



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.

1 Tarek K. Alameldin (Estate)

Case No. 06CEPR01226

Atty Rindlisbacher, Curtis D. (for Naglaa K. Alameldin – Sister – Administrator)

Atty Shahbazian, Steven L. (for Roli Elsotari)

Probate Status Hearing Re: Filing Account

DOD: 11/06/06	NAGLAA K. ALAMELDIN , sister, was appointed Administrator with full IAEA and bond of \$190,000.00 on 01/02/07 .	NEEDS/PROBLEMS/COMMENTS: 1. Need Final Account and Petition for Final Distribution or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.
	NAGLAA K. ALAMELDIN filed a Status Report of Administration of Estate and Petition to Approve First Account on 09/21/10. The Petition to Approve First Account was continued several times and the Court denied the Petition with leave to Amend on 06/04/12.	
Cont. from 100412, 113012, 020113, 040513, 060713, 080913, 090613, 110113, 010914, 041014, 081114, 100914, 120114, 011215, 030215, 040615	Minute Order from hearing on 8/6/12 set this matter for status regarding filing the account.	
Aff.Sub.Wit.	In June of 2013 the attorney reported that the estate is waiting on funds totaling \$69,425.63 from CA State Controller unclaimed property. In addition since there was a minor beneficiary a guardianship of the estate would be needed prior to distribution.	
Verified	Former Status Report filed 8/11/14 states the estate received a check in the amount of \$69,352.97 from the State Controller's office. Administrator states they are in the process of preparing a formal accounting and petition for final distribution in the next 45 days.	
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	X	Reviewed by: skc
UCCJEA		Reviewed on: 4/22/15
Citation		Updates:
FTB Notice		Recommendation:
		File 1 - Alameldin

Atty Knudson, David N. (for Petitioner/Administrator Laura Dozier)

First Amended First Account and Report of Administrator, and Petition to set Aside Exempt Personal Property to Surviving Spouse

DOD: 9/18/2007		LAURA DOZIER , surviving spouse/Administrator, is petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 10/29/14. As of 4/21/15 no new documents have been filed.</p> <p>1. Petition states the real property on South Cornelia was a single family residence, having been acquired by the decedent prior to his marriage (in April of 2006) to petitioner. Following the decedent's death, Petitioner continued to reside in the home with her sons, and over the next fifteen months paid the mortgage, taxes and insurance on the property. Petitioner was unable to continue to make the payments and as a result the home was foreclosed upon. Petitioner is requesting reimbursement of \$25,050.00 for paying the mortgage from her personal funds. The petitioner and her sons received a benefit from living in the estate property. It appears that the payments towards the mortgage should be considered rents for living in the estate's real property and therefore not reimbursed. - See declaration filed 10/27/14</p> <p style="text-align: center;">Please see additional page</p>
		Account period: 2/4/2008 – 9/30/2013	
Cont. from 121113, 020314, 022414, 032414, 042114, 051914, 063014, 090314		Accounting - \$650,755.95 Beginning POH- \$650,750.00 Ending POH - \$338,000.00	
Aff.Sub.Wit.		<p>Petitioner states certain assets that were decedent's separate property constitute exempt personal property eligible to be set aside to the surviving spouse pursuant to Probate Code §6510. Petitioner requests the court set aside the following personal property</p> <ul style="list-style-type: none"> • 2005 KTM Motorcycle <p>Petitioner alleges prior to his death, the decedent had given the motorcycle to Petitioner's son, Chris Johnson. Although the motorcycle had been given to Chris, title remained in the name of the decedent. Petitioner requests the court set aside the motorcycle to Petitioner (and Petitioner will confirm transfer to her son, Chris). In the alternative, Petitioner requests that the court confirm the gift of the motorcycle made prior to the decedent's death.</p> <p>Petitioner states the estate is not yet in a position to close. An action was filed on a rejected creditor's claim. The estate defaulted. The estate now is reviewing the situation to see whether it is possible to file a motion to set aside the default. Petitioner believes it will take an additional 4-6 months to close the estate.</p> <p style="text-align: center;">Please see additional page</p>	
<input checked="" type="checkbox"/>	Verified		
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		<p>Reviewed by: KT</p> <p>Reviewed on: 4/22/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 3 – Dozier</p>	

Petitioner prays for an order:

1. That the First Amended First Account and Report of Petitioner be settled, allowed and approved as filed;
 2. That all actions of Petitioner as Administrator, as set forth in the petition, account and report be ratified, confirmed and approved;
 3. That the Court confirm reimbursement to petitioner of costs and expenses in the amount of \$17,480.00, and that petitioner is owed a balance of \$35,758.09;
 4. That the exempt personal property described in the petition be set aside to the surviving spouse or alternatively that the gift of the exempt property to Chris Johnson prior to the decedent's death be ratified, and confirmed;
 5. That the administration of the estate continue.
-

NEEDS/PROBLEMS/COMMENTS (cont.):

2. Petition does not indicate whether or not the residence was marketed for sale during the 15 months Petitioner and her sons resided there after the decedent's death. Probate Code §9600 states the personal representative shall manage the estate to the extent that ordinary care and diligence require that the power be exercised. It appears that ordinary care would include marketing the property for sale rather than letting the property be foreclosed upon. Need more information regarding this property. Was there any attempt to sell the property? - See declaration filed 10/27/14

Declaration filed on 10/27/14 states the residence on North Cornelia was appraised at \$285,000 at the date of death. However, at the time it had two mortgages against it – one for \$250,338.60 and a second mortgage in the approximate amount of \$33,400.00. Decedent died just prior to the downturn in the market. Mrs. Dozier made the payments on the loans (\$1,370.00 and \$300.00 respectively) for 15 months. Mrs. Dozier tried to communicate with the bank after they began foreclosure proceedings, but they were unwilling to speak with her as administrator – nor were they willing to consider any loan modifications. The property was foreclosed on in October 2009. Public records indicate it sold for \$90,000.00.

