1 **Stacy Lynn Moore (CONS/PE)** **Case No. 0489148**

Atty **Swearingen, Rosemarie (pro per Co-Conservator)**

Probate Status Hearing Re: Failure to File Annual or Biennial Account

Age: 36 years **DOB: 4/19/1975**	**ROSEMARIE A. SWEARINGEN** and **MAILE MOORE** were appointed co-Conservators of the person and estate on 12/20/1993. First account was due 12/20/1994. **Court Investigator JoAnn Morris' Report filed on 8/30/11**.	**NEEDS/PROBLEMS/COMMENTS:** **Continued from 3/5/12. Minute order states the court sets an OSC. Appearance needed from Mr. Humpal in person or via Court Call.** **On 4/17/12 Mr. Humpal substituted out as attorney of record for Rosemarie Swearingen.** **1. Need current status report or first account.**
Cont. from 121211, 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	
		Reviewed by: KT
		Reviewed on: 4/20/12
		Updates:
		Recommendation:
		File 1 - Moore

Dept. 303, 9:00 a.m. Monday, April 30, 2012

2 Tatiana Ledaiev (Estate) **Case No. 08CEPR00104**

Atty Markeson, Thomas A., of Wild Carter & Tipton (for Petitioner Maria Kapssof)

(1) Petition for Settlement of Second and Final Account and (2) Final Report of Administration and (3) Petition for Payment Statutory and Extraordinary Executor and Attorney Fees and (4) for Reimbursement of Costs Advanced by Attorneys (Probate Code 9202, 10800, 10810, 10950, 11600 and 11640)

DOD: 8/25/2007		
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	052708
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	N/A

MARIA KAPSSOF, daughter and Executor, is Petitioner.

Account period: 7/1/2009 – 2/1/2012

Accounting - **$322,603.72**
Beginning POH - **$313,645.79**
Ending POH - **$174,684.86**
($169,484.86 is cash)

Executor - **$6,924.81**
(*Note: no statutory fees were paid at the time of the First Account; Petitioner reserved at that time the right to request fees at a later date;*)

Executor XO - **$1,520.00**
(per Local Rule 7.18; $520.00 for sale of vehicle, and $1,000.00 for sale of residence via Court confirmation on 12/16/2011;)

Attorney - **$6,924.81**
(*Note: no statutory fees were paid at the time of the First Account; attorney reserved at that time the right to request fees at a later date;*)

Attorney XO - **$13,000.00**
(per declaration and itemization; for 61.3 hours @ $205.00/hr and $225/hr attorney rates; attorney discounts from $13,390.50;)

Costs - **$1,653.00**
(filing fees, CourtCall fees, probate referee, publication;)

Closing reserve - **$1,200.00**

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: LEG
Reviewed on: 4/20/12
Updates:
Recommendation:
File 2 - Ledaiev

Dept. 303, 9:00 a.m. Monday, April 30, 2012

Distribution pursuant to Decedent's Will and *Assignment of Interest* is to:

- MARIA KAPSSOF – **$17,968.54 cash**
- PETER A. LEDIAEV (DOD 1/1/2010) – **$17,968.54 cash** *(to be held by Petitioner pending receipt of documents from beneficiaries of his estate;)*
- MARTHA KALPAKOFF – **$17,968.54 cash**
- ALEX LEDIAEV – **$17,968.54 cash**
- KATHY LEDIAEV (DOD 6/27/2008) – **$17,968.54 cash** *(to be held by Petitioner pending receipt of documents from beneficiaries of her estate;)*
- TANYA LEDIAEV (SCOTT) – **$12,482.43** *($17,968.54 less the advance of $5,486.11 per Assignment of Interest filed 6/5/2009);*
- ANNA LEDIAEV (KOCHERGEN) – **$17,968.54 cash**
- LISA BISCHEL – **$5,989.51**
- CHRISTINA KOCHERGAN-GOMEZ – **$5,989.51**
- STEVEN KOCHERGAN – **$5,989.51**

3 **Guerrini John Bucci (Estate)** **Case No. 09CEPR00510**

Atty **Bucci, Rocky (Pro Per – Administrator)**

Status Re: Accounting

DOD: 6-5-09		
	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	X
	UCCJEA	
	Citation	
	FTB Notice	

ROCKY BUCCI was appointed as Administrator with full IAEA and without bond on 7/28/09.

