 10 days before the hearing. <i>Petition</i> does not indicate a need for nor request extension of <i>Letters of Special Administration</i>, which expire on 4/19/2013. If Petitioner deems extension is necessary, need proposed letters for issuance if Court extends the special administration powers. |
| Cont. from 111810, 030311, 060211, 011912, 101812 | | |
| Aff.Sub.Wit. | | |
| Verified X | | |
| Inventory | | |
| PTC | | |
| ✓ Status Report | | |
| Notice of Hrg | | |
| ✓ Aff.Mail W/ | | |
| Aff.Pub. | | |
| Sp.Ntc. | | |
| Pers.Serv. | | |
| Conf. Screen | | |
| Letters X | | |
| Duties/Supp | | |
| Objections | | |
| Video Receipt | | |
| CI Report | | |
| 9202 | | |
| Order | | |
| Aff. Posting | | |
| Status Rpt | | |
| UCCJEA | | |
| Citation | | |
| FTB Notice | | |
| Reviewed by: LEG | | |
| Reviewed on: 4/12/13 | | |
| Updates: 4/17/13 | | |
| Recommendation: | | |
| File 9 - Wright | | |

Status Report filed 4/16/2013, continued:

- Attorney Burnside is informed and believes and thereon alleges that at this time, and in connection with the Pennsylvania lawsuit, GlaxoSmithKline has accepted claims from plaintiffs; Petitioner, through her Louisiana attorneys, has tendered claims to GlaxoSmithKline for consideration;
- Attorney Burnside further understands that preliminary settlements of some claims were reached, including claims submitted by Petitioner;
- However, there is now an appeal of the preliminary settlement pending; Petitioner anticipates the appeal will result in a larger settlement award for Decedent's estate, although the amount is unknown at this time;
- Petitioner's Louisiana counsel, The Whitehead Law Firm, has informed Attorney Burnside's office that the timeframe for GlaxoSmithKline's disbursement of settlement proceeds is approximately 6 to 8 weeks from the date of this Status Report;
- At this time, there are no assets in Decedent's estate; depending upon the nature of the settlement, if any, reached with GlaxoSmithKline, there may be assets coming to Decedent's estate that will need to be administered;
- Accordingly, **request is hereby made that this Court set a further status conference in this matter for July or August 2013.**

Notes for Background:

- Decedent died while receiving care at Community Regional Medical Center. Prior to the Special Administrator's appointment, she and her attorneys had made several requests to obtain Decedent's complete medical file and/or pharmaceutical records from the medical center, and the requests had been refused based upon the position that California law requires some type of Court document to release the information. *Letters of Special Administration* were required to obtain records for pursuit of a claim or lawsuit against Glaxo Smith & Kline.
- **Declaration of William J. Keeler filed on 5/12/2010** states the U.S. District Court of the Eastern District of Pennsylvania has tolled the civil action against Glaxo Smith & Kline filed by the Estate of Lorraine Wright, being case no. MDL No. 1871 to 4-23-10, in order to permit time for Plaintiffs to provide medical records of the Decedent. Mr. Keeler believes it will take the medical providers of the decedent approximately 30 days to gather and produce all of the medical records.
- **Minute Order dated 5/13/2010** set a status hearing regarding the special administration for 11/18/2010; that date was also set as the expiration date for *Letters of Special Administration*.
- **Minute Order dated 11/18/2010** from the status hearing states Attorney Heather Mardel-Jones [of DAK] provided an oral status report and requested an additional 90 days; the matter was continued to 3/3/2011; Attorney Mardel-Jones appeared on that date, and the matter was continued to 6/2/2011.
- **Minute Order dated 6/2/2011** from the continued status hearing states Counsel advises the Court that all the files have been obtained and there should be a ruling in six months. Matter continued to 1/19/2012.
- **Status Report filed 1/18/2012** indicated Petitioner retained The Whitehead Law Firm in Lafayette, Louisiana to pursue claims against GlaxoSmithKline in connection with the Pennsylvania lawsuit, and Petitioner's attorneys have tendered claims to GSK; Petitioner's counsel informed Attorney Burnside that consideration of such claims will remain open through 2012 and any settlement or judgment will not be final until late 2012 or early 2013.