Attorney Knudson states he considered filing for a probate homestead on behalf of his client, but that would have required Mrs. Dozier to take the property subject to the liens against it. It was determined that there was no benefit to her in requesting a probate homestead due to the encumbrances against the property.

Attorney Knudson states the Examiner questions whether or not Mrs. Dozier's request for reimbursement should be offset by the fair rental value of the property. Mr. Knudson states he is informed that the rental property was then not in excess of \$1,000 a month. Even with an offset for rental value, the administrator has made additional payments in trying to preserve the estate asset in the amount of \$10,500 over and above the rental value, and should receive credit for that amount of expenses paid.

Declaration filed on 10/27/14 (continued): With respect to the creditor's claim. Mr. Knudson is in negotiations with Fresno County Federal Credit Union, and will soon be filing a motion to set aside the default.

Mrs. Dozier has been advancing funds for the payment on taxes on the Madera County real property; it is not presently listed for sale because there does not seem to be any current market. While it has been used by third parties for grazing cattle, recent thefts of cattle in the area have curtailed its use, and it is not presently producing income.

Note: If the petition is granted the court will set a status hearing for the filing of the petition for final distribution on **Wednesday, September 16, 2015 at 9:00 a.m. in Dept. 303.**

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.

4 In Re the Trust of Elaine A Mclain (Trust)

Case No. 11CEPR00028

Atty Panzak, Gordon G. (for Jeff Dale – Successor Trustee – Petitioner)

Atty Freed, William J. (for Debbie Duehning, Guardian ad Litem for George McLain, IV)

Trustee/Respondent's Motion to Dismiss, and Points and Authorities in Support, and Declaration in Support

DOD: 5-21-08	JEFF DALE , Successor Trustee, is Petitioner.	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>Continued from 3-30-15. The following issues remain:</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p> <p>Note: On 3-30-15, Debbie Duehning, GAL for beneficiary George McLain, IV, filed a Motion for Leave to Amend Petition along with Points and Authorities and a Declaration in support, which motion is set for hearing on 5-14-15.</p> <hr/> <p>Reviewed by: skc</p> <p>Reviewed on: 4-22-15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4 – Mclain</p>
	<p>Petitioner states: In 1996, ELAYNE MCLAIN created the ELAINE A. MCLAIN TRUST of 1996. (The trust preparer misspelled the Settlor's name.) The Trust was effective upon its creation and provided for GEORGE MCLAIN, IV and MICHELE L. DALE to be co-trustees. The trust was funded and duly administered by the Co-Trustees until 2007, when both co-trustees developed dementia. Under the terms of the trust, JEFF DALE (Petitioner) then became the sole successor trustee. Settlor Elayne McLain died 5-21-08, making the trust irrevocable.</p>	
Cont from 033015		
<input type="checkbox"/> Aff.Sub.Wit.		
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<input type="checkbox"/> Objections		
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	<p>During the tenure of GEORGE MCLAIN, IV and MICHELE L. DALE, the real estate placed into the trust was sold. A great portion of the sales of the realty were consumed in the care of Settlor Elayne McLain. The balance was placed into an investment account under the names of ELAYNE MCLAIN and MICHELE DALE as joint tenants.</p> <p>In fall of 2008, the stock market collapsed and an emergency Order was obtained to allow funds to be withdrawn from the stock market, and approx. \$214,000 was saved.</p> <p>In 2011, JEFF DALE (Petitioner) filed a petition for instructions and was instructed by Judge Oliver to retain \$107,000 in the trust, and pay \$107,000 in settlement of an adverse claim.</p> <p>In July 2010, DEBBIE DUEHNING, as Guardian ad Litem for GEORGE MCLAIN, IV, who was then incapacitated, filed a petition for distribution in the Superior Court of San Diego, attempting to take control of the trust. She attempted to persuade the San Diego Court that it had proper venue by deceitfully stating that the trust was a new testamentary trust as opposed to an existing inter vivos trust administered in Fresno County since 1996.</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	

Page 2

Petitioner states (Continued): Objections were filed by Trustee Jeff Dale (Petitioner) and eventually the fraudulent action in San Diego County was dismissed. The attorney used by Duehning, James H. Pasto, was subsequently disbarred.

Litigation was filed by Duehning in Fresno County Superior Court in seriatum and the litigation has been on hold since January 23, 2012.

In July 2011, a First Accounting was filed and served on Duehning. During the various hearings in front of Judge Oliver, Mr. Pasto, on behalf of his clients:

- a. Waived time for filing responsive pleadings to the last two petitions;
- b. Agreed to settle the litigation by agreeing to take 50% of the approximately \$130,000 estate, less adjustments for creditor claims, costs and fees incurred to date;
- c. Agreed to place George McLain, IV, in a formal conservatorship in San Diego County;
- d. Agreed not to attack the trust administration before July 2007, which is when Mr. Dale's tenure as trustee began.