I & A filed 8/5/2009 reflects a total estate value of $64,650.00, consisting of real property (house and mobile home), miscellaneous household furniture, and two vehicles.

The first account or petition for final distribution was due 7/28/2010.

The Court set a status hearing for the filing of the first account or petition for final distribution on 3/5/12.

Status Report filed on 3/2/12 states the primary asset of the estate is a house and mobile home in Sanger, which both appraised at $67,800. There is a mortgage on the property with an outstanding balance of approximately $70,000. Rocky Bucci has been maintaining the property and making all the mortgage payments.

Rocky Bucci and his two brothers, Dino Bucci and Anthony Bucci are the three heirs of the estate. Rocky Bucci had hoped to purchase the property from the estate, or reach an agreement with his brothers whereby he would receive distribution of the real property of the estate.

Efforts to reach an agreement with the other heirs failed. Rocky Bucci has advised his attorney that he wants to wait until the real estate market improved to market the property for sale. He does not want to sell the real property.

NEEDS/PROBLEMS/COMMENTS:

Note: The Administrator was previously represented by Attorney JoAnn Sanoian; however, pursuant to Substitution of Attorney filed 3-7-12, the Administrator is now self-represented. Attorney Sanoian has filed a Request for Special Notice in this proceeding.

1. **Need first account or petition for final distribution pursuant to Probate Code §12200.**

   Note: According to the prior status report, the Administrator does not want to sell the property until the market improves. The Court may require information regarding the current status of the assets including the real property, cash and vehicles. For instance, is the real property occupied or vacant? Is rent being collected? How does this benefit the estate?

Reviewed by: KT / skc

Reviewed on: 4-20-12

Updates:

Recommendation:

File 3 - Bucci

Dept. 303, 9:00 a.m. Monday, April 30, 2012

4 **Barbara Lorene Scharton (Estate)** **Case No. 09CEPR00512**

Atty **Wall, Jeffrey L. (for Christopher Fullbright – Administrator)**

(1) Second and Final Report of Administrator and Petition for its Settlement and (2) For Allowance of Commissions and Fees and (3) for Final Distribution upon Waiver of Accounting

DOD: 5-4-09		
	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	

CHRISTOPHER LEE FULLBRIGHT, brother and Administrator with full IAEA without bond, is Petitioner.

Accounting is waived.

I&A: $548,165.47
POH: $610,620.80 (cash)

Administrator (Statutory): $3,490.82
(Statutory fees are $13,963.30. Petitioner previously received $10,472.48 after approval of the first account and now requests the balance of $3,490.82.)

Attorney (Statutory): $3,490.82
(Statutory fees are $13,963.30. The Mayfield Law Group previously received $10,472.48 after approval of the first account. Attorney Wall subsequently represented the Petitioner and now requests the balance of $3,490.82.)

Distribution pursuant to intestate succession and disclaimer filed 12-15-10 is to:

Christine Adams, as Trustee of the Mickey Fulbright Grantor Trust: Entire estate

NEEDS/PROBLEMS/COMMENTS:

CONTINUED TO 6-14-12

Per request of Attorney Wall

1. **The terms of the Trust and the Court order signed 2-28-12 require approval for the transfer of any additional property into the Mickey Fulbright Grantor Trust. Therefore, need Court authorization within the trust case to distribute as requested.**

Note: The trustee must file *in the new trust case*, with appropriate notice, a petition for approval to receive this requested distribution before distribution can occur.

Reviewed by: skc
Reviewed on: 4-20-12
Updates: 4-24-12
Recommendation:
File 4 - Scharton

Dept. 303, 9:00 a.m. Monday, April 30, 2012

5 Betty LaHargoue (Trust) **Case No. 09CEPR01050**

Atty Sanoian, Joanne (for Sandra F. Edmiston and Sheridan Mae Rodkey – Trustees)

Atty Howk, Robert L. (for Peggy Walton – Contestant)

Status Conference

Age:		
DOD:		
Cont. from 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	

SANDRA EDMISTON and **SHERIDAN RODKEY,** as Trustees of the **BETTY LAHARGOUE LIVING TRUST** filed a **Petition for Instructions and Confirmation of Report of Trust Administration, First and Final Accounting, and Proposed Final Distribution of Trust Estate on 08/18/11** with a hearing set for 10/03/11.