Status Hearing Re: Filing of the Accounting and Petition for Final Distribution

| | | |
|--|---|--|
| DOD:6-30-05 | <p>PATRICIO ALCORTA, son, was appointed Administrator with Full IAEA without bond on 1-6-11. Letters issued on 1-6-11.</p> <p>Final Inventory and Appraisal filed 7-26-11 reflects a total estate value of \$245,000.00 (residential real property only).</p> <p>On 11-7-12, Attorney Gary L. Motsenbocker filed a motion to be relieved as counsel due to communication issues.</p> <p>On 1-2-13, the Court granted the motion and set this status hearing for the filing of the accounting and petition for final distribution. A copy of the minute order was mailed to the Administrator on 1-8-13.</p> <p>Minute Order 2-1-13: Mr. Alcorta informs the Court that the house has been paid and the taxes are being paid by his sister. At the request of Mr. Alcorta, the Court removes him as administrator and appoints the Public Administrator. Mr. Alcorta provides contact information. Continued to 4/19/13 @ 9:00 a.m.</p> <p>Status Report filed 4-16-13 states Mr. Alcorta informed Senior Probate Assistant Susan Banuelos that he wants to buy the house and would be trying to find funding. However, he said he would never leave his mother's house, and Ms. Banuelos heard nothing further from him. He was served a 60 day notice to vacate the premises.</p> <p>It is the Public Administrator's intention to sell the real property and distribute the proceeds. If Mr. Alcorta does not voluntarily vacate the premises or come up with the funds necessary to keep the home, it will be necessary to file an unlawful detainer action.</p> <p>Therefore, Public Administrator is not in a position to settle this estate and requests that further status hearing not be set for at least six (6) months.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Pursuant to Minute Order 2-1-13, Letters of Administration were issued to Public Administrator on 3-1-13.</p> <p>Note: Per Status Report filed 4-16-13, at least 6 months is needed to close the estate. See summary.</p> <p>Note: There are four heirs (Decedent's four children): Patricio Alcorta, Eliseo J. Urbano, Jr., Jose Alcorta, and Guadalupe Alcorta.</p> <p>1. There are two Requests for Special Notice filed in this case by DHS and Attorney Motsenbocker. The Court may require proof of service of Notice of Hearing and Status Report on parties that have requested special notice pursuant to Probate Code §1252.</p> |
| Cont. from 020113 | | |
| Aff.Sub.Wit. | | |
| Verified | | |
| Inventory | | |
| PTC | | |
| Not.Cred. | | |
| Notice of Hrg | | |
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| UCCJEA | | |
| Citation | | |
| FTB Notice | | |
| <p>Reviewed by: skc</p> <p>Reviewed on: 4-15-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 10 - Alcorta</p> | | |

NEEDS/PROBLEMS/COMMENTS:

1. The proposed "Order On Settlement" and "Order Determining Validity of 1993 Declaration of Trust of Thelma Day and Confirmation of Montie S. Day as Successor Trustee" submitted by Montie S. Day make various recitals, findings and orders.

Examiner notes that these documents appear to be petitions for relief (relief being approval of a partially signed agreement and determining validity of trust) that to properly come before this Court would require Petition and Notice of Hearing on the relief requested to all parties pursuant to Probate Code §17200 et seq., with proper filing fee.

This hearing was set by the Court for status only. If the Court is requested to consider signing orders on a partially executed agreement, proper petition and notice must be given to all parties. The "Notice of Filing" is not sufficient for this purpose, as it does not contain hearing information, and does not include a copy of proposed order, which contains the apparent requested relief.

Need status of settlement reached on 3-12-13 from parties that did not sign the agreement.