[Examiner's Note: *No accounting was ever filed with the Court. Minute Order 3-30-15 clarifies that the accounting was informal and provided in discovery.]*

Attorney Pasto failed to appear at two separate hearings, and the Court took the matter off calendar. Attorney Laurie Barber was retained by Duehning in July 2012, and a new attorney, William Freed, was retained by Duehning in August 2014.

Petitioner states despite an offer in settlement to allow a stipulated dismissal of all four petitions and for each side to absorb its fees and costs, and for immediate distribution of the trust, no actions have been taken by Attorney Freed.

As recently as February 2, 2015, Attorney Panzak reconveyed the offer to Attorney Freed's automated telephone system.

Trustee Jeff Dale is left with no alternative but to request a motion for dismissal and the other remedies sought. Petitioner states the trust is ready for distribution upon the Court's order of dismissal.

Please see petition for points and authorities and further argument.

The Trustee/Respondent (Petitioner herein) prays that the Court order as follows:

- 1. That all 4 petitions filed by the Petitioner (Duehning) be dismissed;**
- 2. That the Respondent be allowed Court fees and costs;**
- 3. That the Respondent be awarded Attorney Fees as Costs;**
- 4. That the Court make any further order it deems Fair and Just.**

Debbie Duehning, Conservator for George McLain, IV, filed a Response and Opposition to Trustee's Motion to Dismiss on 3-9-15.

SEE ADDITIONAL PAGES

Dept. 303, 9:00 a.m. Monday, April 27, 2015

Objector states: Petitioner has labeled this filing a "motion to dismiss;" however, he has improperly included allegations more commonly used in petitions. Due to the strange format, Objector will first respond to the "statement facts," as if responding to a petition, will then bring argument, which will be in the form most traditionally associated with motion practice.

Objector states (in summary): Both Michele Dale and George McLain, IV, showed signs of diminished capacity since the late 1990s, and neither were capable of managing their financial affairs by the late 1990s. Jeff Dale began handling all financial matters for the trust in 1995.

Objector has never received paperwork regarding the sale of the various real properties that were half owned by the trust. Elaine McLain lived with Objector from 1991 until her death, and Objector received minimal financial assistance from Jeff Dale or the trust to care for her needs. Based on the value of the trust assets, as best known to Objector, the amount of money provided by Jeff Dale accounted for only a small fraction of what the trust should have received from the sales. There has been no accounting for these actions.

Objector has been unable to find an order indicated that Jeff Dale was instructed to "pay \$107,000 in settlement of an adverse claim." Instead, Objector found instructions that *both* \$107,000 accounts were to remain in the trust. Objector contends and alleges in her proposed amended petition that Jeff Dale was never instructed to pay an adverse claim and improperly spent and removed \$107,000 from the trust in violation of court orders.

Jeff Dale mischaracterizes the July 2010 San Diego petition. Duehning did not seek to "take control of the trust." She sought distributions that Jeff Dale failed to make for the previous two years before filing the petition, and sought to remove him as trustee because of his continued and complete failure to look out for the interests of George or Michele. She attempt to argue that San Diego was proper venue because Elaine McClain had lived there before, during, and after the trust was executed. She denies that she acted deceitfully. The matter was not fraudulently brought and no finding of fraudulent activity was ever argued and no assertion was before the San Diego Court. Attorney Pasto did not inform Duehning of his problems with the bar before, during, or after his disbarment.

After Duehning's petition, Jeff Dale initiated trust related proceedings in early 2011. Duehning's action was necessitated because Jeff Dale failed to make any distribution from the trust although it had been nearly three years since Ms. McLain's death.

Objector denies that the litigation has been "on hold" since 2012. This Court ordered Jeff Dale to distribute all trust funds owing to George on 3-20-12. He has never complied with this order. His failure to distribute funds greatly hindered progress of the prosecution of this matter. Had Jeff Dale distributed as ordered, the trust could have been closed, and all actions could be accounted for and subjected to the scrutiny of court proceedings.

SEE ADDITIONAL PAGES

Page 4

Objector states (Continued): No settlement was ever entered into or executed. Mr. Pasto never had authority to settle litigation, and never entered into any settlement with Duehning's consent or knowledge. Any discussions Mr. Pasto had, if any, were in apparent pursuit of his personal settlement goals and do not actually constitute a settlement. Duehning never gave Pasto authority to settle the litigation or limit Dale's or anyone else's liability or complicity for their wrongful actions.

Objector denies that there was any offer of "immediate distribution" of George's rightful share, as ordered. Jeff Dale merely tried to have his inaction and wrongdoing absolved by settlement.

Jeff Dale's legal obligation is to follow the Court's March 2012 order and distribute the funds to George to which he is legally entitled. Had he done that, a settlement would probably have occurred by now. Jeff Dale is responsible for the delay.

See pleading for further details as to Objector's argument. Objector requests the Court dismiss the Motion to Dismiss and allow her to proceed to bring this matter to trial.

Petitioner Jeff Dale filed a Rebuttal on 3-24-15 that prays the Court grant the prayer as stated in the motion.