Objections to Fiduciaries' Account and Request for Surcharge of Fiduciary and other Remedies filed 09/28/11 by PEGGY WALTON, contestant and trust beneficiary.

Minute Order from hearing on 10/03/11 set this matter for status and states: Mr. Matsumoto is appearing via conference call. The Court orders that there be no expenditures by the trust without a noticed hearing and order of the court. The Court advises counsel that it will entertain an order shortening time.

First Supplement to First and Final Account filed 10/04/11 by Trustees Sandra Edmiston and Sheridan Rodkey supplements the First and Final Account included in the Petition filed 08/18/11 without any change, modification, or amendment of any portion of that petition and sets forth the charges and credits the Trustees' were entitled to for the period of 07/12/11 – 08/11/11.

Minute Order from status hearing on 12/05/11 set this matter for a Status Conference and states: Parties wish to mediate. Russell Matsumoto states his clients have consented to his withdrawal and asks for a 60 day continuance for Sandra Edmiston to retain counsel (Ms. Rodkey wishes to resign). Nonetheless, Mr. Matsumoto agrees to resume as counsel if parties seek outside mediation. The Court relies on counsel as officers of the Court to meet appropriately and assist as needed. Counsel may contact the Court to resolve issues in lieu of a mediator i.e. parties may contact the Department for a Settlement Conference.

Response to Objections to Fiduciaries' Account and Request for Surcharge of Fiduciary and other Remedies filed 03/01/12 by Sandra F. Edmiston and Sheridan Rodkey, Trustees.

Declaration of Joanne Sanoian in Support of Response to Objections to Fiduciaries' Account and Request for Surcharge of Fiduciary and other Remedies filed 03/02/12.

Minute Order from 03/20/10 hearing states: The Court directs Ms. Sanoian to retrieve such back-up maternal her client has by next Thursday an deliver it to Mr. Howk's office. Additionally, Ms. Sanoian is to contact Mr. Matsumoto regarding any outstanding bills. The Status Conference set for 04/30/12 remains.

NEEDS/PROBLEMS/ COMMENTS:

As of 04/20/12, no additional documents have been filed.

1. **Need status update of settlement.**

Reviewed by: JF

Reviewed on: 04/20/12

Updates:

Recommendation:

File 5 - LaHargoue

6 Hudson Testamentary Trust dated 11-17-86 (Trust) Case No. 11CEPR00118

Atty Kruthers, Heather H (for Public Guardian current Trustee)

Atty Durost, Linda K. (for Phillip Hudson and Debra Hudson former Trustees)

Status Hearing Re: Filing Accounting From Former Co-Trustees

Cont. from 013112		
	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	

PHILLIP HUDSON and DEBRA HUDSON were acting Successor Co-Trustees of the **HUDSON TESTAMENTARY TRUST dated 11/17/1986** as of 10/19/2004.

PALM VILLAGE RETIREMENT COMMUNITY had petitioned for the **PUBLIC GUARDIAN** to be appointed as Conservator of the Person and Estate of **MARJORIE C. HUDSON**, Trust beneficiary who resided in that facility, in Case No. 09CEPR01011. ***Minute Order* dated 2/9/2010** which appoints the Public Guardian as Conservator states: "All powers of attorney and any other powers to act as trustee are revoked forthwith…. Nobody other than the Public Guardian is to do anything with any assets of any form."

PUBLIC GUARDIAN filed on 2/17/2011 a petition for appointment as successor trustee of the Hudson Testamentary Trust. ***Order Appointing Public Guardian as Successor Trustee and Compelling Former Co-Trustees to Account* signed on 4/5/2011** finds that Phillip Hudson and Debra Hudson are ordered to account to this Court and the Public Guardian for all Trust activity from the date of their appointment, but no later than from 10/19/2004, and the accounting is to be filed by 7/12/2011.

***Minute Order* dated 7/12/2011** from the hearing set for the accounting from the former Co-Trustees states Counsel [Heather Kruthers] advises the Court that Ms. Hudson contacted her and informed her that she needed more time to prepare the accounting. The Court continued the matter to 9/20/2011.

