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. Monday, April 23, 2012

1 Catalina D. Miranda (CONS/P) Case No. 0380281

Atty **Perkins, Jan T., of Perkins Mann & Everett (for Petitioner Elena Ortiz, Conservator)**

Twentieth and Final Account Current, Report and Petition for Settlement; (2) Petition for Discharge of Conservator [Prob. C. 1060-1064]

DOD: 8/14/2011		
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	
✓	**2620**	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

ELENA ORTIZ, sister and Conservator, is Petitioner.

Account period: 5/19/2009 – 8/14/2011

Accounting	-	**$23,989.02**
Beginning POH	-	**[$7,102.93]**
Ending POH	-	**$17,837.60**

Subsequent Account period: 8/15/2011 – 12/31/2011

Accounting	-	**$17,418.97**
Beginning POH	-	**[$17,837.60]**
Ending POH	-	**$17,937.46**

($1,120.79 is cash)

Conservator	-	**$250.00**
Attorney	-	**$500.00**

(less than Local Rule)

Petitioner states:

- The Promissory Notes owed to the Conservatorship Estate of **FRANK FLORES** (DOD 10/4/2009, Case #0040768) the Conservatee's brother, by the Conservatee's estate represents the Conservatee's share of the down-payment on property located on Hughes in Fresno purchased by the two conservatorship estates; during the period covered by this accounting, Frank Flores passed away and the balance of the Promissory Note of **$886.85** was paid in full in May 2010;
- The loan of **$1,147.51** owed to Conservator Elena Ortiz represents the Conservatee's share of the replacement cost of the air conditioner for the Hughes property, and during the period covered by this accounting the income necessary to support the Conservatee was insufficient to allow the Conservator to both meet Conservatee's needs and to make payments on the loan other than two payments made on 3/25/2011.

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

<u>Page 12</u> of this calendar is the related *Petition to Determine Succession to Real Property* in the Estate of Catalina Miranda.

<u>Note</u>: *Summary* for period of 5/19/2009 through 8/14/2011 shows the Beginning Property on Hand as $3,805.34. However, this amount should be $7,102.93, the amount of Ending Property on Hand from the 19th Account. It appears based upon the schedules in the *Petition* that the difference is a result of the valuation of the non-cash assets (real property) less the debts (promissory note and loan) owed by the Conservatee. Additionally, Beginning Property on Hand for the subsequent account period of 8/15/2011 to 12/31/2011 should be $17,837.60 because the starting point must be the Ending Property on Hand from the last account. Examiner has reviewed this 20th account taking into consideration these reasons for the differences between amounts in order for this account to balance.

Reviewed by: LEG

Reviewed on: 4/13/12

Updates:

Recommendation:

File 1 – Miranda

Petitioner states, continued:

- Conservatee's daughter, **SOCORRO REYNAGA**, is sole intestate beneficiary of the conservatorship estate; Ms. Reynaga has filed a *Petition to Determine Succession to Real Property* (*Case #12CEPR00235, please see Page 12 of this calendar*) requesting transfer of all remaining assets of the conservatorship estate after payment of the outstanding loan of **$1,147.51** to Conservator Elena Ortiz.

Petitioner prays for an Order:

1. Approving, allowing and settling the Twentieth account;

2. Authorizing the Conservator and attorney fees and commissions;

3. Authorizing Conservator to transfer all remaining assets of the Conservatorship estate consisting of **$1,120.79 cash**, 1/3 interest in wheelchair received as a result of Frank Flores' passing, 1/3 interest in real property, and a 1/9 interest in real property received as a result of Frank Flores' passing, pursuant to the Court's *Order Determining Succession to Real Property* to the sole beneficiary of Conservatee's estate as follows:
   - **SOCORRO REYNAGA**, daughter – **100% interest**; and

4. Discharging Petitioner and exonerating bond upon the filing of receipts for distribution *[Examiner added: and upon approval of the Ex Parte Petition for Final Discharge and Order.]*

<u>Note</u>: Proposed *Order Settling the Twentieth Account* associated with this matter should be considered and signed by the Court in conjunction with the proposed *Order Determining Succession to Real Property* for the Estate of Catalina Miranda (Case #12CEPR00235, Page 12 of this calendar.)

2 **Mary A. Nishikawa (Estate)** **Case No. 07CEPR00740**

Atty **Teraoka, Steven G (for Executors Konrad Nishikawa and Patty Kishikawa)**

Probate Status Hearing Re Failure to file a First Account or Petition for Final Distribution (Prob. C. 12200)

			NEEDS/PROBLEMS/COMMENTS:
			OFF CALENDAR. Petition for Final Distribution filed and set for hearing on 5/16/12.
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		Reviewed by: KT
	Status Rpt		Reviewed on: 4/13/12
	UCCJEA		Updates:
	Citation		Recommendation:
	FTB Notice		File 2 - Nishikawa

3A James W. Little (Estate) **Case No. 08CEPR00870**

Atty Keeler, William (of Garvey Schubert Barer, for Norma G. Little – Petitioner)

Atty Milnes, Michael A (for Christopher Brian Little – Executor/Respondent)

Petition to Remove Executor, for an Accounting, for Appointment of Successor Personal Representative, for Surcharge, and to Enforce Settlement AGREEMENT
(Prob. C. 8500, 8501, 8502, 8520 et seq., 8540 et seq., 10952, 12200, 12204, 12205, and CCP 664.6)

DOD: 7/4/08

Cont. from: 091310, 100410, 102710, 120810, 021611, 033011,051811, 080311, 091411, 102611, 011112, 030712, 032112

	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	

NORMA G. LITTLE, surviving spouse, is Petitioner.

Petition states:

- Petitioner Norma Little ("Petitioner") is the surviving spouse of Decedent; they were married on 5/22/04 and were married at the time of Decedent's death;
- On 7/18/08, Respondent Christopher Little ("Respondent"), who is Decedent's brother, was appointed personal representative of Decedent's estate by the Pinal County Superior Court, state of Arizona ("Arizona court");
- On 11/12/08, the Fresno County Superior Court ("Fresno court") appointed Respondent as the California Executor with bond of $400,000.00;
- Thomas McCarville ("T. McCarville") and David McCarville ("D. McCarville") are Arizona attorneys who represent Respondent in the Arizona proceedings;
- Petitioner previously filed 3 petitions in this matter: 1) *Petition to Determine Distribution Rights*; 2) *Petition for an Order Setting Apart Probate Homestead*; and 3) *Petition for Payment of Family Allowance*, and the matters were set for trial;
- Prior to trial, the parties agreed to settle all of Petitioner's claims subject to approval from the Fresno and Arizona courts (Settlement AGREEMENT and Mutual General Release ("AGREEMENT") attached to Petition as Exhibit A);
- The AGREEMENT states in part:
  - Respondent is to file petitions for approval of the AGREEMENT in each court no later than 8/21/09; upon approval by both courts, Respondent is to distribute property to Petitioner pursuant to said AGREEMENT;
  - Settling parties are to execute or deliver any instrument, furnish any information, or **perform any other act necessary** to carry out the AGREEMENT's provisions without undue delay or expense, including appearing at court hearings concerning the status of disputes *(emphasis added in Petition);*
  - Prevailing party in an action to enforce terms of AGREEMENT is entitled to costs and reasonable attorneys' fees;
  - AGREEMENT is enforceable pursuant to CCP section 664.6.

SEE ATTACHED PAGE-

NEEDS/PROBLEMS/COMMENTS:

3A – 14th hearing on Petition to Remove Executor, etc.

3B – 3rd status hearing for proof of exoneration of bond and dismissal

3C – Petition for Approval of Further Settlement Agreement

Note: Other than the below minute orders, the notes at 3A and 3B have not been updated further since Page 3C is a Petition for Court Approval of Further Settlement, etc. See Page 3C.

Minute Order 3/7/12: Mr. Knudson advises the Court that the Arizona Court approved the settlement agreement. The Court continues the matter to 3/21/12 so counsel from the DAK firm can be present.

Minute Order 3-21-12: Also present and appearing via conference call are Arlene Berger-Hoang and Ken Piece. Mr. Clark is also appearing via conference call. Mr. Piece advises the Court that the Arizona settlement was approved. The Court allows Christopher Little to act as special administrator for the limited purpose of the sale of the Reedley property and the preparation of the accounting. The Court notes for the record that it is not ruling on how the remaining vehicles not distributed to Norma Little are to be handled. The matter is continued to 4/23/12. The Court orders that the hearing currently set for 4/26/12 be vacated and rescheduled to 4/23/12.

Note: Notice of Lien, filed on 2/22/12 by the Dowling, Aaron firm (counsel for Norma Little), indicates the law firm is claiming a lien on any and all claims and entitlements of Norma Little in the amount of $112,393.41 as of 2/1/12.