SEE ADDITIONAL PAGES

Page 5 – NEEDS/PROBLEMS/COMMENTS:

1. Petitioner Jeff Dale requests that “all 4 petitions filed by the Petitioner (Duehning) be dismissed.” However, Court records indicate that there are only two (2) petitions currently outstanding in this matter:
 - Ms. Duehning’s Petition for Order Compelling Trustee to Make Distribution to Trust Beneficiary; for Imposition of a Constructive Trust; and for an Accounting filed 4-6-11; and
 - Ms. Duehning’s Petition to Review Reasonableness of Trustees Compensation, Reasonableness of Attorney’s Fees and Costs; for an Accounting and for Removal of Trustee filed 8-25-11.

Therefore, need clarification: What petitions, specifically, is Mr. Dale requesting be dismissed?

Note: On 9-6-11, Ms. Duehning filed a motion to amend her petition filed 4-6-11; however, the motion does not appear to have been granted or denied, and no amended petition was filed.

Note: Although the Court continued to include status conferences regarding Mr. Dale’s Petition for Instructions filed 1-13-11, the Court’s minute order of 4-11-11 reflects that that petition was granted, and an order was signed on 4-21-11. Therefore, it does not appear that this petition is technically outstanding.

Update: Ms. Duehning, filed a Motion for Leave to Amend Petition along with Points and Authorities and a Declaration in support, which motion is set for hearing on 5-14-15.
2. As noted by Objector, although filed as a motion, Mr. Dale’s request appears to require review as a petition under Probate Code §17200. As such, it should state the names and addresses of each person entitled to notice pursuant to Probate Code §17201. The Court may require a declaration containing this information. (Note to Judge: Also, if this is a “petition” seeking relief under the Probate Code, the \$435 filing fee would be due from both petitioner and respondent, instead of the \$60 motion fee that was paid by Petitioner only.)
3. Petitioner states that he was instructed by Judge Oliver to retain \$107,000 in the trust and to pay \$107,000 in settlement of an adverse claim. As a matter of clarification, Examiner notes that the Court’s Order of 4-21-11 authorizes transfer of \$107,000 from the Michele Dale Conservatorship to the Elaine McLain Trust, only. There is no mention of payment of \$107,000 in settlement of an adverse claim. Note: The minute order of 4-11-11 indicates that the matter would be continued to 6-6-11 in the even that there are issues that still need to be resolved. At a later hearing on 10-3-11, Mr. Panzak advised that \$170,000 and \$25,000 have been transferred into segregated accounts, and the Court ordered that the accounts remain frozen. However, these figures do not correspond to the figures in the Order signed 4-21-11 or the figures in this petition. The Court may require clarification.

(1) First and Final Report of Executor of Status of Administration; (2) Waiver of Accounting; (3) and Petition for Allowance of Statutory and Extraordinary Executor's and Attorneys' Compensation; and (4) for Final Distribution

DOD: 4/4/12		LOUIS WAYNE WIEBE , Executor with Full IAEA without bond, is Petitioner.	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p><u>Minute Order 4/13/15:</u> Counsel will file a declaration.</p> <p><u>Note:</u> As of 4/22/15, some, but not all, of the waivers of accounting have been filed, but no declaration has been filed.</p> <p>See Page 2.</p> <p>Reviewed by: skc</p> <p>Reviewed on: 4/22/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 5 - Wiebe</p>
		Need waivers of accounting.	
Cont from 041315		I&A: \$208,915.73	
<input type="checkbox"/>	Aff.Sub.Wit.	POH: \$21,380.57 (cash)	
<input checked="" type="checkbox"/>	Verified	Executor (Statutory): \$7,178.31	
<input checked="" type="checkbox"/>	Inventory	Executor (Extraordinary): \$2,000.00	
<input checked="" type="checkbox"/>	PTC	(Per Local Rule 7.18, \$1,000.00 for the sale of the real property and \$1,000.00 for the sale of various personal property)	
<input checked="" type="checkbox"/>	Not.Cred.	Attorney (Statutory): \$7,178.31	
<input checked="" type="checkbox"/>	Notice of Hrg	Attorney (Extraordinary): \$1,440.00 (for 4.8 attorney hours @ \$300/hr for services in connection with the sale of the real property, per declaration)	
<input checked="" type="checkbox"/>	Aff.Mail	Costs: \$1,621.00 (filing fees, publication, certified copies, recording fees, appraisal)	
<input type="checkbox"/>	Aff.Pub.	Petitioner requests distribution after payment of the above expenses of administration pursuant to Probate Code § 11420 to the creditors as follows:	
<input type="checkbox"/>	Sp.Ntc.	1. \$106.02 to Department Stores National Bank/Macy's/DCM	
<input type="checkbox"/>	Pers.Serv.	2. \$1,322.44 to Wells Fargo Card Services	
<input type="checkbox"/>	Conf. Screen	3. \$169.76 to Kaiser Permanente	
<input checked="" type="checkbox"/>	Letters	4. \$799.73 to GM Mastercard	
<input type="checkbox"/>	Duties/Supp	All other assets not now known or subsequently discovered should be liquidated and applied as follows:	
<input type="checkbox"/>	Objections	First, pro rata to satisfaction of the creditors until paid in full;	
<input type="checkbox"/>	Video Receipt	Second, in equal shares in satisfaction of the pecuniary bequests in the will to the six grandchildren; and	
<input type="checkbox"/>	CI Report	Lastly, in equal shares, to the decedent's two children.	
<input checked="" type="checkbox"/>	9202		
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<input type="checkbox"/>	Citation		
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Page 2 – NEEDS/PROBLEMS/COMMENTS:

1. Need waivers of accounting from remaining heirs:

- Brittni Rempel
- Natalie Baumann
- Tiffany Friesen

Note: Although accounting may be waived by heirs, a creditor may petition for account pursuant to Probate Code §10954(c)(2).