***Minute Order* dated 9/20/2011** from the continued status hearing for the former Co-Trustees' accounting states Ms. Kruthers advises the Court that the Public Guardian has had no communication with Debra Hudson and Phillip Hudson. The Court set the matter for an Order to Show Cause on 11/1/2011. The Court ordered Debra Hudson and Phillip Hudson to be present on 11/1/2011 with or without an accounting. The Court further ordered that Debra Hudson and Phillip Hudson turn over all documents related to the Trust to the Public Guardian.

***Minute Order* dated 11/1/11 states Counsel requested a 60 day continuance. The matter was continued to 1/31/12.**

***Minute Order* dated 1/31/12 states Attorney Durost requests a 90 day continuance. Ms. Durost needs to subpoena medical records.**

NEEDS/PROBLEMS/ COMMENTS:

<u>Continued to June 28, 2012</u> per Stipulation and Order signed on 4/18/12

1. **Need accounting from former Co-Trustees, Phillip Hudson and Debra Hudson, per Court order dated 4/5/2011.**

Reviewed by: KT
Reviewed on: 4/20/12
Updates:
Recommendation:
File 6 - Hudson

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

Atty Berlese, Margaret J., of Herzig & Berlese, San Francisco (for Petitioner Elizabeth Berlese, Executor)

Atty Jones, Christopher C., sole practitioner, Santa Barbara (*formerly* for Petitioner Elizabeth Berlese, Executor)

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

DOD: 3/26/2011

Cont. from 041712

	Aff.Sub.Wit.	
✓	Verified	
✓	Inventory	
✓	PTC	
✓	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Sp.Ntc.	X
	Aff.Pub	
	Pers.Serv.	
	Conf. Screen	
	Letters	060911
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202 (b)	X
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	FTB Notice	

ELIZABETH E. BERLESE, daughter and Executor, is Petitioner.

Accounting is waived *(please refer to deficiency noted in column at right.)*

I & A	-	**$1,197,866.23**
POH	-	**$1,035,598.00**
Executor	-	**waives**
Attorney Berlese	-	**waives**
Attorney Jones	-	**to be determined by Court**

Petitioner states:

- Petitioner's first attorney, Christopher Jones, requested payment of **$750.00** from Petitioner after their first meeting in April 2011, which Petitioner paid;
- Petitioner did not know she was not permitted to pay Mr. Jones until authorized to do so by the Court;
- Mr. Jones billed Petitioner again on 4/28/2011 and 5/26/2011 *(copies attached as Exhibit 3)*; Petitioner has not paid these bills;
- Petitioner believes Mr. Jones billed at his usual hourly rate for work that could and should have been performed by his paralegal at a substantially lower hourly rate;
- Petitioner believes Mr. Jones' bills are excessive for the services performed; however, Petitioner will pay Mr. Jones whatever additional amount, if any, the Court thinks is fair;

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

1. **Need *Notice of Hearing* of the *Petition for Final Distribution on Waiver of Account and Request for Determination of Attorney's Fees*, and proof of mailed service of 15 days' notice prior to hearing pursuant to Probate Code §§ 11000 and 11601 for the following beneficiary:**
   - **Elizabeth Terlesky, granddaughter.**
2. **Need proof of mailed service of 15 days' notice prior to hearing of the *Notice of Hearing* along with a copy of the *Petition for Final Distribution on Waiver of Account and Request for Determination of Attorney's Fees* for Christopher C. Jones, per the *Request for Special Notice* filed 3/26/2012, pursuant to Probate Code §§ 1250, 1252, 11000, and 11601.**
3. ***Petition* states the Petitioner mailed a copy of the *Petition* to Attorney Christopher Jones as shown on the proof of service; however, Court records show no proof of service included with the *Petition*, nor filed separately with the Court.**

~Please see additional page~

Reviewed by: LEG

Reviewed on: 4/23/12

Updates:

Recommendation:

File 7 - Berlese

Petitioner states, continued:

- Petitioner mailed a copy of this *Petition* to Mr. Jones as shown on the Proof of Service;
- Mr. Jones was reimbursed for all costs paid on behalf of Petitioner in the administration of the estate, such as the filing fee;
- The publication fee and other costs have been paid by Petitioner and Attorney Margaret J. Berlese, and no reimbursement for these costs is requested.