Updates:

Reviewed: 4-16-12

Recommendation:

Reviewed by: NRN / skc

File: 3A - Little

Dept. 303, 9:00 a.m. Monday, April 23, 2012

- On 9/22/09, Respondent petitioned the Fresno court to approve the AGREEMENT; on 9/29/09 he similarly petitioned the Arizona court for approval; on 12/14/09, the Fresno court approved the AGREEMENT;
- On 5/17/10, the Arizona court ordered Respondent's attorney, D. McCarville, to provide all parties with an updated accounting no later than 7/16/10; in disregard of said order, D. McCarville provided the parties with a "First Supplemental Inventory and Appraisement," instead of the court-ordered updated accounting *(note: per Declaration of Petitioner, filed 9/9/10, this Inventory filed by Respondent shows values for Decedent's property that are significantly less that the date of death values*; nearly a year has passed since the AGREEMENT was executed, and 7 months have passed since the Fresno court approved it;
- Respondent has failed to obtain the Arizona court's approval of the AGREEMENT, has failed to respond to objections filed in Arizona, and has failed to timely administer Decedent's estate, all in violation of the AGREEMENT and his fiduciary duties;
- Respondent's failure to secure Arizona court approval is due in part to D. McCarville's conflicts of interest and Respondent's failure to retain counsel without such conflicts;
    - Specifically, on 11/13/09, Respondent's attorney D. McCarville petitioned the Arizona court for instructions relating to several conflicts of interests, including:
        - D. McCarville's brother and in-laws have an ownership interest in estate assets;
        - Prior to Decedent's death, D. McCarville's brother took out a loan to improve the assets he apparently owns with the estate and is apparently owed money by the estate for this loan;
        - D. McCarville's father, T. McCarville, was previously a partner with the attorney who prepared Decedent's ante nuptial AGREEMENT and who now faces potential malpractice claims by the estate relating to the ante nuptial AGREEMENT; and
        - D. McCarville represents (in other matters) the fiduciary company, East Valley Fiduciary Services/James C. Clark, that has been appointed as guardian and conservatory of Jeremy R. Little, who is Decedent's grandson and the only party objecting to the AGREEMENT with claims adverse to Executor and Petitioner.
        - The Arizona court never issued instructions on these conflicts of interests.
- D. McCarville is delaying Respondent from timely administering Decedent's estate, in part because of conflicts of interest;
- Due to the failures of Respondent and D. McCarville, Petitioner has received none of the property to which she is entitled;
- Petitioner has sought approval from the Arizona court through her counsel, but has been unsuccessful.

Petitioner Requests an order:

1. Removing Respondent as personal representative (Executor) and revoking Letters;
2. That Respondent file an accounting within 60 days of his removal as personal representative;
3. Denying appointment of Thomas McCarville as nominated Successor Executor;
4. Appointing Petitioner Norma Little as successor personal representative, or in the alternative, appointing a neutral third party as successor personal representative;
5. Surcharging Respondent's compensation as Executor pursuant to PrC 12205;
6. Enforcing the AGREEMENT by requiring Respondent or successor personal representative to vigorously prosecute the enforcement of the AGREEMENT in the Arizona court and defend objections thereto at the expense of Decedent's estate, requiring Respondent or successor personal representative to obtain counsel who does not represent a conflict of interest with regard to the estate, and by requiring that Respondent or successor personal representative to do all acts necessary to perform the obligations of the AGREEMENT without undue delay;
7. For attorneys' fees and costs and for such other orders as the Court deems proper.

***Response to Petition*, filed by Respondent Christopher Little on 9/27/10, states:**

- The sole heirs under Decedent's Will are Decedent's son James D. Little and his grandson Jeremy Little;
- Petitioner Norma G. Little ("Petitioner) and Decedent entered into a written agreement prior to their marriage; included in this agreement was a waiver by Petitioner of any right to inherit property from Decedent's estate;
- Currently, the Arizona court has not approved the parties' 8/4/09 AGREEMENT; as such, there is no enforceable settlement of the matters and issues between Petitioner and Respondent in this Court, as the terms of the AGREEMENT are expressly conditioned upon the approval of the AGREEMENT's terms by both the Fresno Court and the Arizona Court and without both court's approval, the AGREEMENT has no force and effect.

SEE ATTACHED PAGE

- On 10/5/09, the Arizona court held a status review hearing regarding the AGREEMENT; at that hearing, Petitioner, Jim Little, and the guardian of Jeremy Little stated their objections to the AGREEMENT; a further status review was scheduled for 11/16/09;
    a. Between 11/16/09 and 4/19/10, the court held several status hearings on matters relating to the administration of the estate and petition to approve the AGREEMENT;
    b. On 5/17/10, the Arizona court ordered Respondent to provide an updated accounting by 7/16/10, with objections to the AGREEMENT to be filed by 8/20/10, and responses to the objections filed by 9/17/10;
    c. Respondent filed a 1st Supplemental Inventory with the Arizona court on 7/16/10; and thereafter filed a Petition for Approval of 1st Interim Accounting on 7/30/10;
    d. On 8/9/10, counsel for Jim Little's conservator filed an objection to Respondent's petition to approve the AGREEMENT; objections were also filed by counsel for Jeremy Little's guardian on 8/19/10, to which Jim Little filed a joinder;
    e. Jim and Jeremy Little's primary objections to the AGREEMENT focus on Petitioner's stats as an omitted spouse and the reduced value of assets of Decedent's estate;
    f. The Arizona court set a settlement conference for 10/19/10;
    g. Petitioner also filed and MSJ in the Arizona court to compel the court to approve the AGREEMENT and the matter is currently before that court;
    h. The Arizona court has also set a status review hearing on 11/1/10.
    i. Petitioner has attended all proceedings before the Arizona court.
- Petitioner has a significant conflict of interest disqualifying her from serving as personal representative because she has pending creditor's claims and Petitions now pending before this court; though a settlement has been reached through the AGREEMENT, the AGREEMENT has not been approved by the Arizona court and the matter is currently pending;
- Petitioner has not filed a petition in the Arizona court for removal of Respondent as personal representative; as such, appointment of Petitioner in the Fresno court would provide an unworkable and inconsistent administration of the Decedent's estate, and only further delay the ultimate resolution of this case;
- Finally, the hearing on David McCarville's Petition for instructions on the conflicts of interest has been continued by the Arizona court each time, and Petitioner's attorney has not objected to any such continuance;
- **Respondent requests:** An evidentiary hearing; that Petitioner Norma Little's Petition be dismissed with prejudice, and that Petitioner be required to pay Respondent's reasonable attorneys' fees and the costs of this proceeding.

STATUS REPORT, FILED 10/25/10 BY ATTORNEY MILNES, STATES: A mediation was conducted on 10/19/10 and a complete settlement agreement was reached between all parties, and Atty Keeler has undertaken to reduce the settlement agreement to writing as recited on the record.

Status Report, filed 3/25/11 by Counsel for Norma Little, states:

- *The 10/19/10 mediation (as referenced above) resulted in a complete settlement of all matters existing between the parties; and was confirmed by the Pinal County, Arizona Superior Court ("the settlement agreement");*
- *A draft of the settlement agreement was originally prepared in 11/10 and since then the parties have been negotiating the agreement amongst themselves;*
- *At the last status conference on 2/16/11, the agreement was still being negotiated and the Court continued the matter to 3/10/11;*
- *To date, the parties have not been able to agree upon the agreement's provisions relating to primary jurisdiction of this matter; Norma Little contends that as Decedent died in Fresno County, jurisdiction is proper in Fresno County; respondents contend jurisdiction should be set in either Pinal County, AZ or a neighboring AZ county;*
- *THEREFORE, NORMA LITTLE REQUESTS A FURTHER CONTINUANCE TO ALLOW PARTIES ADD'L TIME TO AGREE ON A SETTLEMENT AGREEMENT AND/OR PETITION THE PINAL CTY SUPERIOR COURT FOR ENFORCEMENT OF THE 11/10 SETTLEMENT AGREEMENT.*

SEE ATTACHED PAGE **3A**

Status Report, filed 9/13/11 by Attorney Michael Milnes (for Executor/Respondent Christopher Little) states:

- Disputes regarding the AZ Settlement are still ongoing;
- Attorney Milnes has not been involved in the AZ settlement discussions, as what is ultimately resolved in AZ will have to return to this Court for approval (AZ court minute orders attached to Status Report and shows the case's activity for the past 3 months);
- The personal representative has also recently filed an accounting of his activities in AZ and petitions for fees, to be heard in AZ on 10/3/11, and parties to this AZ probate case have until 9/23/11 to file their objections to the accounting and/or petitions for fees;
- As such, future AZ proceedings are dependent upon what occurs as a result of these filings;
- The AZ parties have agreed that Christopher Little shall remain as Executor in both the AZ and CA probate matters;
- Attorney Milnes suggests this matter be set for a further status hearing in 60-90 days.

3B James W. Little (Estate) **Case No. 08CEPR00870**

Atty Keeler, William (of Garvey Schubert Barer, for Norma G. Little – Petitioner)
Atty Milnes, Michael A (for Christopher Brian Little – Executor/Respondent)
Status Hearing Re: Exoneration of Bond and Dismissal

DOD: 7/4/08			This Status Hearing was set by the Court on 1/11/12, on the Petition to Remove Executor (see Page 1A). Minute Order states: Ms. Berger-Hoang and James Clark are appearing via conference call as well as Ken Peace. Ms. Burnside informs the Court that a settlement was submitted to the court in Arizona. Need Proof of Exoneration of bond and Dismissal, or Status Report.	NEEDS/PROBLEMS/COMMENTS: CONTINUED FROM 3/7/12, 3/21/12 1. Need proof of exoneration of bond and dismissal, or status report. Note: The notes at 3A and 3B have not been updated further since Page 3C is a Petition for Court Approval of Further Settlement, etc. See Page 3C.
Cont. from 3/7/12, 3/21/12				
	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: NRN
	Status Rpt	X		Reviewed on: 3/13/12
	UCCJEA			Updates:
	Citation			Recommendation:
	FTB Notice			File 3B – Little

3C James W. Little (Estate) Case No. 08CEPR00870

Atty Keeler, William J. (of Garvey Schubert Barer, Portland, OR, for Norma J. Little – Petitioner)
Atty Milnes, Michael A. (for Christopher Brian Little – Executor / Respondent)
Atty Knudson, David N. (for Childers and Berg – Successor Personal Representative in Arizona)

Petition for Court Approval of Further Settlement Agreement, for Order Instructing Personal Representative to Distribute and to Remove or Terminate Personal Representative in Accordance with Settlement Agreement [Cal. Prob. C. 9830, 10501, 10952]

DOD: 7-4-08

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

NORMA J. LITTLE, Surviving Spouse, is Petitioner.