2. **Need status re Public Guardian's petition for approval of the accounting and objections thereto.** (Examiner notes that the partially signed settlement agreement, which includes approval of the Public Guardian's accounting that was heard 1-28-13 and continued to the settlement conference date, is signed by Montie S. Day and Nicole Anne Day, who were the objectors to the Public Guardian's accounting petition.)

Note: Mr. Day filed "Montie S. Day and Nicole Anne Day's Settlement Status Conference Statement" and a separate Supplement on 4-15-13 that state the Public Guardian, obligated to "resign" as of 4-1-13, has not "resigned" as trustee, and has failed to file any accounting. In summary, the status of this case is exactly where it was as of August 2, 2011. The release of the claims made by Montie S. Day and by Thelma Day and/or the Thelma L. Day Trust against Marilyn Yamanaka and the Public Guardian, and other mutual release of the party, were, as reflected on the record, made in contemplation of Montie S. Day becoming Trustee on 4-1-13. It is for this Court to enforce the settlement agreement as stated upon the record, or set the matter for trial and set aside the settlement restoring the claims of the parties to the original position prior to 3-12-13. As of this date, there has been a material breach of the settlement agreement as stated on the Court's record. Thelma Day and the Thelma Day Trust have been held hostage long enough. The *Summary* points out details of the transcripts and requests that the Court issue an immediate order either to enforce the settlement or set the matter for trial, as the matter has remained in judicial "purgatory" for almost 2 ½ years doing absolutely nothing for Thelma Day, while the case did little more than provide economic benefits to the legal profession in Fresno, the County of Fresno through Public Guardian and Court fees, and deplete the assets of Thelma Day, which the Court recognizes is now represented by the "tenuous nature of Ms. Thelma Day's finances." In the meantime, Ms. Yamanaka continues to operate her illegal and unlicensed business in the County of Fresno using names of businesses without the true owners consent while her other victims (such as the victims of her "Ponzi scheme" sales program who lost more than \$400,000.00) and law enforcement remain clueless as to her activities. It is time to end the victimization of Thelma Day who is not only the victim of financial elder abuse and fraud by Marilyn Yamanaka and Derrell Day, but a victim of the judicial system's inefficiency.

| | | |
|---|--|---|
| DOD: 3/15/11 | <p>TIMOTHY JOHNSON was appointed Administrator with Will Annexed, with full IAEA authority and bond set at \$80,000 on 12/15/2011.</p> <p>Bond was filed on 2/24/12 and Letters issued.</p> <p>I & A filed 4/26/12 show the estate valued at \$145,000.00</p> <p>Notice of Status Hearing for failure to file a first account or petition for final distribution was mailed to attorney Edward Fannuchi on 1/14/13.</p> <p>Unverified Status Report of Attorney Fannuchi filed 2/20/13 states the real property belonging to the estate is currently in escrow. The property was to close escrow on or after 1/30/13, The close of escrow has been delayed while the City of Fresno prepares a report on the property whether or not the property has to be hooked up to city water, or if the potential buyer can drill a new water well on the property. The City's report and decision is due between 2/13 and 2/22, 2013. If the report is not received by the latter date, another extension of the escrow and additional non-refundable deposit will be made by the buyer.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 3/15/13. Minute order states Counsel advises the court that escrow has closed. Counsel requests a continuance.</p> <p>1. Need first account, petition for final distribution or current written verified status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p> |
| Cont. from 030113, 031513 | | |
| Aff.Sub.Wit. | | |
| Verified | | |
| Inventory | | |
| PTC | | |
| Not.Cred. | | |
| Notice of Hrg | | |
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| Duties/Supp | | |
| Objections | | |
| Video Receipt | | |
| CI Report | | |
| 9202 | | |
| Order | | |
| Aff. Posting | | |
| Status Rpt | | |
| UCCJEA | | |
| Citation | | |
| FTB Notice | | |
| <p>Reviewed by: KT</p> <p>Reviewed on: 4/16/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 12 - Johnson</p> | | |