Petitioner prays for an Order:

1. Closing the administration of this estate;
2. Approving the *Petition,* and approving and confirming all acts and proceedings of the Petitioner as Executor;
3. Authorizing payment to Petitioner's first attorney, Christopher Jones, of an amount ordered by the Court over and above the **$750.00** previously paid to him for services rendered to Petitioner and the estate;
4. Distributing the assets in accordance with Decedent's Will as follows:
   - **ELIZABETH A. TERLESKY – $5,000.00 cash**;
   - **ELIZABETH E. BERLESE – $515,299.00** [*consisting of cash, artwork, investment accounts, bonds, internment spaces, mineral interests, personal property and furniture located in real property, and real property*], less payment of ½ of the amount owed to Christopher Jones.
   - **MARGARET J. BERLESE – $515,299.00** [*consisting of cash, artwork, investment accounts, bonds, internment spaces, mineral interests, personal property and furniture located in real property, and real property*], less payment of ½ of the amount owed to Christopher Jones.

NEEDS/PROBLEMS/COMMENTS, continued:

4. *Petition* states the remainder beneficiaries in the estate hereby waive an accounting from the Petitioner. Pursuant to Probate Code §10954, need signed waivers of accounting from the following beneficiaries:

- **Elizabeth Terlesky, granddaughter;**
- **Margaret Berlese, daughter (*Petition* is signed by her in her capacity as Attorney representing the Petitioner, distinct from signing as beneficiary waiving an accounting.)**

5. *Petition* does not contain a statement pursuant to Probate Code §§ 216 and 9202(b) regarding notice to the Director of the CA Victim Compensation and Government Claims Board.

6. Pursuant to Local Rules 7.12.3 and 7.12.4, the Court will not order distribution of real property nor personal property in undivided interests without the written consent of all distributees. Need written consent of:

- **Elizabeth A. Terlesky, granddaughter;**
- **Elizabeth E. Berlese, daughter (*Petition* is signed by her in her capacity as Executor, distinct from signing as beneficiary consenting to distribution in undivided interests);**
- **Margaret J. Berlese, daughter (*Petition* is signed by her in her capacity as Attorney representing the Petitioner, distinct from signing as beneficiary consenting to distribution in undivided interests.)**

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS, continued:

7. **Proposed order does not comply with Local Rule 7.6.1, which provides that orders settling accounts and distributing property shall contain a statement as to the balance of the estate on hand, specifically noting the amount of cash included in the balance, and that orders shall be drawn so their general effect may be determined without reference to the petition on which they are based. Specifically, the proposed order does not describe with particularity the real property (including the APN), investment funds, mineral interests, etc. to be distributed, nor does it state the monetary distributions in dollars rather than as a percentage of the estate, as required by Local Rule 7.6.1(A) and (C). Need revised proposed order.**

Declaration for Apportionment of Statutory Compensation per Rule 7.704 **filed by Attorney Christopher C. Jones on 4/16/2012 states:**