2. Four Creditor's Claims have been filed in this estate as follows:

- Wells Fargo Card Services – Claim for \$4,673.95 filed 6/5/12 (plus Request for Special Notice)
- DCM Services (Macy's) – Claim for \$374.68 filed 6/12/12
- Bank of America, NA – Claim for \$139,417.31 filed 7/20/12 (withdrawn 2/26/15)
- EECU – Claim for \$4,198.84 filed 11/29/12 (secured by vehicle)

This petition also states additional debts have been allowed as claims, including:

- CitiMortgage \$5,166.56 (secured by real property)
- Kaiser Permanente \$600.00
- GM Mastercard \$2,826.51

Petitioner states the secured claims totaling \$148,782.71 have been satisfied, and the unsecured claims totaling \$8,475.14 are currently outstanding and should now be paid.

However, no Allowance or Rejection of Creditor's Claim (DE-174) has been filed for any of the claims pursuant to Probate Code §9250(a), which includes proof of service of the allowance or rejection on the creditors, and allows 90 Days for action on rejected claims.

Need Allowance or Rejection of Creditor's Claim for each filed claim, unless withdrawn.

3. Also re Creditor's Claims: Proposed distribution includes pro rata payments to some creditors that did not formally file claims pursuant to Probate Code §9100, but which the Executor appears to have elected to treat as claims pursuant to Probate Code §9154. However, §9154 provides for such treatment and payment only if the estate is solvent.

Here, the estate is insolvent, and Petitioner proposes to include payment in pro rata shares to Kaiser Permanente and to GM Mastercard, neither of which filed their claims, to the apparent detriment of the creditors that did timely file claims pursuant to the Probate Code.

Therefore, it appears the distribution should be made in proportionate shares to DCM and to Wells Fargo only.

Pro Per Molina, Rosa H. (Pro Per Petitioner, Co-Guardian)

Petition for Appointment of Temporary Guardian of the Person

		GENERAL HEARING SET FOR 6/16/2015	NEEDS/PROBLEMS/COMMENTS:					
		ROSA H. MOLINA , paternal grandmother, is Petitioner.	Note: Petition for Termination filed on 6/30/2014 by Co-Guardians JEANNETTE ESTRADA and ALEXANDER ESTRADA , paternal aunt and uncle, (initially appointed on 12/13/2012) was granted on 9/2/2014 [Judge Oliver], and the Court ordered a CPS referral per Minute Order of 9/2/2014.					
Cont. from		Father: DAVID FERNANDO CORRALES	<ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i> and proof of personal service of the <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Temporary Guardian</i>, or <i>Consent to Appointment and Waiver of Notice</i>, or a <i>Declaration of Due Diligence</i>, for: <ul style="list-style-type: none"> • David F. Corrales, father; • Angelica M. Alegria, mother. 2. Need <i>Duties of Guardian</i> form signed by Petitioner to be filed with the Court. 					
<input type="checkbox"/>	Aff.Sub.Wit.	Mother: ANGELICA MICHELLE ALEGRIA						
<input checked="" type="checkbox"/>	Verified	Paternal Grandfather: Camillo Corrales						
<input type="checkbox"/>	Inventory	Maternal Grandfather: Amadeo Alegria						
<input type="checkbox"/>	PTC	Maternal Grandmother: Linda Perez; Deceased						
<input type="checkbox"/>	Not.Cred.							
<input type="checkbox"/>	Notice of Hrg	X						
<input type="checkbox"/>	Aff.Mail							
<input type="checkbox"/>	Aff.Pub.							
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<input type="checkbox"/>	Duties/Supp	X						
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Reviewed by: LEG								
Reviewed on: 4/22/15								
Updates:								
Recommendation:								
File 16 - Corrales								

7A Amayah Garza, Genaro Montes, III, and Ayden Garza (GUARD/P)

Case No. 13CEPR00558

Atty Huitron, Claudia (Pro Per – Maternal Grandmother – Guardian of Amayah and Genaro)

Atty Garza, Priscilla (Pro Per – Mother)

Status Re: Evaluation of the Minor

	CLAUDIA HUITRON , Maternal Grandmother, was appointed Guardian of minors Amayah (4) and Genaro (2) on 10-10-13, and filed a petition for guardianship of minor Ayden (6 months) on 12-10-14.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: This status hearing re: evaluation of minor pertains to minor Ayden (6 months) only.</p> <p>Note: On 3-30-15, the Court ordered the mother to take the minor to CVRC for evaluation and bring a report back to court on 4-27-15. See Minute Order for additional visitation orders made.</p>
COnt from 033015		
Aff.Sub.Wit.		
Verified		
Inventory	Mother: PRISCILLA GARZA Father: JACOB RODRIGUEZ	
PTC		
Not.Cred.	On 2-2-15, the Court denied the petition for guardianship of Ayden and ordered Priscilla Garza to take Ayden to the Regional Center for evaluation within two weeks.	
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.	The Court set this status hearing regarding evaluation of the minor.	
Conf. Screen		
Letters		
Duties/Supp	Confidential lab results were filed 3-24-14.	
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: skc
		Reviewed on: 4-22-15
		Updates:
		Recommendation:
		File 7A – Garza & Montes