Petitioner states Decedent's estate is pending in this court as well as Pinal County, AZ. Both courts appointed Christopher Little as executor in 2008. Numerous petitions and other disputed matters have been filed in both proceedings, and in 2009, the Court authorized a compromise of creditor's claim and ordered Mr. Little to distribute certain residential property, personal property and cash to Petitioner. On 7-29-10, Petitioner filed a Petition to Remove Executor, for an Accounting, for Appointment of Successor Personal Representative, for Surcharge, and to Enforce Settlement Agreement.

Petitioner states a further settlement agreement was negotiated between numerous parties between October 2010 and December 2011 to replace the 2009 Agreement. The final version attached as Exhibit 4 was approved by the Arizona courts on 1-30-12.

The Settlement Agreement appointed a successor personal representative, Childers & Berg, LLC, in Arizona, and the Arizona court approved an amended order appointing the successor personal representative.

The Settlement Agreement calls for the distribution of a single California asset, the Reedley real property, and the encumbrance thereon to Petitioner Norma Little.

Petitioner requests this Court confirm that distribution and approve the Settlement Agreement and the terms of the settlement as set forth in Judge Olson's 1-30-12 Order Approving Compromise.

Petitioner prays as follows:

1) **That notice of hearing of the foregoing petition be approved;**
2) **That the Court approve the terms of the settlement agreement, as set forth above and pursuant to the parties' agreement; and**
3) **For such other further relief as the Court may deem just and proper.**

NEEDS/PROBLEMS/COMMENTS:

<u>Note</u>: The Petition is verified by Attorney William Keeler in place of Petitioner Norma Little pursuant to Probate Code §1023.

<u>Note</u>: According to file documents, the sole heirs under Decedent's will are Decedent's son James D. Little and his grandson Jeremy Little.

Settlement Agreement is signed by:

- **Petitioner Norma Little and her counsel in both CA and AZ;**
- **Jeremy Little and his counsel; and**
- **James C. Clark, Guardian and Conservator of James D. Little, and his counsel.**

Examiner notes that although Christopher Brian Little was removed as the personal representative in the AZ proceeding; he was not removed in this CA proceeding and therefore must still file a petition for final distribution based on this settlement agreement, if approved. The Court will set status hearing for this.

It does not appear that the petition at 3A will be dismissed until that occurs.

<u>However, with reference to this petition, the following items appear to be missing</u>:

<u>SEE PAGE 2</u>

Reviewed by: skc

Reviewed on: 4-17-12

Updates:

Recommendation:

File 3C - Little

Dept. 303, 9:00 a.m. Monday, April 23, 2012

3C James W. Little (Estate) Case No. 08CEPR00870

NEEDS/PROBLEMS/COMMENTS:

1. **Need Notice of Hearing.**

2. **Need proof of service of Notice of Hearing at least 15 days prior to the hearing pursuant to Probate Code §1220 on Christopher Brian Little (CA Personal Representative)**

3. **Need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing pursuant to Request for Special Notice filed 3-27-12 and Probate Code §1252 on:**
   - David N. Knudson
   (attorney for AZ Successor Personal Representative Childers and Berg)

4. **The Court may also require proof of service of Notice of Hearing at least 15 days prior to the hearing pursuant to Probate Code §1220 on the AZ Successor Personal Representative Childers and Berg directly.**

4 Josephine Diaz (Special Needs Trust) Case No. 11CEPR00138

Atty Barron, Richard B. (for Petitioner/Trustee Perine & Dickens Professional Fiduciaries)

Petition of Trustee for Approval of First Account Current, for Approval of Trustees' Fees and for Authorization to Compensate Counsel for the Trustee

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	

PERINE & DICKENS PROFESSIONAL FIDUCIARIES, Trustee, is petitioner.

Account period: 4/1/11 – 1/31/12

Accounting - **$228,402.70**
Beginning POH- **$0**
Ending POH - **$161,984.16**

Attorney - **$3,814.10** (per itemization and declaration, 20.4 hour @

Trustees - **$10,854.00** (Trustees are allowed to pay themselves for services rendered at $120 per hour not to exceed $1,500.00 per month. Trustees have received $10,680.00 therefore have an outstanding balance due of $174.00)

Current bond is $270,091.70. **Petitioner request bond be reduced to $200,000.**

Petitioner prays for an Order:

1. Settling Trustee's First Account and allowing, confirming and approving all acts and transactions set forth herein;
2. Approving fees received by the Trustees through 1/31/12 and authorizing the additional sum of $174.00;
3. Reducing the bond to $200,000.00;
4. Authorizing Trustees to pay their attorneys the sum of $3,814.00 for attorney fees and costs.

NEEDS/PROBLEMS/COMMENTS:

1. **Attorney costs include copy, postage and fax charges totaling $31.10. Pursuant to Local Rule 7.17B the above costs are considered by the court to be a part of the cost of doing business and are not reimbursable.**
2. **Disbursement schedule shows a reimbursement to Janie Jimenez on 7/26/11 for misc. items totaling $1,333.96 and another on the same date for clothing and personal totaling $1,021.64. There does not appear to be enough information for the court to determine the reasonableness of these large disbursements.**

Reviewed by: KT
Reviewed on: 4/16/12
Updates:
Recommendation:
File 4 - Diaz

Atty Matlak, Steven M., of Dowling Aaron Inc. (for Petitioner Martin Rodriguez)

Petition to Appoint Successor Trustee (Probate Code § 15660; 17200; 17201)

Age:		
DOD:		
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	

MARTIN RODRIGUEZ, sole income Beneficiary of the **MARTIN RODRIGUEZ SPECIAL NEEDS TRUST dated 6/30/2011** (SNT), is Petitioner.

Petitioner states:

- He and the Trustee, **PERINE & DICKEN**, professional fiduciaries consisting of **RONALD DICKEN, PATRICIA DICKEN, KAREN STEELE**, and **CHRISTOPHER KENNEDY**, have mutually agreed that a change of Trustee is warranted at this time for various reasons; accordingly, on 2/23/2012 the Trustee signed a resignation as trustee of the SNT, effective upon the court's appointment and qualification of a new successor trustee (*copy of Resignation of Trustee attached as Exhibit B*);
- SNT terms provide that if Perine & Dicken shall for any reason fail to qualify or cease to act as trustee, then a court may appoint a successor trustee upon petition by any interested party; no successor trustee was nominated under the terms of the SNT;
- By an instrument in writing, Petitioner as Beneficiary of the SNT, has nominated **BRUCE D. BICKEL** as successor trustee to fill the vacancy created by the resignation of the current trustee; (*copy of Nomination of Successor Trustee and Consent of Nominee attached as Exhibit C*);
- The bond amount was set at **$1,139,886.00**, which remains appropriate at this time, and Petitioner requests the new trustee be ordered to post bond in this amount;
- Following the Trustee's resignation, the Trustee will file an accounting with the Court as required upon the change of Trustee;
- Upon the Court's acceptance of the appointment and qualification of Bruce Bickel, the Trustee will transfer all real and personal assets of the SNT to Bruce Bickel as successor trustee, except for a reserve of **$10,000.00** to cover fees, attorney's fees and costs in preparing and obtaining approval of its Final and Supplemental Accounts;

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

Note: *Petition* states the attorneys for the Trustee *[attorneys not identified]* will submit a separate fee declaration prior to the hearing on this matter. Court records do not show such fee declaration has been filed as of 4/16/2012.

Reviewed by:	LEG
Reviewed on:	4/16/12
Updates:	
Recommendation:	
File 5 - Rodriguez	

Petitioner states, continued:

- Following the transfer of assets, the [former] Trustee will prepare its Final Account for all transactions through that date; and upon the Court's approval of the Final Account, the [former] Trustee will prepare a Supplemental Account describing any disbursements from the reserve and will include their final request for compensation; upon the Court's approval of the Supplemental Account, the [former] Trustee will pay final fees and costs from the reserve and will transfer the balance of the reserve to Bruce Bickel [as successor trustee];
- Petitioner's attorney has performed services in connection with this Petition including communication with Trustee and Petitioner on numerous occasions in attempting to prevent a change in trustee, and when unsuccessful, coordinating the steps required to change trustees; Petitioner alleges that his attorney is entitled to compensation of **$2,215.00** and reimbursement of costs of **$395.00** (*please refer to Declaration of Steven Matlak in Support of Request for Attorney Fees and Costs filed 3/23/2012*); the attorneys for the Trustee *[attorneys not identified]* will submit a separate fee declaration prior to the hearing on this matter.