- **He makes his declaration in support of his request that attorneys' fees be apportioned in the above matter pursuant to CA Rule of Court 7.704;**
- On 4/6/2011, Elizabeth Berlese (Petitioner) met with him at his office after making an appointment with him, to hire him as her counsel in the probate of her mother's estate;
- He recalls they had a conference call with Elizabeth Berlese's sister, Margaret Berlese, who is also a licensed attorney and now serves as attorney for Elizabeth Berlese, and who is also one of two primary beneficiaries of this estate, and they discussed the terms of his compensation in this matter;
- Margaret Berlese asked him if he was willing to perform the necessary legal services on an hourly basis rather than for statutory compensation;
- He agreed to work for the hourly rate of **$325.00** and requested of Elizabeth Berlese that she advance costs of **$750.00** to cover the anticipated costs of the filing fee and publication of notice of administration; on 4/11/2011, he received a **$750.00** check from Elizabeth Berlese as an advance for costs;
- On 4/7/2011, he prepared the initial pleadings to start the probate, including the petition, order for probate, notice of administration, duties and liabilities, and testamentary letters; all of these documents were forwarded to both of the Berlese sisters for review and signatures; after certain revisions to the forms, Elizabeth Berlese signed the forms and returned them to my office for filing; he filed the original documents with the Court and paid the filing fee from the funds on deposit with him;
- On 4/28/2011, his office sent a statement to Elizabeth Berlese showing the amount of time he expended in preparing the various pleadings filed with the Court;
- On 5/4/2011, he received an email from Margaret Berlese in which she objected to his preparing the pleadings in this action, and demanding to know why his paralegal did not prepare them; secondly, she objected to his charging the agreed upon hourly rate of **$325.00** as she held the opinion that "filling out the forms is not difficult; it doesn't require a legal education or degree;" she then said that she was taking over the job of legal counsel in this probate matter, and that he should forward the pleadings to her;
- He responded to Margaret Berlese that he had already filed the petition on 4/29/2011 and that the Court had set a hearing date [6/9/2011]; *(please refer to copies of email correspondence attached as Exhibit A; Note: Margaret Berlese goes by the name Peggy Berlese in the correspondences);*
- On 6/10/2011, he received an email from Elizabeth Berlese (Petitioner) in which she demanded that he return to her the **$750.00** retainer he had previously received; he responded by saying that he was not willing to advance the costs in this matter, and was retaining the remainder of the advance *(please refer to copies of email correspondence attached as Exhibit B; Note: Elizabeth Berlese goes by the name Beth Berlese in the correspondence);*

~Please see additional page~

Attorney Jones' *Declaration for Apportionment of Statutory Compensation*, continued:

- In March 2012, his office checked the civil register and learned that Margeret Berlese filed a petition for distribution; he was not served with a copy of that petition; he prepared a request for special notice which he served and filed in this matter; he thereafter received an email from Margaret Berlese in which she acknowledged that she filed the petition, that the hearing was set for 4/17/2012, and that her sister had served him with the notice of hearing and petition "a day or two ago;"
- On 3/27/2012, a copy of the **initial *Petition for Probate*** [*emphasis in original*] which he had filed on behalf of Elizabeth Berlese in 2011, along with the notice of hearing for the 4/17/2012 petition, were hand-delivered to his office;
- When he recognized that a copy of the wrong petition was provided, he immediately advised Margaret Berlese and requested it be replaced by a copy of the correct petition (*please refer to copies of email correspondence attached as Exhibit C;)*
- Despite assurances from both the Executor and the attorney for the Executor that the correct petition would be forthcoming, the actual *Petition for Final Distribution on Waiver of Account and Request for Determination of Attorney Fees* which is the subject of the hearing [on 4/17/2012], was not received until hand delivery occurred on 4/11/2012; *[Note: The hearing on the Petition for Final Distribution was continued from 4/17/2012 to 4/30/2012 per the request of Attorney Margaret Berlese; Attorney Christopher Jones had filed this Declaration on 4/16/2012]*;
- Because of the failure to provide the petition as repeatedly requested and as represented to the Court under penalty of perjury on the proof of service, he directly wrote to the Court clerk's office by U.S. Mail, forwarded his personal check for **$8.00,** and obtained a copy of the petition from the Court directly before it was ever provided to him by the Executor and her attorney;
- As counsel for her sister, Margaret Berlese has not complied with Rule 7.704(b) regarding service of the notice and petition to former counsel;
- He has expended a total of **$427.01** in costs, leaving a deposit of **$322.99**, which he requests be allowed to expend against legal fees in this matter, as reflected on his statements sent to Elizabeth Berlese (*attached as Exhibit D*);
- He is still owed **$1,992.01** after applying the balance of the deposit from the Executor;
- **He requests the Court apportion fees by awarding him the hourly fees that he billed as agreed with his client.**

Note: Attorney Christopher Jones' billing statement is itemized for services from 4/7/2011 through 4/26/2011 indicating 5.90 hours total, .30 hours of which are billed at the paralegal rate of $150.00/hour and the rest of which are billed at the attorney rate of $325.00/hour. The total billed amount is $1,865.00, plus costs of $4.41, for a total billed sum of $1,119.41. Local Rule 7.17(B) provides that photocopy and postage expenses are considered part of the cost of doing business and are not reimbursable, except in cases falling within 7.17 (C) when more than ten people are entitled to notice (which does not apply here), these costs are allowable subject to the Court's discretion. Taking into account these non-reimbursable costs of $4.41, the amount owed Attorney Jones based upon his billing statement calculates as $1,115.00 *($1,865.00 less $750.00 paid*.) Examiner is unable to determine the calculation for the result of $1,992.01 requested by Attorney Jones as the remaining balance owed based upon his billing statement.