7A

7B Amayah Garza, Genaro Montes, III, and Ayden Garza (GUARD/P)

Case No. 13CEPR00558

Atty Huitron, Claudia (Pro Per – Maternal Grandmother – Guardian of Amayah and Genaro)

Atty Garza, Priscilla (Pro Per – Mother)

Status Re: Visitation

	CLAUDIA HUITRON , Maternal Grandmother, was appointed Guardian of minors Amayah and Genaro on 10-10-13.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: This status hearing re: visitation pertains to minors Amayah (4) and Genaro (2) only.</p>
	PRISCILLA GARZA , Mother, filed a petition for termination of guardianship on 12-1-14.	
Cont from 033015	Father: GENARO MONTES, JR.	
Aff.Sub.Wit.	On 2-2-15, the Court denied the petition and ordered visitation for Priscilla Garza (mother) and Genaro Montes, Jr. (father of Amayah and Genaro) every Saturday from 12pm -2pm at Cuck E. Cheese, to be supervised by Cassandra Garza.	
Verified	The Court set this status hearing regarding the visitation.	
Inventory	Anita Mosqueda, paternal grandmother of Amayah and Genaro, filed a declaration on 3-27-15. Ms. Mosqueda states she believes her grandkids would be in a wonderful, loving, and safe environment living with their parents and they always want to come home with them. She understands the situation, but wants to voice to the courts that she truly believes they should be at home with their parents. She feels that if not, the visits should be longer and at the house, possibly weekend visits.	
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: skc
		Reviewed on: 4-22-15
		Updates:
		Recommendation:
		File 7B – Garza & Montes

7B

DOD: 4-28-89	<p>FREMONT GRAVES, Son-in-law, was appointed as Special Administrator on 8-27-14 with authorization to obtain a settlement check from the Black Farmers' Discrimination Litigation Claims Administrator and deposit same into a blocked account.</p> <p>Mr. Graves was removed at the status hearing on 2-2-15 and the FRESNO COUNTY PUBLIC ADMINISTRATOR was appointed Special Administrator.</p> <p>File History: Mr. Graves' petition for appointment as Special Administrator filed 7-24-14 stated he is the husband of 50 years of Rachel L. Graves, the decedent's only daughter, who suffers from dementia, and immediate appointment was necessary to obtain settlement proceeds from certain litigation. Examiner Notes regarding the petition indicated numerous issues regarding the petition.</p> <p>The Order Appointing Special Administrator entered 8-28-14 authorized Mr. Graves to obtain the check and deposit the funds into a blocked account only.</p> <p>Pursuant to Mr. Graves' representation to the Court on 2-2-15, the funds have been reduced to approx. \$37,000.00 and are in an account at Union Bank. The Court ordered the Public Administrator to take control of the funds and authorized up to \$2,000.00 for payment of necessary expenditures on Mrs. Graves' behalf.</p> <p>Status report filed 3-27-15 states it was previously understood that the funds had been reduced from \$50,000 to approx. \$37,000. Mr. Graves confirmed his understanding of the order; however, reported that he needed \$2,000 for upcoming bills. The Deputy PA immediately went to the bank. He was advised that the account had been opened in October 2014 with a deposit of \$50,000; however, during October and November 2014, approx. \$49,000 was spent. The bank needed clearance from their legal dept. before they would allow withdrawal or provide statements. On 3-12-15, the account had \$989.19 in it, which is now in the PA trust account.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 4-27-15: The Court orders Fremon Graves to be personally present in Court on 4-27-15 to explain, among other things, the \$49,000.00 that was spent by him.</p> <p>1. Need status of special administration. The Court may require accounting pursuant to Probate Code §8546.</p>
Cont from 121714, 020215, 0333015		
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		
	<p>Reviewed by: skc</p> <p>Reviewed on: 4-22-15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 10 – Logan</p>	