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|-----------------------|--|--|--|
| DOD: 02/07/12 | <p>SHARON FISHER, Administrator, filed her First and Final Report of Administrator on 09/10/12. In her First and Final Report, the Administrator requested that a reserve of \$100,000.00 be established due to an anticipated tax liability.</p> <p>The Order Setting the First and Final Report of Administrator was signed by the court on 10/23/12. Minute order from hearing on 10/23/12 set this matter for status regarding the \$100,000.00 reserve.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Status Report regarding \$100,000.00 reserve. | |
| Cont. from | | | |
| Aff.Sub.Wit. | | | |
| Verified | | | |
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| Citation | | | |
| FTB Notice | | | |
| Reviewed by: JF | | | |
| Reviewed on: 04/15/13 | | | |
| Updates: | | | |
| Recommendation: | | | |
| File 13 – Mason | | | |

| | | |
|----------------------|---|---|
| DOD: 08/22/12 | <p>DEBRA A. WHITE, daughter, was appointed as Executor without bond with full IAEA on 11/15/12 and Letters Testamentary were issued on 11/16/12.</p> <p>Minute Order from hearing on 11/15/12 set this matter for status regarding filing of the Inventory & Appraisal.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. <i>Need Inventory & Appraisal.</i></p> |
| Cont. from | | |
| Aff.Sub.Wit. | | |
| Verified | | |
| Inventory | | |
| PTC | | |
| Not.Cred. | | |
| Notice of Hrg | | |
| Aff.Mail | | |
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| Pers.Serv. | | |
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| Letters | | |
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| Video Receipt | | |
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| 9202 | | |
| Order | | |
| Aff. Posting | | |
| Status Rpt | | |
| UCCJEA | | |
| Citation | | |
| FTB Notice | | |
| | <p>Reviewed by: JF</p> <p>Reviewed on: 04/15/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 14 – Georgeson</p> | |

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

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|-------------------|--|--|
| DOD: 06/27/01 | <p>KATHLEEN KAY FRANCIS, niece, was appointed Executor on 10/09/01 and Letters were issued on 10/09/01.</p> <p>Inventory & Appraisal has not been filed and was due in March 2002.</p> <p>Petition for Distribution has not been filed and was due in 2003.</p> <p>Notice of Status Hearing was filed 12/11/12. Clerk's certificate of mailing indicates that the Notice was mailed to Kathleen Kay Francis on 12/11/12.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>CONTINUED FROM 02/01/13 Minute order from 02/01/13 states: Ms. Francis is directed to meet with Court Examiner Jennifer Forrest forthwith.</p> <p>As of 04/12/13, nothing further has been filed and the following items remain due:</p> <ol style="list-style-type: none"> 1. Need Inventory & Appraisal. 2. Need Accounting and Petition for Final Distribution. |
| Cont. from 020113 | | |
| Aff.Sub.Wit. | | |
| Verified | | |
| Inventory | | |
| PTC | | |
| Not.Cred. | | |
| Notice of Hrg | | |
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| Pers.Serv. | | |
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| Letters | | |
| Duties/Supp | | |
| Objections | | |
| Video Receipt | | |
| CI Report | | |
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| Order | | |
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| Citation | | |
| FTB Notice | | |
| | | Reviewed by: JF |
| | | Reviewed on: 04/12/13 |
| | | Updates: |
| | | Recommendation: |
| | | File 15 - Steele |