Petitioner prays for an order:

1. Appointing Bruce Bickel as Successor Trustee of the SNT, with bond set at **$1,139,886.00**;
2. Directing that Perine & Dicken [as former Trustees] transfer all real and personal assets of the SNT to Bruce D. Bickel as [Successor] Trustee, except a reserve of **$10,000.00** to prepare and file with the Court a Final and Supplemental Account, and after approval by the Court of final fees, transfer the balance of the reserve to Bruce D. Bickel as [Successor] Trustee;
3. Directing the Trustee to pay Petitioner's attorney **$2,215.00** for fees and **$395.00** for reimbursement of costs.

7 Shirley A. Pratt Living Trust dated 3-19-10 Case No. 11CEPR00882

Atty Erlach, Mara M. (for Peggy Morse Holland – acting successor trustee)

Atty Turner, Naomi (pro per – former trustee)

Probate Status Hearing Re: Accounting Prepared by Naomi Turner

DOD: 05/25/10		
Cont. from 013012, 030512		
	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	

PEGGY MORSE HOLLAND, is the acting successor trustee of the **SHIRLEY A. PRATT LIVING TRUST,** dated 03/19/10.

NAOMI TURNER, became a successor co-trustee on May 25, 2010 and then, upon resignation of co-trustee, **DEBORAH DIANNE EDMUNDS** on 07/16/10, served as the sole trustee until resigning on or about 04/28/11.

Petition for Order Compelling Trustee to Account and Report, for Surcharge, and for Return of Trust Property was filed by Peggy Morse Holland on 09/30/11.

Minute Order from hearing on 11/14/11 granted the Petition Compelling Trustee to Account and set this matter for status on 01/30/12.

Declaration filed 01/30/12 by Naomi Turner states: "Doing a Final Accounting for the Trust!". Attached to the declaration is a list of disbursements from 06/16/10 – 01/05/11 an additional disbursement page from 08/24/10 – 05/06/11 lists checks identified as Erin Haney Stolen Money. Also attached is a letter from Ms. Turner outlining all of the problems she has had with Peggy Morse Holland and describing Erin Haney's theft of trust monies.

Minute Order from 03/05/12 states: Counsel informs the Court that she has not received the accounting. Ms. Turner advises the Court that she does not have everything she needs to complete the account such as the receipts and bank statements. The Court orders Ms. Turner to file what she has with the clerk's office and provide a copy to counsel. Counsel is directed to provide Ms. Turner any receipts and bank statements she has for the period of 05/25/10 to 04/28/11.

NEEDS/PROBLEMS/COMMENTS:

<u>CONTINUED FROM 03/05/12</u>

Minute order from 03/05/12 states: The Court advises the parties to meet and discuss issues.

As of 04/13/12, no additional documents have been filed.

1. **Need Account and Report of Trustee (Naomi Turner).**

Reviewed by: JF
Reviewed on: 04/13/12
Updates:
Recommendation:
File 7 - Pratt

8 **Elizabeth J. Jackson (Estate)** **Case No. 11CEPR00890**

Atty **Vallis, James H. (for Steven Peckham – Executor/Petitioner)**

Petition for Final Distribution on Waiver of Account for Allowance of Fees and Report of Executor (Probate C 11640, 12200,1220, 10810)

DOD: 09/01/11		
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	11/10/11
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	**9202**	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	**FTB Notice**	

STEVEN PECKHAM, Executor, is Petitioner.

Accounting is waived.

I & A - $217,000.00
POH - $217,000.00

Executor - $3,500.00 (less than statutory)

Attorney - $3,500.00 (less than statutory)

Closing - $200.00

Distribution, pursuant to decedent's will, is to:

Steven Peckham - ½ interest in real property and a 1997 Ford Thunderbird

Gayle Stevenson - ½ interest in real property and a 1997 Ford Thunderbird

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: JF

Reviewed on: 04/16/12

Updates:

Recommendation: SUBMITTED

File 8 - Jackson

Dept. 303, 9:00 a.m. Monday, April 23, 2012

9 Sam Johnson and Jessie Johnson (Det Succ) Case No. 11CEPR01002

Atty Johnson, Robert L. (pro per Petitioner/son)

Atty Johnson, Susie (pro per Petitioner/daughter-in-law)

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

Sam DOD: 10/3/1994		
Jessie DOD: 8/29/1993		
Cont. from 010512, 030512		
	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	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

ROBERT JOHNSON, son, and **SUSIE JOHNSON**, daughter-in-law, are petitioners.

40 days since DOD.

No other proceedings

I & A – NEED

NEEDS/PROBLEMS/COMMENTS:

Continued from 3/5/12. Minute order states no appearances. Examiner notes sent to Robert Johnson. As of 4/13/12 the following issues remain:

1. **Petition includes two decedents. A separate petition is needed for each decedent. Therefore need this petition to be amended to include only one of the decedents and another petition can be filed for the remaining decedent.**
2. **Petition was filed using a fee waiver. Please note: prior to any order granting distribution of the property all costs of administration, including filing fees, must be paid.**
3. **Petition is defective in the following areas, including but not limited to:**
   a. **Need inventory and appraisal**
   b. **There is no attachment 11 including the legal description and decedent's interest in the property.**
   c. **#9a(3) of the petition was not answered re: issue of predeceased child.**
   d. **The petition indicates the decedents died intestate. The petition also indicates that both petitioners succeed to the property. Pursuant to intestate succession only Robert succeeds to the property therefore only Robert should petition.**

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

10A Re: Jeri L. Shubin 2007 Trust (Trust) **Case No. 11CEPR01018**

Atty **Keeler, William J. (for Roberto Garcia – beneficiary/Petitioner)**

Atty **Phillips, John W. (for Evelyn Lauderdale – Trustee)**

Petition to Remove Trustee and for Appointment of Successor Trustee; (2) for Surcharge of Trustee; (3) for Order directing Trustee to Return Trust Property to Trust; (4) and for Order Compelling Trustee to Account and Report [Prob. C. §§ 850, 15642, 16064, 17200(b)]

DOD: 06/29/11

Cont. from 01/10/12, 022812, 031312

	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	

ROBERTO GARCIA, Trust Beneficiary, is Petitioner.

Petitioner states:

1. Decedent created the Jeri L. Shubin 2007 Trust (the "Trust") and a pour-over Will on August 23, 2007;
2. Decedent amended the Trust on July 1, 2009 (the "First Amendment");
3. Decedent amended the Trust a second time on December 15, 2009 (the "Second Amendment");
4. Decedent amended the Trust a third and final time on December 13, 2010;
5. Decedent died on June 29, 2011, at which time the Trust became irrevocable;
6. Petitioner is a named beneficiary of the Trust and also was nominated as second successor trustee in the Third Amendment to the Trust;
7. Petitioner states that Evelyn Lauderdale is the current acting trustee;
8. Petitioner states that Evelyn Lauderdale is a contingent beneficiary only, in that she succeeds to the personal property of the Trust only in the event the decedent did not leave a letter of instructions governing the distribution of such property;
9. Petitioner states that Evelyn Lauderdale was present when decedent discussed her estate planning with her attorney as was aware that she was solely a contingent beneficiary and successor trustee of the Trust;
10. Petitioner states that Evelyn Lauderdale was a co-owner of a Chase bank account with the decedent due to the decedent needing assistance in paying bills as her health declined;
11. Petitioner states that decedent owned investment accounts with Merrill Lynch, John Hancock, and Wells Fargo Financial either individually or in her capacity as trustee of the Trust and Petitioner understands that certain individuals, including the Petitioner, were pay-on-death beneficiaries of one of more of these accounts;
12. Petitioner states that Evelyn Lauderdale was not an authorized signer on any of these accounts;

See Page 2 for more information

NEEDS/PROBLEMS/COMMENTS:

<u>CONTINUED FROM 03/13/12</u>
Minute Order dated 03/13/12 states: Mr. Markeson informs the Court that they have mediation scheduled for 05/18/12 regarding all issues.

<u>Notes</u>:
Consent of Bruce Bickel to serve as neutral third party trustee was filed on 02/01/12.

Reviewed by: JF

Reviewed on: 04/16/12

Updates:

Recommendation:

File 10A - Shubin

13. Petitioner states that in or around May 2011, while the decedent was in the hospital, Evelyn Lauderdale went to Merrill Lynch, John Hancock, and Wells Fargo Financial, and using a durable power of attorney signed by decedent, transferred between $150,000.00 - $250,000.00 from the decedent's investment accounts into the Chase account she co-owned with the decedent;
14. Petitioner states that the decedent did not know about and did not authorize Ms. Lauderdale to make such transfers;
15. Petitioner states that upon the decedent's death, the funds in the Chase account reverted to Ms. Lauderdale by operation of law;
16. Petitioner states that after decedent's death, Ms. Lauderdale closed the Chase account without any accountings having been given to the decedent before her death or to any other person with an interest in the funds, including the Petitioner or other pay-on-death beneficiaries of the investment accounts;
17. Petitioner states that he does not know what happened to the funds that were in the Chase account when Ms. Lauderdale closed the account;
18. Petitioner states that Ms. Lauderdale's removal of the funds from the decedent's accounts, without the decedent's knowledge or consent, constituted fraud on the decedent and on the intended beneficiaries of the accounts, including the beneficiaries of the Trust;
19. Petitioner states that as a result of her wrongful conduct, Ms. Lauderdale has breached her duties as successor trustee of the Trust and holds funds removed from the investment accounts;
20. Petitioner states that Ms. Lauderdale should be removed as trustee of the Trust and should be made to account and report for the funds she took from decedent's investment accounts and for her administration of the Trust estate;
21. Petitioner further states that Ms. Lauderdale, as successor trustee of the Trust, has a fiduciary duty to administer the Trust according to the Trust Instrument and applicable law, keep trust property separate from other property not subject to the Trust and see that the Trust property is designated as property of the Trust;
22. Further, Petitioner states that the Ms. Lauderdale, as successor trustee of the Trust, has a duty to keep the beneficiaries of the Trust reasonably informed of the Trust and its administration;
23. Petitioner alleges that Ms. Lauderdale has taken possession of Trust property and titled it in her own name individually. This property includes, but is not limited to, the funds taken from decedent's investment accounts;
24. Petitioner alleges that Ms. Lauderdale intentionally chose to act to her own benefit instead of to the benefit of the beneficiaries of the Trust, all contrary to her duties and responsibilities as successor trustee;
25. Petitioner also states that Ms. Lauderdale, in her capacity as successor trustee, has intentionally sought to harm Petitioner's interest as a beneficiary of the Trust by bringing a trust contest in the unlimited civil department of Fresno Superior Court (Case No. 11CECG02841), by failing to fully disclose in her pleadings the amendments to the Trust, which grant property to the Petitioner, by failing to disclose the existence of certificates of independent review related to the amendments to the Trust which grant property to the Petitioner, by failing to object to the amendments during the decedent's lifetime despite having been present at the time of their creation, and by seeking a temporary restraining order and preliminary injunction against Petitioner enjoining him from accessing the trailer without filing an unlawful detainer action and without disclosing Petitioner's entitlement to that property under the amendments to the Trust;