DOD: 10-3-12	HOLLY FOLEY, Beneficiary, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Note: On 10-27-14: The Court removed Victoria Howard as the trustee and appointed the Public Administrator as the successor trustee.
		Continued from 9-29-14, 10-27-14, 1-26-15. The following issues remain noted for reference:
Cont. from 092914, 102714, 012615	Petitioner states the trust was created 3-29-05 by Virginia Howard as Settlor and Trustee and amended and restated in its entirety on 7-4-11, and amended again on 8-12-11. Petitioner is informed and believes that VICTORIA HOWARD is currently the sole trustee, VAUGHN HOWARD having resigned on or about 6-23-14.	1. Petitioner states Fresno County is the proper venue pursuant to Probate Code §17005 (a)(1) (principal place of administration); however, the current trustee, Victoria Howard, resides in Red Oak, Iowa, and the most recent former trustee, Vaughn Haward, resides in Omaha, Nebraska. Need clarification as to how Fresno County, CA, is the proper venue for this petition.
Aff.Sub.Wit.		2. Petitioner provides the names and addresses of the beneficiaries, but does not state if these are all of the people <u>entitled to notice</u> pursuant to Probate Code §17201. Need clarification.
✓ Verified	Petitioner states Virginia Howard died 10-3-12. Petitioner alleges the value of the trust at her death was over \$600,000.00.	3. Petitioner mentions receipt of an inventory from the "Trustee's <u>former</u> legal counsel." Pursuant to Probate Code §1214, if the trustee is currently represented, notice is required to be served on the attorney, and Probate Code §17203 requires 30 days' notice.
Inventory	On 5-16-14, Petitioner, through counsel, made a written request for an account of the trust. On 5-28-14, following the sale of certain real property owned by the trust, Petitioner again requested a full and complete account of the remaining assets. Petitioner is entitled to receive an account per Probate Code §16062.	The Court may require clarification as to how Petitioner knows that the trustee is no longer represented by the attorney who provided the inventory, and may require continuance for notice to the attorney for the trustee, if any.
PTC		Note: The trust and amendments were prepared by Attorney Gilbert B. Fleming of Fresno, CA. Is this the attorney that served the inventory? If so, is this the basis for venue in Fresno?
Not.Cred.		SEE ADDITIONAL PAGES
✓ Notice of Hrg		Reviewed by: skc
✓ Aff.Mail		Reviewed on: 4/22/15
Aff.Pub.		Updates:
Sp.Ntc.		Recommendation:
Pers.Serv.		File 12 - Howard
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
✓ Order	On or about 4-15-13, Petitioner received an inventory of trust assets from the trustee's former legal counsel, but has not received anything since that date. More than 60 days have elapsed since Petitioner's written request for a full account; therefore, this petition is appropriate under Probate Code §17200(b) and Petitioner requests an order of this Court instructing the trustee to deliver an account of the transactions of the trust to Petitioner.	
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Page 2

First Supplement to Petition to Compel Account filed 10-22-14 states Attorney Gilbert Fleming continued to assist the trustees until about January 2014. Thereafter, Mr. Fleming continued to principally administer the trust from Fresno County, where the decedent resided and where both trust accounts and real property were located.

Petitioner is informed and believes that the remaining assets consist of a very small amount of money in the trust account, the trustee having depleted the account while still residing in Fresno, and the trust's interest in an investment fund.

No petition to transfer administration has been filed pursuant to §17401 and Section 12.05 of the trust. Accordingly, administration continues to be Fresno County and venue is proper in Fresno County.

Though counsel for petitioner have repeatedly inquired as to whether the trustee has retained new counsel after Mr. Fleming withdrew in January 2014, Petitioner is informed and believes that the trustee has not, and remains unrepresented.

The following additional Examiner's Notes remain noted for reference:

Probate Code §17002 states:

17002. (a) The principal place of administration of the trust is the usual place where the day-to-day activity of the trust is carried on by the trustee or its representative who is primarily responsible for the administration of the trust.

(b) If the principal place of administration of the trust cannot be determined under subdivision (a), it shall be determined as follows:

(1) If the trust has a single trustee, the principal place of administration of the trust is the trustee's residence or usual place of business.

(2) If the trust has more than one trustee, the principal place of administration of the trust is the residence or usual place of business of any of the cotrustees as agreed upon by them or, if not, the residence or usual place of business of any of the cotrustees.

If Mr. Fleming withdrew as counsel for the trustees, how did administration of the trust continue in Fresno without him? Pursuant to Probate Code §17002, the principal place of administration follows the trustee.

§17400 applies to trusts that are already before the Court. That is not the case here, and the trust section referenced does not appear to require petition to the Court for transfer. The trust has never been before this Court.

If Mr. Fleming's former representation of the trustee is the basis for Fresno as venue, Mr. Fleming is entitled to Notice of Hearing on Mr. Fleming at least 30 days prior to the hearing pursuant to §17203 and §1214.

Spousal or Domestic Partner Property Petition (Prob. C. 13650)

DOD:12-18-11		<p>ELIZABETH S. LESTER, Surviving Spouse, is Petitioner.</p> <p>No other proceedings</p> <p>Decedent's Will dated 12-17-11 devises automobiles, jewelry, clothing and furniture to his wife, and the residue to the trustee(s) of the Jeffrey Charles Lester and Elizabeth Suzanne Lester Revocable Living Trust dated 12-17-11.</p> <p>Note: Article 5, Section 5.01 (Nonprobate Transfers of Community Property) states:</p> <p>"If I predecease my wife or husband, I revoke any consent I have given during my lifetime to any nonprobate transfer on the death of nay person, to anyone other than my wife, or all or part of my community property interest in any asset described in <u>California Probate Code Section 5000</u> (or any successor section), and instead I give to my wife my community property interest in any assets affected by this revocation of consent. Notwithstanding the preceding sentence, this revocation of consent shall be inapplicable to any community property included in any express trust of which I am the settlor or a cosettlor, which shall continue to be governed by the terms of the applicable trust instrument. It is my intention that my wife shall have full power to dispose of all community property assets to which this section of the will applies."</p> <p>Petitioner requests Court confirmation that the real property described at Attachment 7a (APN 313-420-17) passes to her as the surviving spouse.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 3-23-15</u></p> <p><u>As of 4-22-15, nothing further has been filed.</u></p> <p><u>SEE PAGE 2</u></p>
Cont from 032315			
Aff.Sub.Wit.	S/P		
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail	w/o		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: skc</p> <p>Reviewed on: 4-22-15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 15 - Lester</p>	

Page 2

1. The decedent's will devises the residue of his estate to the trustee(s) of the Jeffrey Charles Lester and Elizabeth Suzanne Lester Revocable Living Trust dated 12-17-11. Later, the "Concluding Provisions" of Article 5, Section 5.01 indicate a possible alternative for community property to pass via nonprobate transfer; however, it appears to specifically exclude any community property included in a trust.