Petition for Visitation

| | | |
|--|--|--|
| Age: 7 years | SYLVIA GARZA , maternal grandmother, is petitioner. | <p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>Continued from 3/19/13. Minute order states parties agree to participate in mediation regarding visitation on 3/21/13 at 9:30 a.m.</p> <p>1. Notice of Hearing does not indicate the documents that were filed at #1. The proof of service also does not indicate that it was served with a copy of the petition. Therefore it is unclear if the Guardian knows what this hearing is about.</p> |
| | MARIA AMPARO HUERTA , paternal grandmother, was appointed guardian on 10/3/2013. – served by mail on 3/1/13. | |
| | Father: GERMAN SANCHEZ | |
| Cont. from 031913 | Mother: ANITA GARZA VILLAREAL | |
| <input type="checkbox"/> Aff.Sub.Wit. | Petitioner states she had Alicia in her custody back in 2010. She had her in school while the mother made arrangements to find a home, while the father was in prison. Petitioner states it has been a hardship not to see Alicia. | |
| <input checked="" type="checkbox"/> Verified | Petitioner states she has called to make arrangements to visit with Alicia and was denied visits on Feb. 2 and Feb. 3. The guardian said no. | |
| <input type="checkbox"/> Inventory | Petitioner states she requested overnight visits and the guardian said no that she did not want to break the law and that Petitioner had to go back to court. | |
| <input type="checkbox"/> PTC | Petitioner is requesting joint custody and overnight visitation with every other holiday and shared transportation. | |
| <input type="checkbox"/> Not.Cred. | | |
| <input checked="" type="checkbox"/> Notice of Hrg | | |
| <input checked="" type="checkbox"/> Aff.Mail | Response to Petition for Visitation filed by Maria Amparo Huerta (Guardian) on 3/13/13 states she is not in agreement with the petition for visitation. Sylvia is not able to control her daughter, Anita. Anita and Sylvia have verbal confrontations causing Alicia to be fearful. Also, the mother continues to abuse drugs. Due to the fact that Sylvia is unable to control things with her daughter, Ms. Huerta is requesting Sylvia visits occur at a supervising agency and that Sylvia pay for all expenses incurred as a result. If Anita is also given visitation then Ms. Huerta requests that Sylvia and Anita visit at the same time because it is difficult for her to take Alicia to visit her grandmother and mother at different times. Ms. Huerta feels that this is not the time to extend visitation to the grandmother because Alicia is having behavioral problems and is not equal with other school mates. | |
| <input type="checkbox"/> Aff.Pub. | | |
| <input type="checkbox"/> Sp.Ntc. | | |
| <input type="checkbox"/> Pers.Serv. | | |
| <input type="checkbox"/> Conf. Screen | | |
| <input type="checkbox"/> Letters | | |
| <input type="checkbox"/> Duties/Supp | | |
| <input type="checkbox"/> Objections | | |
| <input type="checkbox"/> Video Receipt | | |
| <input type="checkbox"/> CI Report | | |
| <input type="checkbox"/> 9202 | | |
| <input type="checkbox"/> Order | | |
| <input type="checkbox"/> Aff. Posting | | |
| <input type="checkbox"/> Status Rpt | | |
| <input type="checkbox"/> UCCJEA | | |
| <input type="checkbox"/> Citation | | |
| <input type="checkbox"/> FTB Notice | | |

Reviewed by: KT

Reviewed on:

Updates:

Recommendation:
File 16 - Sanchez

17A Eugena Maru Bedoni (CONS/PE)
Atty Sanoian, Joanne (for Petitioner/daughter Marianne Bourgeois)
Atty Walters, Jennifer (Court appointed for Conservatee)
Atty Magness, Marcus (for Objector Bernadette Planting)