26. Petitioner alleges that by her actions, Ms. Lauderdale has intentionally and willfully breached her fiduciary duties to the beneficiaries of the Trust, including Petitioner, thereby causing damage to the Petitioner and the other Trust beneficiaries;

Petitioner requests an Order:

1. Immediately removing Ms. Lauderdale as trustee of the Trust;
2. Appointing a neutral third-party as successor trustee;
3. Directing Ms. Lauderdale to prepare and file an account and report of her administration of the Trust for the period of May 1, 2011 up to and including her removal as successor trustee of the Trust, and set the account and report for hearing upon proper notice;
4. Directing Ms. Lauderdale to turn over to the successor trustee all assets in her possession or control removed from decedent's investment accounts, as well as any other assets properly belonging to the Trust;
5. Surcharging Ms. Lauderdale according to proof;
6. For damages according to proof;
7. For punitive damages in an amount warranted by Ms. Lauderdale's intentional and willful breach of her fiduciary duties;
8. For any other relief the Court deems just and proper.

Evelyn Lauderdale's Opposition to Petition to Remove Trustee and for Appointment of a Successor Trustee; For Surcharge of Trustee; For Order Directing Trustee to Return Trust Property to Trust; and for order Compelling Trustee to Account and Report filed 01/09/12 states:

Respondent, Evelyn Lauderdale specifically admits and denies the various allegations in the Petition.

Respondent states that she is in the process of preparing the statutory accounting for the Trust and states that the accounting should be finalized by late January or early February 2012. Respondent states that several of the allegations in the Petition are best responded to through the accounting and requests that the court defer ruling on this Petition until the accounting has been finalized and submitted to the parties and the Court.

Respondent states that this Petition is a response to litigation filed against the Petitioner based on his actions regarding the decedent and her assets prior to her death. Respondent alleges in that litigation that Petitioner, in a predatory manner, embarked on a scheme to lull decedent into a sense of security by promising to care for all of her needs, when Petitioner secretly intended to loot decedent, her estate and rightful beneficiaries of the assets of the estate by wrongfully coercing decedent to execute amendments to the Trust.

Respondent states that she is pursuing this litigation on behalf of the Trust to restore assets to the Trust to which omitted beneficiaries contend they are entitled. Respondent states that it is questionable whether a newly appointed "neutral" third party successor trustee would pursue such complex litigation.

Respondent further states that she has not transferred any assets of the Trust, other than as instructed by either the Fresno Police Department, her attorneys, or the decedent prior to her death and on that basis denies the suggestion of impropriety.

Respondent requests a judgment as follows:

1. Denying the Petitioners request to remove Respondent as Trustee;
2. Denying the Petitioner's request directing Respondent to prepare and file an account and report for the period beginning May 1, 2011;
3. Denying Petitioner's request that the Respondent turn over all possessions in her control to a successor Trustee;
4. Denying Petitioner's request that Respondent be surcharged;
5. Denying Petitioner's request for damages;
6. Denying Petitioner's request for punitive damages; and
7. Any other relief the Court deems proper.

10B Re: Jeri L. Shubin 2007 Trust (Trust) **Case No. 11CEPR01018**

Atty Keeler, William J. (for Roberto Garcia – Beneficiary)

Atty Phillips, John W. (for Evelyn Lauderdale – Trustee/Petitioner)

Petition to Determine Validity of Purported First and Third Amendments to Trust and to Impose Constructive Trust (Prob. C. 17200, et seq., 21350, et seq; and 21360 et seq)

DOD: 06/29/11		
Cont. from 022312, 022812, 031312		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	w/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
✓	**Objections**	
	Video Receipt	
	CI Report	
	9202	
	Order	x
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

EVELYN LAUDERDALE, Trustee of the Jeri L. Shubin 2007 Trust, is Petitioner.

Petitioner alleges:

1. Jeri L. Shubin (the "Decedent"), died June 29, 2011, a resident of Fresno County, and left property in Fresno County.
2. On August 23, 2007, Decedent executed a Declaration of Trust known as the Jeri L. Shubin 2007 Trust that called for distribution of its assets as follows:
   a. Personal property to be distributed pursuant to a letter of instruction to the trustee, or in the absence of such a letter, in equal shares to James Shubin and Gary Shubin;
   b. Real property located at 4104 E. Washington, Fresno to Rick Davis;
   c. Any residue, 1/3 to Gary Shubin, 1/3 to James Shubin, and 1/3 to various charities.
3. On July 1, 2009, the Decedent executed a document purported to be the first amendment to the trust. This amendment passes personal property to Marlene Gunion in the absence of a letter to the Trustee; real property at 4104 E. Washington, Fresno to Rick Davis; 31.9 acres of real property to William Buchnoff; real property at 1582 N. Humboldt, a 1991 trailer, a 1997 Ford Explorer, and Bank of America bank account ending in 04563 to Roberto Garcia; and the residue of the estate to be divided 1/3 to Gary Shubin (with certain restrictions), 1/3 to James Shubin (with certain restrictions), and $250,000.00 of the remaining 1/3 to charities named in the original trust, with the balance to Roberto Garcia.
4. On December 15, 2009 the Decedent executed a Second Amendment to her Trust adding a specific distribution of real property located at 2045 W. San Ramon, Fresno to Marlene Gunion.

Cont'd on Page 2

NEEDS/PROBLEMS/COMMENTS:

<u>CONTINUED FROM 03/13/12</u>

Minute Order dated 03/13/12 states: Mr. Markeson informs the Court that they have mediation scheduled for 05/18/12 regarding all issues.

1. **Need Order.**

<u>Notes:</u>

Consent to Serve as Neutral Third Party Successor Trustee by Bruce Bickel was filed 02/01/12.

Reviewed by: JF	
Reviewed on: 04/16/12	
Updates:	
Recommendation:	
File 10B - Shubin	

5. On December 13, 2010, Decedent executed a document purported to be a Third Amendment to her Trust. This Third Amendment revokes the second Amendment and affirms the First, except that it passes the personal property to Petitioner (Evelyn Lauderdale) in the absence of a letter of instruction; passes the 1991 trailer and real property located at 2045 W. San Ramon, Fresno to Roberto Garcia; and passes the residue of the Trust 1/3 to Gary Shubin (with certain restrictions), 1/3 to James Shubin (with certain restrictions), and the remaining 1/3 to the charities originally designated in the Trust.
6. On May 17, 2011, Decedent executed a Fourth Amendment to the Trust which appointed Petitioner to act as Co-Trustee with the Decedent.

Petitioner request that the Court rescind and nullify the purported First and Third Amendments to the Trust on the following grounds:

A. First Ground: Lack of Capacity
   1. At the time of the alleged execution of the purported Trust Amendments, the Decedent was not of sound and disposing mind. The Decedent did not have the sufficient mental capacity to understand the nature of her actions in executing the purported Trusts, understand and recollect the nature and situation of her property, or remember or understand her relationship to her family members.
B. Second Ground: Undue Influence
   1. The purported Trust Amendments were executed as a direct result of undue influence exerted on the Decedent by Roberto Garcia. This undue influence consisted of the following:
      a. Roberto Garcia was a confidant to the Decedent for approximately 3 years before and up to the time of her death;
      b. Mr. Garcia had a friendly and confidential relationship with Decedent, who trusted and had confidence in Mr. Garcia;
      c. Mr. Garcia took over the decedent's financial affairs'
      d. At the time the amendments were signed and at the time of the Decedent's death, she was aged and infirm, and suffered from memory problems. As a result of these mental infirmities, Decedent was easily influenced and controlled by Mr. Garcia;
      e. Mr. Garcia actively procured the purported Trust as part of a pattern of conduct aimed at gaining control of the Decedent's major assets;
      f. During the last few months of the Decedent's life, Mr. Garcia took active steps to isolate Decedent and prevent her from having contact with family members;
      g. The Trust Amendments confer an undue benefit on Mr. Garcia. Mr. Garcia "moved in" on the Decedent during the last few years of her life, taking over ever greater control of the Decedent's life and financial affairs. Before becoming a confidant to the Decedent, Mr. Garcia had been a stranger to the Decedent.
C. Third Ground: Duress and Menace
   1. The apparent consent of Decedent to the First and Third Amendments to the Trust was obtained by Mr. Garcia's duress and menace. Decedent made statements to persons during the course of executing the purported Amendments that she feared Mr. Garcia and feared not executing the purported Amendments. Petitioner alleges that Mr. Garcia coached and practiced with Decedent what she was supposed to tell the attorney who drafted the purported Amendments, as well as another attorney who executed Independent Certificate of Reviews relating to the Decedent's will. Decedents will passes her entire estate to her Trust. Petitioner states that the Decedent would not have consented to the First and Third Amendments absent the conduct of Mr. Garcia.