The Court may require further clarification as to how this property falls under Article 5, Section 5.01, including why this property is/was not included in the trust.

Note: Interestingly, the box at #11 is not checked re whether Petitioner is the trustee of a trust that is a devisee under the decedent's will. Does the referenced trust exist? If so, who is the trustee? If the trustee is someone other than Petitioner, he or she is entitled to notice.

2. If the property is to pass to the surviving spouse outside of probate or the trust pursuant to this section, need details relevant to the property and the marriage, including the date of marriage, the date of acquisition of the property, the decedent's interest in the property, whether the property was community or separate property. See Probate Code §13651(a)(3).
3. The decedent's will is witnessed by only two witnesses: Petitioner Elizabeth S. Lester (Surviving Spouse and Petitioner herein), and her attorney, Tyler H. Lester. Pursuant to Probate Code §6112, unless there are at least two other subscribing witnesses to the will who are disinterested witnesses, a devise to a subscribing witness creates a presumption of undue influence affecting burden of proof. The Court may require clarification with reference to this section as to why the property should pass to Petitioner via this nonprobate transfer rather than to the trust pursuant to the Section 3.01 of the will.
4. Petitioner lists the same address for herself and all four of the decedent's adult children, and Notice of Hearing was sent to everyone at this one address. The Court may require clarification: Do all of the decedent's adult children reside together with Petitioner at this address?

Petitioner
Petitioner

Larsen, Hazel E. Olsen (Pro Per – Daughter – Petitioner)
Wilhite, Curtis (Pro Per – Son – Petitioner)

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

DOD: 5/10/08			<p>HAZEL E. OLSEN LARSEN Daughter, and CURTIS WILHITE, Son, are Petitioners and request that HAZEL E. OLSEN LARSEN be appointed Executor with Full IAEA without bond.</p> <p>Full IAEA – ok</p> <p>Residence: Fresno Publication: Business Journal</p> <p>Estimated value of estate: Real property: \$218,000.00 Annual income from real property: \$22,783.00 Total: \$240,783.00</p> <p>(Note: The Inventory and Appraisal was filed concurrently with the petition.)</p> <p>Probate Referee: Steven Diebert</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>SEE PAGE 2</u></p>
	Aff.Sub.Wit.	x		
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
N/A	Notice of Hrg			
	Aff.Mail			
✓	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			Reviewed by: skc	
			Reviewed on: 4/22/15	
			Updates:	
			Recommendation:	
			File 18 - Meeks	

Page 2

NEEDS/PROBLEMS/COMMENTS:

1. **Need clarification and authority:** It appears Petitioners are requesting that a document entitled “*Durable Power of Attorney for Management of Property and Personal Affairs*” dated 10/6/2000 be admitted to probate as the Decedent’s will. However, pursuant to Probate Code §4152(a)(4), the authority of an attorney-in-fact under a power of attorney is terminated by the death of the principal. Further, this document does not appear to provide any direction for the disposition of assets after the Decedent’s death.

Note: The POA contains a “Lawyer’s Certificate” that indicates it was prepared by Attorney Brian Hamman of Gridley, CA. Petitioners may wish to contact the attorney to inquire whether additional estate documents were prepared for the Decedent at the same time as the POA.
2. If the above-referenced POA is to be admitted to probate as a will, need original document pursuant to Probate Code §8200.
3. If the above-referenced POA is to be admitted to probate as a will, need Proof of Subscribing Witness (DE-131) pursuant to Probate Code §8220, as it is not self-proving. (Note that such Proof must include a verified statement that the decedent intended the document to be a will.)
4. **Need clarification:** The petition at #2 requests appointment of Ms. Larsen only; however, both petitioners signed the Duties and Liabilities of Personal Representative and submitted the Confidential Supplement. If Mr. Wilhite is requested to be a co-administrator with Ms. Larsen, the Court may require bond of \$240,783.00, as he is a resident of Nampa, ID.
5. If Ms. Larsen is to be appointed alone, the Court may require Waiver of Bond (DE-142) signed by Mr. Wilhite.

Note: If granted, the Court will set a status hearing for the filing of the first account or petition for final distribution for Monday, June 27, 2016. If the proper items have been filed, the status hearing may be taken off calendar. Otherwise, a written status report is required pursuant to Local Rule 7.5. (No status hearing is set for the filing of the Inventory and Appraisal, since it was filed concurrently with this petition.)

Attorney: Mary Castro-Ayala (for Petitioner/paternal grandmother Karen Yost)

Mother: Yesinia Guzman (pro per)

Petition for Appointment of Temporary Guardian of the Person

		<u>TEMPORARY EXPIRES 4/27/15</u>	NEEDS/PROBLEMS/COMMENTS:
		<u>GENERAL HEARING 5/19/15</u>	
		KAREN YOST , paternal grandmother, is petitioner.	
Cont. from 033015		Please see petition for details.	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory	Objections to Guardianship filed by mother, Yesenia Guzman, on 3/30/15	
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input checked="" type="checkbox"/>	Pers.Serv.	W/	
<input checked="" type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input checked="" 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 checked="" type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: KT
			Reviewed on: 4/22/15
			Updates:
			Recommendation:
			File 25 – Yost