Case No. 13CEPR00039

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

| | | | | |
|-------------------------------------|----------------------|---|-----------|--|
| Age: 94 years | | <u>TEMPORARY of the Estate only EXPIRES 4/19/13</u> | | NEEDS/PROBLEMS/ COMMENTS: Continued from 4/4/13. Minute order states the court declines to participate in Settlement Agreement due to Petitioner Marianne Bourgeois indicating twice that she was agreeing in duress. Court Investigator Advised Rights on 2/11/13. Voting Rights Affected Need Minute Order. Note: All accounts held at CitiBank in the name of Eugena Bedoni, individually or as Trustee of the Bedoni 2001 Living Trust were ordered into a blocked accounts pending the outcome of the temporary hearing. |
| | | MARIANNE BOURGEOIS , daughter, is petitioner and requests appointment as conservator of the person and estate with bond set at \$311,000.00. | | |
| Cont. from 022813, 040413 | | Estimated value of the estate: Personal property - \$265,000.00 Public Assistance - \$ 16,860.00 | | |
| <input type="checkbox"/> | Aff.Sub.Wit. | | | |
| <input checked="" type="checkbox"/> | Verified | | | |
| <input type="checkbox"/> | Inventory | | | |
| <input type="checkbox"/> | PTC | | | |
| <input type="checkbox"/> | Not.Cred. | | | |
| <input checked="" type="checkbox"/> | Notice of Hrg | | | |
| <input checked="" type="checkbox"/> | Aff.Mail | <input type="checkbox"/> | W/ | |
| <input type="checkbox"/> | Aff.Pub. | | | |
| <input type="checkbox"/> | Sp.Ntc. | | | |
| <input type="checkbox"/> | Pers.Serv. | | | |
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| <input checked="" type="checkbox"/> | Letters | | | |
| <input checked="" type="checkbox"/> | Duties/Supp | | | |
| <input checked="" type="checkbox"/> | Objections | | | |
| <input checked="" type="checkbox"/> | Video Receipt | | | |
| <input checked="" type="checkbox"/> | CI Report | | | |
| <input type="checkbox"/> | 9202 | | | |
| <input checked="" type="checkbox"/> | Order | | | |
| <input type="checkbox"/> | Aff. Posting | | | |
| <input type="checkbox"/> | Status Rpt | | | |
| <input type="checkbox"/> | UCCJEA | | | |
| <input checked="" type="checkbox"/> | Citation | | | |
| <input type="checkbox"/> | FTB Notice | | | |
| Please see additional page | | | | |
| Reviewed by: KT | | | | |
| Reviewed on: 4/17/13 | | | | |
| Updates: | | | | |
| Recommendation: | | | | |
| File 17A - Bedoni | | | | |

Court Investigator Jennifer Daniel's Report filed on 2/19/13.

Objection and Opposition to Appointment of Conservator filed by daughter Bernadette Planting on 2/25/13.

Objector alleges on or about 12/30/2010 Mrs. Bedoni executed the First Amendment to the Bedoni Family Trust Agreement (Trust), the First Codicil to the Will of Eugena Bedoni (Codicil), Durable Power of Attorney (DPA) and an Advanced Healthcare Directive and Durable Power of Attorney for Health Care (AHCD). The Trust amendment removes Petitioner as a co-successor Trustee of the Trust and names Objector as the sole successor Trustee of the Trust. The Codicil similarly names Objector as the sole executor of Mrs. Bedoni's Will as does the DPA. Neither document names Petitioner, or anyone else, as successor or agent. The AHCD names Objector as the initial agent and Stephen Planting as the alternate. Again, the Petitioner is not named in any of these documents. Presumably, if Mrs. Bedoni would have wanted Petitioner to act in any capacity she would have named her. Rather, Mrs. Bedoni removed Petitioner as an agent/trustee/executor in her estate plan.

Since moving to Fresno, Objector, with the help of her son Stephen, has cared for Mrs. Bedoni making her life full of love and activity. Since Mrs. Bedoni moved to Fresno, she has only been visited once by any of her other children – the Petitioner in February 2012.

Prior to moving Fresno, it was common knowledge in the family that Objector's home would need improvements suitable for Mrs. Bedoni. The bathrooms needed improvements to be accessible and safe for Mrs. Bedoni. The doorways needed widening to accommodate Mrs. Bedoni's wheelchair. Windows needed to be replaced (the windows were in such a state that the house was not insulated and subject to extreme temperature depending on the season). The driveway needed to be widened so that there was room for Mrs. Bedoni's chair and the car. In addition, other improvements were made at Mrs. Bedoni's direction.