D. Fourth Ground: Prohibited Transferee.
   1. Probate Code § 21350 et seq. prohibits Mr. Garcia from succeeding to any interest under the purported First and Third Amendments to the Trust as he was a care custodian to the Decedent as defined under Section 15610.7 of the Welfare and Institutions Code, and the Decedent would have been a dependent adult under the definition set forth in Welfare and Institutions Code § 15160.23 had she been between the ages of 18 and 64. Petitioner further alleges that an independent attorney did review the Decedent's will with her, but according to the Certificates of Independent Review, did not review the purported trust amendments with her.

E. Fifth Ground: Prohibited Transferee.
   1. Mr. Garcia is prohibited by Probate Code § 21360 et seq. from succeeding to any interest under the purported first and third amendments to the trust, as he was a care custodian of the Decedent as defined under section 21362 of the Probate Code and the Decedent was a dependent adult as defined under Probate Code § 21366(a). Petitioner alleges that the purported transfers are presumed to be the product of fraud and undue influence by virtue of Probate Code § 21380, subjecting Mr. Garcia to all costs, including reasonable attorney fees, should he fail to rebut the presumption (See Probate Code § 21380(d)).
   2. Because of the Decedent's lack of capacity, Mr. Garcia's exertion of undue influence, menace and duress over the Decedent, and/or because he was a prohibited transferee, Mr. Garcia holds title to trust assets as well as income therefrom, as constructive trustee for the benefit of persons entitled to distribution of the Decedent's estate. Those assets include cash and other personal property according to proof.

Petitioner prays for an order:
1. Finding the purported First and Third Amendments to the Trust void due to the mental incapacity of the Decedent;
2. Finding the purported First and Third Amendments to the Trust void due to the undue influence of Mr. Garcia;
3. Finding the purported First and Third Amendments to the Trust void due to the duress and/or menace of Mr. Garcia over the Decedent;
4. Declaring that Mr. Garcia holds any and all assets of the Trust that he has received already in trust, for the person entitled to distribution of the estate of the Decedent;
5. For costs of suit herein, including attorney fees, to the extent allowed by law;
6. Finding that Mr. Garcia is a prohibited transferee pursuant to Probate Code § 21350 et seq. and invalidating those provisions of the purported first and third Amendments to the Trust that purport to make gifts to Mr. Garcia.

Objection to Petition to Determine Validity of Purported First and Third Amendments to the Trust and to Impose Constructive Trust filed 02/16/12 by Roberto Garcia denies all of the allegations in the Petition except:
1. That the first amendment purports to convey 31.9 acres to William Buchnoff. Mr. Garcia alleges that the first amendment actually purports to convey 39.1 acres to William Buchnof.
2. That the fourth amendment purports to appoint Petitioner to act as co-trustee with the Decedent.
3. That Mr. Garcia had a friendly relationship with the Decedent.
4. That the address for the SPCA stated in the Petition is correct. Mr. Garcia also admits that McCormick Barstow has filed a request for special notice on behalf of the SPCA.

Mr. Garcia makes the following affirmative defenses:
1. The Petition and each and every cause of action therein does not state facts sufficient to constitute a cause of action against the Respondent.

2. Petitioner lacks sufficient legal standing to maintain each and every cause of action alleged in the Petition.
3. The acts, errors and omissions of Petitioner constitute unclean hands and therefore bar any relief.
4. Petitioner is estopped from pursuing the causes of action set forth in the Petition.
5. The causes of action stated in the petition were not timely filed and are barred by the applicable statute of limitation set forth by California law, including, but not limited to: the California Code of Civil Procedure, California Civil Code, and the California Probate Code.
6. Petitioner has not brought and served in a timely manner but has delayed in bringing and serving suit until a substantial time after the alleged causes of action accrued. This delay worked to the Respondent's prejudice and thus this action and any claim purported therein is barred by the Doctrine of Laches.

Respondent prays for a judgment:

1. That Petitioner take nothing on the basis of her Petition to Determine the Validity of the Purported First and Third Amendments to the Trust and to impose constructive trust;
2. That the first and third amendments be found to be valid trust amendments;
3. That the Respondent be awarded costs of suit herein incurred; and
4. That the Respondent be awarded reasonable attorneys' fees to the extent permissible by contract or statute.

10C Jeri L. Shubin 2007 Trust (Trust) **Case No. 11CEPR01018**

Atty **Keeler, William J. (for Roberto Garcia – beneficiary/Petitioner)**

Atty **Phillips, John W. (for Evelyn Lauderdale – Trustee)**

Petition for Preliminary Distribution and Injunction (Prob. C. 17200; CCP 526)

DOD: 06/29/11		
Cont. from 031312		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	w/
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	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	x
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

ROBERTO GARCIA, Trust Beneficiary, is Petitioner.

Petitioner states:

1. Decedent created the Jeri L. Shubin 2007 Trust (the "Trust") and a pour-over Will on August 23, 2007;
2. Decedent amended the Trust four times during the course of her life, first on July 1, 2009, second on December 15, 2009, third on December 13, 2010, and a final time on May 27, 2011;
3. Decedent amended her Will once on December 13, 2010;
4. Decedent died on June 29, 2011 a resident of Fresno County;
5. Petitioner, Roberto Garcia, was a close friend of Decedent and is a beneficiary of the Trust pursuant to the First, Second, Third and Fourth Amendments. Petitioner is also nominated as the second successor executor in the first codicil to the Decedent's Will;
6. Paragraph 5 of the third amendment to the Trust amends paragraph 6 of the original document to include "The Trustee shall distribute the real property described in Item No. 1 in Exhibit A attached to the Jeri L. Shubin 2007 Trust, with a common address of 2045 W. San Ramon, Fresno, California (APN 415-520-44) to Roberto Garcia, if he survives….";
7. This specific bequest was noT subsequently amended or revoked in the fourth amendment;
8. Evelyn Lauderdale ("Trustee") is the acting trustee of the Trust;
9. There are currently three lawsuits pending between Petitioner and Trustee: a Second Amended Complaint for Damages filed by Trustee that is currently before Honorable Alan J. Simpson in Department 503 of the Fresno Superior Court, a Petition to Determine the Validity of the first and third amendments to the Trust, filed in this Court by the Trustee, and a Petition to Remove Trustee filed in this Court by Petitioner;

Continued on Page 2

NEEDS/PROBLEMS/COMMENTS:

CONTINUED FROM 03/13/12

Minute Order dated 03/13/12 states: Mr. Markeson informs the Court that they have mediation scheduled for 05/18/12 regarding all issues.

1. **Need Order.**

Reviewed by: JF	
Reviewed on: 04/16/12	
Updates:	
Recommendation:	
File 10C - Shubin	

10. In the Second Amended Complaint for Damages, Trustee alleges causes of action for Fraud, Elder Abuse, Conversion, Accounting, Recovery of Funds pursuant to Probate Code § 850, and Undue Influence. In the prayer for relief however, Trustee seeks only the following:
    a. An order invalidating transfers of trust assets of the Plaintiff previously designated for transfer to Defendant Garcia and an order restoring title to the same in the trust;
    b. A declaration of the rights, duties, and obligations of the parties herein;
    c. An order that Defendant be required to account to Plaintiff for misappropriated funds and assets set forth;
    d. An order that Defendant be subject to surcharge under the Probate Code for any interest Defendant may have in trust properties or assets;
    e. For compensatory damages in amount according to proof;
    f. For exemplary and punitive damages;
    g. For interest at the legal rate on the sums alleged pursuant to § 3288 of the California Civil Code;
    h. For attorney's fees pursuant to Welfare and Institutions Code § 15657.5;
    i. For costs of suit, equitable relief, for trial by jury, and other such relief the Court deems just and proper;
    j. For treble damages pursuant to Civil Code §3345; and
    k. For judgment for twice the value of the property recovered as provided by Probate Code § 859.
11. In the Second Amended Complaint, Trustee does not seek an order finding any of the amendments, including the fourth amendment invalid;
12. In the Petition to Determine Validity of Purported First and Third Amendments to the Trust, Trustee seeks only to invalidate the First and Third Amendments to the Trust and does not seek to impair the enforceability of the Fourth Amendment;
13. Because Trustee does not seek to invalidate the Fourth Amendment, Petitioner is entitled to receive the real property at 2045 W. San Ramon, Fresno, CA (the "Property) regardless of the outcome of the ongoing litigation;
14. Petitioner is currently residing in the 1991 Travel Trailer Holra located in the rear of the property at 2045 W. San Ramon. Petitioner began living in the trailer before Decedent's death and with her permission, and Decedent intended for Petitioner to receive both the trailer and the property upon her death, according to the all of the amendments of the Trust;
15. The property at 2045 W. San Ramon is currently vacant and has been since Decedent's death;
16. Because Petitioner is entitled to receive the property pursuant to the terms of the third amendment to the Trust, because the Fourth Amendment to the Trust explicitly republishes the provisions of the Trust as amended, because the outcome of the ongoing litigation will not affect Petitioner's entitlement to the Property, and because the Property is currently vacant, Petitioner requests that this Court order Trustee to distribute the Property to him as a preliminary distribution;
17. Petitioner is entitled to occupy the Property because it was specifically bequeathed to him by the Decedent in the amendments to the Trust and Petitioner will suffer imminent and irreparable harm if he is not permitted to occupy the Property because he is currently expecting the birth of his first child and is being forced to reside in a cramped, ill-equipped trailer located on the same parcel of real property as a house he would be entitled to occupy but for the actions of the Trustee;
18. It is unlikely the Trustee will prevail in invalidating two of the four amendments to the Trust because Decedent obtained certificates of independent review in order to ensure that Petitioner would receive the Property, among other assets, upon her death;
19. The residence on the Property is currently unoccupied, additionally, according to the Trustee, the location of the trailer and Petitioner's presence therein has generated fees and other financial penalties due to zoning violations that have been charged against the Trust. The extent of these fees is such that Trustee has previously attempted to impermissibly evict Petitioner from the trailer through a temporary restraining order filed in connection with the pending lawsuit in Department 503. Consequently, failure to allow