Objection and Opposition to Appointment of Conservator filed by daughter Bernadette Planting on 2/25/13 (cont.):

For example, in order to allow Mrs. Bedoni participate in gardening, Objector and Stephen have begun constructing raised beds so that Mrs. Bedoni can garden and be outside. Mrs. Bedoni authorized Objector to spend the trust assets for any and all improvements on Objector's house. All home improvements have been or are near completion. No trust assets will be used on any further improvements.

On or about March of 2012, Mrs. Bedoni loaned Stephen \$131,500.00 to purchase a home for Stephen. The home was in the same neighborhood as the Objector's and was being sold on a short sale. Objector was prepared to take equity out of her home to purchase the home for Stephen, but Mrs. Bedoni insisted that she loan them the funds. As a result the funds were transferred out of the Trust Account. The Trust authorizes the Trustee to lend trust assets.

In December 2010, Objector's husband and Stephen's father, Paul Planting, was killed by a car while walking through a crosswalk. Objector and Stephen commenced a wrongful death action. By the time the loan was made it was clear that Stephen and Objector were going to receive a settlement in approximately the same amount as the sale price. It was always understood that the proceeds of the settlement would be used to repay Mrs. Bedoni. Objector has been informed by the attorney for the settlement that the settlement funds should be disbursed on or about March 7, 2013. Objector and Stephen will repay the loan with interest. Therefore the transaction will result in a net benefit to the Trust.

Please see additional page

Objections to Appointment of Conservator of the Person. Pursuant to Probate Code § 1801(a), the Court must determine, by clear and convincing evidence, that Mrs. Bedoni is unable to provide properly for her personal needs for physical health, food, clothing and shelter before a conservatorship of the person may be established. Here, the appointment of a conservatorship of the person is unnecessary. Objector is providing Ms. Bedoni with excellent care. Mrs. Bedoni in her own words, "is perfectly happy" in Objector's home. There is no evidence to suggest that Mrs. Bedoni should be moved or that she is not being appropriately cared for. Mrs. Bedoni nominates Objector as her agent under AHCD and Stephen Planting as the successor agent. The same individuals are nominated as conservator of her person in the AHCD. As such, the Petition for Appointment of Conservator of the Person should be denied.

Objections to Appointment of Conservator of the Estate. Pursuant to Probate Code § 1801(b), the court must determine by clear and convincing evidence, that Mrs. Bedoni is unable to manage her own financial resources or resist fraud or undue influence before a conservatorship of her estate may be established. Here there is no evidence that Mrs. Bedoni lacks testamentary capacity and is unable to resist fraud and undue influence. Quite to the contrary, the Probate Investigator's report supports a finding that Mrs. Bedoni has testamentary capacity.

A competent testator may dispose of his or her property as he or she wishes, without regard to the desires of prospective beneficiaries or the view of anyone else. *Estate of Marham (1941) 46 Cal.App.2d 307*. A person has testamentary capacity if she: (1) understands the nature of the testamentary act, (2) understands and recollects the nature and situation of her property, and (3) remembers and understands her relations to living descendants, spouse, parents, and others whose interests are affected by the testamentary act. (Probate Code c216100(a))

Mrs. Bedoni understands the nature of her dispositive acts. According to the Court Investigator, Mrs. Bedoni can recollect and state that she directed Ms. Bedoni [sic] to use her assets for the purposes that are at issue here. Mrs. Bedoni recollects and understands the nature and situation of her property. Mrs. Bedoni knows where she has accounts (Citibank, Wells Fargo, and a credit card) (Investigator's Report 1/23/12; Investigator's Report 2/19/13).