Petitioner to occupy the Property will result in waste to the Trust because the Property will be unoccupied, more expensive (if not impossible) to insure, and will cause additional fees to be charged against the Trust as a result of Petitioner's residence in the trailer;

20. The Trustee and the Trust will suffer no harm in the event that Petitioner is entitled to occupy the Property. In fact, the Trustee and the trust estate stand to benefit substantially if Petitioner is entitled to occupy the Property because Trustee will be able to insure the Property at a reduced rate and will be able to rectify the zoning issues associated with the Trailer.

Petitioner requests an Order:

1. Instructing Trustee to transfer Property to Petitioner pursuant to the Jeri L. Shubin 2007 Trust, as amended;
2. Prohibiting Trustee from taking any action that would prevent Petitioner from occupying the residence located on the Property;
3. Awarding Petitioner attorney's fees and costs as allowed by law; and
4. Granting such other and further relief as the Court may deem just and proper.

Trustee Evelyn C. Lauderdale's Opposition to Petition, filed 3/12/12, <u>both admits certain allegations and denies others</u> and states in part:

- Ms. Lauderdale admits Roberto Garcia is a beneficiary of amendments 1-3 to the Trust, but denies he was a close friend of Decedent or that he is a beneficiary of the 2d and 4th amendments;
- Ms. Lauderdale has filed an action in this Court to invalidate the 1st and 3rd amendments, and said petition is in progress in the Court;
- Per the 3rd amendment (which Ms. Lauderdale seeks to invalidate) Roberto Garcia is to receive the residence, and he will only receive the residence should he prevail;
- Ms. Lauderdale admits the residence is unoccupied and that the travel trailer on the property has generated fees due to zoning violations as alleged; Ms. Lauderdale admits she tried to have a temporary restraining order against Petitioner, but denies the attempt was impermissible or that vacancy will create waste.

<u>Ms. Lauderdale prays for an order:</u>

1. Denying Roberto Garcia's request for preliminary distribution;
2. Denying Roberto Garcia's request that the trustee be prohibited from taking action to keep Roberto Garcia from occupying the property;
3. Denying Roberto Garcia's request for attorney fee and costs.

10D Jeri L. Shubin 2007 Trust (Trust) **Case No. 11CEPR01018**

Atty Keeler, William J. (for Roberto Garcia – beneficiary)

Atty Phillips, John W. (for Evelyn Lauderdale – Trustee/Petitioner)

Evelyn C. Lauderdale's First Account and Petition to Settle First Account

DOD: 06/29/11		
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	

EVELYN LAUDERDALE, Trustee, is Petitioner.

Account period: 06/29/11 – 12/31/11

Accounting	-	$4,830,198.00
Beginning POH	-	$4,560,779.00
Ending POH	-	$4,330,307.00
Trustee	-	Not requested
Attorney	-	$26,547.75

(for services rendered for Petitioner during the account period, including pursuing several litigation matters regarding the trust, including responding to actions brought against the trustee, pursuing actions for return of trust property and to invalidate two amendments to the trust)

Petitioner prays for an Order:

1. Settling and allowing the account as filed;
2. Ratifying, confirming, and approving all of the acts and transactions of Petitioner as trustee; and
3. Reserving reasonable compensation to Petitioner for ordinary services rendered as trustee to a later date;

NEEDS/PROBLEMS/COMMENTS:

1. **A Request for Special Notice was filed by Jeffrey Reid of McCormick, Barstow, Sheppard on 12/16/11. Need proof of service of Notice of Hearing at least 30 days before the hearing to Mr. Reid, pursuant to his Request for Special Notice. It is noted that Mr. Reid was mailed a copy of the Petition before it was filed, however this copy would not have included the hearing date.**

Reviewed by: JF

Reviewed on: 04/16/12

Updates:

Recommendation:

File 10D - Shubin

10D

11 Robert Anthony Solis Mosqueda (GUARD/P) Case No. 12CEPR00177

Atty **Durost, Linda K., sole practitioner (for Petitioners Alfredo Solis and Carol Solis)**

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

Age: 14 years		
DOB: 6/14/1997		
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	
	Aff. Posting	
✓	Duties/Supp	
	Objections	
	Video Receipt	
✓	CI Report	
✓	Clearances	
✓	Order	
✓	Letters	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

NO TEMPORARY REQUESTED

ALFREDO SOLIS and CAROL SOLIS, paternal grandparents, are Petitioners.

Father: **ROBERT ANTHONY SOLIS**

Mother: **GLORIA MOSQUEDA**

Maternal grandfather: Vincent Mosqueda
Maternal grandmother: Hilda Povelata; *sent notice by mail 2/28/2012;*

Petitioners state the child has lived with them since he was five years old, and they have cared for him financially and emotionally since that time. Petitioners state there have been no orders of custody made for either parent, and the child's father is not listed on the child's birth certificate and he does not see the child regularly. Petitioners state that the child requested they obtain guardianship of him, and that the child's mother has agreed to this petition for guardianship.

Petitioners request powers and duties as guardians of the person under Probate Code § 2351 – 2358 be granted as to the proposed ward. *(Please refer to Note at right.)*

Petitioners request notice to the maternal grandfather, Vincent Mosqueda, be dispensed with because Petitioners are informed that the minor's mother has never met her father and she does not know where he resides, and the only information known about his location is that he resides somewhere in Mexico.

Court Investigator Dina Calvillo's *Report* was filed 4/10/2012.

NEEDS/PROBLEMS/COMMENTS:

1. **Need proof of 15 days' personal service of the *Notice of Hearing* with a copy of the *Petition for Appointment of Guardian*, or *Consent to Appointment of Guardian and Waiver of Notice* pursuant to Probate Code § 1511(b)(3) for:**
   - **Gloria Mosqueda, mother; *(Note: Nomination of Guardian (Section 2) filed 2/21/2012 is insufficient to indicate consent to appointment and waiver of notice by the mother. Additionally, notice to a parent must be by personal service rather than by mail as indicated on Proof of Service filed 2/29/2012.)***
   - **Robert A. Solis, father; *(Note: notice to a parent must be by personal service rather than by mail as indicated on Proof of Service filed 2/29/2012.)***
   - **Robert Mosqueda, proposed ward (age 14.)**
2. **Need one set of proposed letters signed by both Petitioners *(two sets of proposed letters were submitted signed individually by each Petitioner.)***

<u>Note</u>: Item 1(e) of the *Petition* requests orders be granted relating to the powers and duties of the proposed guardian of the person that are listed in *Attachment 1(e)* to the *Petition*. The powers and duties listed are conferred on guardians of the person as a matter of course until a ward reaches age 18. Proposed order and letters contain attachments listing these powers and duties; however, such attachments would only be required in such cases as allowed under Probate Code § 2358 for insertion of "conditions not otherwise obligatory" of the guardian, or in a case where these powers are sought to be <u>limited</u> in some fashion. Proposed order and letters have been altered in that the submitted attachments have been removed to prevent confusion.

Reviewed by: LEG	
Reviewed on: 4/16/12	
Updates:	
Recommendation:	
File 11 – Mosqueda	

12 Catalina Miranda (Det Succ) Case No. 12CEPR00235

Atty **Perkins, Jan T., of Perkins Mann & Everett (for Petitioner Socorro Reynaga)**

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

DOD: 8/14/2011		
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	

SOCORRO REYNAGA, daughter, is Petitioner.

40 days since DOD.

No other proceedings.

I & A - **$36,826.79**

Decedent died intestate.

Petitioner requests Court determination that Decedent's **100% interest** in a 1/3 interest in real property located on Hughes in Fresno, a 1/9 interest in real property located on Hughes in Fresno, a 1/3 interest in a wheelchair, and remaining cash on hand passes to the Petitioner pursuant to intestate succession.

NEEDS/PROBLEMS/COMMENTS:

<u>Page 1</u> of this calendar is the *Twentieth and Final Account* of the Conservatorship Estate of the deceased Conservatee, Catalina Miranda.

<u>Note</u>: Proposed *Order Determining Succession to Real Property* associated with this matter should be considered and signed by the Court in conjunction with the proposed *Order Settling the Twentieth Account* in the Conservatorship Estate of Catalina Miranda (Case #0380281.)