Objection and Opposition to Appointment of Conservator filed by daughter Bernadette Planting on 2/25/13 (cont.):

Objection and Opposition to Appointment of Conservator filed by daughter Bernadette Planting on 2/25/13 (cont.):

Mrs. Bedoni understands the relations of her living family. Mrs. Bedoni knows she lent money to her grandson and she stated that home improvements were done at the house with her approval. Mrs. Bedoni is also able to decide when she wants to take Objector and Stephen out for dinner.

Objection. Not Least Restrictive Alternative. Finally, even if the Court could make the required findings under Probate Code 1801, no conservatorship of the person or estate shall be granted unless the court makes an express finding that granting of the conservatorship is the least restrictive alternative needed for protection of Mrs. Bedoni. Mrs. Bedoni has a valid durable power of attorney for property management and an advanced health care directive (which includes a durable power of attorney for health care) pursuant to which she has planned for her current and future needs. Hence, the facts will not support a finding that a conservatorship is the least restrictive alternative needed to protect Mrs. Bedoni.

Please see additional page

17A (additional page 3 of 3) Eugena Maru Bedoni (CONS/PE) Case No. 13CEPR00039

Objection to Court Blocking Trust Account – No Jurisdiction. Prior to the hearing on the temporary conservatorship this Court ordered Mrs. Bedoni's trust account at Citibank blocked. Such order was extended at the hearing on the temporary conservatorship to the hearing on the instant petition. This order must not be extended. The court has no jurisdiction over the Trust Account and it was improper to order the account blocked in the first place.

Declaration of Court Appointed Counsel Jennifer L. Walters filed on 2/26/13. Attorney Walters states that it is her opinion that the Conservatorship of the person be denied as Mrs. Bedoni is very happy and content living in her daughter Bernadette's home. Attorney Walters feels that the conservatorship of the estate should be denied as well. She states that although there have been some issues regarding expenditures in the past relating to Mrs. Bedoni's trust, those issues are not really before the court as they are matters of a trust action and should be dealt with accordingly. Attorney Walters states she did take those actions into account when looking at the global issue of Mrs. Bedoni's care. It would appear that Bernadette has used funds to remodel her home, purchase a home for her son, etc., with Mrs. Bedoni's funds and Attorney Walters states she did address this with Mrs. Bedoni and Bernadette. It appears that the Trust will be paid back for the funds to purchase the home, and in regards to the improvements to the home, they appear reasonable. Some improvements include a ramp to the front door, expanding some openings and fixing bathrooms. The home Mrs. Bedoni lives in is not one of grandeur, but an older home that needed improvements to allow for Mrs. Bedoni to reside there. In addition, Mrs. Bedoni is pleased with the home and its improvements.

Additionally, Attorney Walters does not agree with appointing the Public Guardian in this case. This would be an additional cost and potential disruption to the Conservatee. It appears unnecessary to get the Public Guardian involved at this time.

17B Eugena Maru Bedoni (CONS/PE)

Case No. 13CEPR00039

Atty Sanoian, Joanne (for Petitioner/daughter Marianne Bourgeois)

Atty Walters, Jennifer (Court appointed for Conservatee)

Atty Magness, Marcus (for Objector Bernadette Planting)

Probate Status Hearing

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|----------------------|--|---|
| Age: 94 years | <p>MARIANNE BOURGEOIS, daughter, petitioned the court requesting appointment as conservator of the person and estate of her mother, Eugena Bedoni.</p> <p>Objections were filed by the proposed conservatee's other daughter, BERNADETTE PLANTING alleging a conservatorship was not necessary.</p> <p>Court Appointed Counsel JENNIFER L. WALTERS reported it was her opinion that a conservatorship of the person and estate was not necessary.</p> <p>A Settlement Conference was held on 4/4/13. Minute order from the Settlement Conference states the Court declines to participate in the Settlement Agreement due to Petitioner Marianne Bourgeois indicating twice that she was agreeing in duress.</p> | <p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p> |
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| | | Reviewed by: KT |
| | | Reviewed on: 4/17/13 |
| | | Updates: |
| | | Recommendation: |
| | | File 17B - Bedoni |