Reviewed by: LEG
Reviewed on: 4/13/12
Updates:
Recommendation:
File 12 - Miranda

13 Jalen Arrington and Kierra Hollowell (GUARD/P) Case No. 11CEPR00440
Atty Locke, Verneal (pro per Petitioner/maternal grandmother)

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

Jalen age: 15 years DOB: 5/13/1996		
Kierra age: 13 years DOB: 1/16/1999		
Cont. from		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✓	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
	Objections	
	Video Receipt	
✓	CI Report	
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

THERE IS NO TEMPORARY.
No temporary was requested.

VERNEAL LOCKE, maternal grandmother, is petitioner.

Father (Jalen): **JULIUS ARRINGTON**

Father (Kierra): **TROY HALLOWELL**

Mother: **KELISA KIRNON**

Paternal grandfather (Jalen): Deceased
Paternal grandfather (Kierra): Deceased
Paternal grandmother (Jalen): Betty Jean Arrington
Paternal grandmother (Kierra): unknown
Maternal grandfather: Thethel Locke

Petitioner states mother put the children out of her home and told them they were no welcomed.

Court Investigator Charlotte Bien's Report filed on 4/12/12.

NEEDS/PROBLEMS/COMMENTS:

1. **Need *Notice of Hearing.***
2. **Need proof of <u>personal</u> 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. **Julius Arrington (Jalen's father)**
   b. **Troy Hollowell (Kierra's father)**
   c. **Kelisa Kirnon (mother)** – *The Sheriff's Dept. attempted Service at the last known address. Apartment was empty.*
   d. **Jalen Arrington (minor)**
   e. **Kierra Hollowell (minor)**
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. **Betty Arrington (Jalen's paternal grandmother)**
   b. **Kierra's paternal grandmother**
   c. **Thethel Locke (maternal grandfather)**

Reviewed by: KT
Reviewed on: 4/16/12
Updates:
Recommendation:
File 13 – Arrington, Hollowell

14 Teresa M. Durnya (CONS/PE) **Case No. 11CEPR00441**

Atty Durnya, John (pro per Petitioner/Conservator)

First Account and Report of Conservator and Petition for its Settlement, (2) for Approval of Conservator's and Caregiver's Compensation, (3) for Reimbursement of Costs, and (4) for Approval to Make Purchases and Transfer Assets [Prob. C. 2620]

Age: 90 years
DOB: 2/3/1922

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	
✓	2620(c)	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

JOHN DURNYA, son, is petitioner.

Account period: 9/21/11 – 2/21/12

Accounting - **$148,831.57**
Beginning POH - **$145,500.70**
Ending POH - **$142,591.74**

Current bond is $154,000.00

Conservator - **$4,750.00** (190 hours @ $25 per hour. Petitioner states he used 190 Family Medical Leave hours and he earns $25.00 per hour.)

Conservator requests he be allowed **to pay himself the sum of $700 per month** for the conservatee's living expenses (food, utilities and rent) retroactive to May 2011.

Conservator requests he be allowed **to pay from the conservatorship the sum of $1,200** to fence off an existing pool so that it will not be a hazard to the conservatee.

Conservator requests that **he be allowed the sum of $300 per month** to care for the conservatee, retroactive to May 2011.

Conservator requests that he be allowed to **pay the conservatee's grandson, Christopher Durnya the sum of $300 per month** to care for the conservatee, retroactive to May 2011.

Conservator requests the court allow him **reimbursement in the amount of $1,000.00 for the paralegal typing service** for the conservatorship papers in this matter.

Conservator requests that he be allowed to transfer on-half of the remaining funds in the Bank of America Account to Golden One Credit Union.

Please see additional page

NEEDS/PROBLEMS/COMMENTS:

1. **Need *Notice of Hearing.***
2. **Need proof of service of the *Notice of Hearing* on:**
   a. **Teresa M. Durnya (conservatee)**
3. **Petition includes the Family Medical Leave statement of hours for the petitioner. Statement shows the petitioner used 67.5 hours of Family Medical Leave. Petitioner asks for reimbursement for 190 hours.**
4. **Disbursement schedule includes disbursements for glass door and door installation totaling $1,396.00. Probate Code §1064(a)(2) requires an explanation of unusual items appearing in the accounting.**
5. **Disbursement schedule includes a disbursement to replace a hallway door for $157.00. Probate Code §1064(a)(2).**
6. **Need Order**

Reviewed by: KT
Reviewed on: 4/17/12
Updates:
Recommendation:
File 14 - Durnya

Petitioner prays for an Order:

1. Settling and Allowing the First Account.
2. Approving and confirming the acts of petitioner and Conservator
3. Allowing reimbursement to Petitioner in the amount of $1,000.00 for own money expended for paralegal services in typing the conservatorship documents.
4. Allowing the sum of $4,750.00 to the conservator as compensation for services rendered.
5. Allowing the sum of $6,300.00 as reimbursement for rent and food from May 9, 2011 to February 21, 2012 and allowing Conservator to collect the sum of $700 per month thereafter.
6. Allowing Petitioner to expend $1,200.00 to fence the area around the pool.
7. Allowing Petitioner to pay himself the sum of $3,000 for the care of the conservatee from May 9, 2011 to February 21, 2012 and $300 per month thereafter.
8. Allowing Petitioner to pay the Conservatee's grandson, Christopher Durnya the sum of $3,000.00 for the care of the conservatee from May 9, 2011 to February 21, 2012 and $300 per month thereafter.
9. Allowing Conservator to transfer one-half of the funds at Bank of America to and account at Golden One Credit Union.

Age: 12
DOB: 10/18/99

Cont. from 110811, 012412

	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	

TEMPORARY EXPIRES 04/23/12

PAMELA JOY NEWMAN, paternal grandmother, is Petitioner.

Father: **ROBERT NEWMAN** – *personally served 09/10/11*

Mother: **SHANNON RAFFA** – *court dispensed with notice on 09/19/11*

Paternal grandfather: ROBERT NEWMAN – *deceased*

Maternal grandfather: GREG RAFFA – *served by mail 09/26/11*
Maternal grandmother: JOAN RAFFA – *served by mail 09/26/11*

Petitioner states that Caitlin's father is abusing her. He does not take care of her needs and spends her public assistance on drugs for himself. Petitioner states that Caitlin lived with her for several years in the past before living with her father. Petitioner states that she and Caitlin have a good relationship and Caitlin wants to live with her again.

Declaration of Jacqueline Thornton, great-grandmother, filed 11/03/11 states that Caitlin and her father (Robert Newman) have lived in her home for the past year. Ms. Thornton states that she has witnessed Mr. Newman being verbally and physically abusive to Caitlin. She further states that Mr. Newman continues to use drugs. Ms. Thornton states that she does not believe that Mr. Newman should be raising his daughter under these conditions and asks the court to appoint Pamela Newman as guardian of Caitlin.

Court Investigator Julie Negrete's report was filed 11/03/11.

DSS Social Worker Melissa Arredondo's report was filed 11/07/11.

NEEDS/PROBLEMS/COMMENTS:

CONTINUED FROM 01/24/11
As of 04/23/12, the following items remain outstanding:

1. **Need proof of personal service of *Notice of Hearing* along with a copy of the *Petition for Guardianship* at least 15 days before the hearing or Consent and Waiver of Notice for:**
   - Caitlin Newman (minor)

Reviewed by: JF
Reviewed on: 04/13/12
Updates:
Recommendation:
File 15 - Newman

16 Harris & Jefferson Minors (GUARD/P) Case No. 12CEPR00150

Atty Krbechek, Randolf (for James Earl Harris Jr. MD and Rosina Maria Harris/brother & sister-in-law/Petitioners)

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

Jammy, 9 DOB: 08/14/02		
Jarvis, 8 DOB: 01/11/04		
Cont. from		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
	Aff.Mail	x
	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	

NO TEMPORARY IN PLACE, TEMPORARY DENIED 02/29/12

JAMES EARL HARRIS, JR., M.D. and **ROSINA MARIA HARRIS,** half-brother and half-sister in law, are Petitioners.

Father: **JAMES EARL HARRIS, SR. –** *deceased*

Mother: **RAJANNE ANGELIC JEFFERSON** – *personally served 02/14/12*

Paternal grandfather: HENRY BLACK – *deceased*
Paternal grandmother: GRACIE MAE HARRIS – *deceased*

Maternal grandparents: UNKNOWN – *declaration of due diligence filed 02/15/12*

Petitioners state that the children's father died unexpectedly on 02/16/12. Their father had sole custody of both of the children as the mother is not fit to provide a safe home and has been charged with child abuse in the past and currently has charges against her for assault with a deadly weapon. Since the father's death, the children have been in their mother's care. Petitioners state that they can provide the children with a safe and loving home and provide them with a better life. Petitioners state that they fear for the children's safety while in the care of their mother due to her history.

Court Investigator Jennifer Young's report was filed – NEED REPORT.

NEEDS/PROBLEMS/COMMENTS:

1. **Declaration of Due Diligence regarding maternal grandparents filed 02/15/12 states that the mother will not provide any information regarding her parents. If diligence is not found, 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 for:**
   - Maternal grandparents (unknown)
2. **Need CI report and clearances (CI to provide).**

Reviewed by: JF	
Reviewed on: 04/16/12	
Updates:	
Recommendation:	
File 16 – Harris & Jefferson	