Note: The Court set a status hearing on 8/15/2012 for the filing of the petition for final distribution, which has been vacated due to the filing having been made.

8 Loretta M. Drummond (Estate) Case No. 11CEPR00689

Atty Keeler, Jr., William J., of Garvey Schubert & Barer, Portland, Or (for Petitioner Dennis L. Thomas, Successor Co-Trustee)

Atty Ivy, Scott J., of Lang Richert & Patch (for Respondent and Contestant Janette Courtney, Executor)

Petition to Determine Validity of Trust Instruments; to Determine Title to Property; to Recover Trust Property; to Compel Trustee to Account and Report; Financial Elder Abuse (Prob. C. 17200, 850; W & I C 15657.5)

Ernest DOD: 2003		
Loretta DOD: 6/9/2011		
Cont. from 020712		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	W/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	091511
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

DENNIS L. THOMAS, son, Beneficiary, and Successor Co-Trustee, is Petitioner.

Petitioner states:

- Ernest and Loretta Drummond were married and had no children together, but had seven children total from prior marriages:
  - Ernest's children: **SANDRA THOMPSON**, **JOANN DAWSON** and [**ERNEST] MICHAEL DRUMMOND, JR**;
  - Loretta's children: **STEVEN THOMAS**, **DAVID THOMAS**, **DENNIS L. THOMAS** (Petitioner), and **JANETTE BURCH COURTNEY**;
- Ernest and Loretta founded a successful hearing aid company called the **DRUMMOND COMPANY** (Drummond Co.);
- On 4/23/1992, Ernest and Loretta created the **ERNEST L. DRUMMOND FAMILY TRUST** ("**Ernest Trust**") (*copy attached as Exhibit A*); Schedule A to the **Ernest Trust** identifies and places into the Trust 2 parcels of real property, 2 bank accounts, 2 vehicles, 2 life insurance policies, an IRA, and 100% of the 30,000 shares of the Drummond Co. as property of the **Ernest Trust**; many of those assets, however, remained in joint tenancy between Ernest and Loretta until Ernest's death, including the Drummond Co. shares;
- On 4/30/2003, Ernest and Loretta amended the **Ernest Trust** *(copy of First Amendment attached as Exhibit B)*, in which both Ernest and Loretta agreed to make specific trust distributions of a 40-acre ranch and a liquor store in Mariposa to **STEVEN THOMAS**, son, and to provide all of Loretta's and Ernest's shares in the Drummond Co. to Dennis Thomas (Petitioner) free of trust upon the death of the survivor of Loretta and Ernest;

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

<u>Continued from 2/7/2012</u>. *Minute Order* states Mr. Ivy requests a continuance; Court continued the matter and set this status conference.

<u>Note</u>: *Order Granting Ex Parte Application for Temporary Restraining Order* was signed on 11/29/2011 ordering that Janette Courtney, Executor [appointed with full IAEA without bond on 9/15/2011], is restrained from transferring, selling, encumbering, leasing or granting any other interest in the real property located in Visalia to Tad Edwards or his assignee, or otherwise committing the acts described in the *Notice of Proposed Action* dated 10/25/2011 absent the supervision and order of this Court.

1. Need proposed order.

Reviewed by: LEG	
Reviewed on: 4/20/12	
Updates:	
Recommendation:	
File 8 - Drummond	

Petitioner states, continued:

- Upon Ernest's death in 2003, the **Ernest Trust** was divided into 2 sub-trusts, the Marital Trust ("**Survivor's Trust**") and Family Trust ("**Decedent's Trust**"); pursuant to the terms of the **Ernest Trust**, 50% of the shares of the Drummond Co. were held in Decedent's **Trust** after Ernest's death;
- Pursuant to the **Ernest Trust**, Petitioner is currently the acting Trustee of both the Survivor's **Trust** and Decedent's **Trust**, with the principal place of administration of both trusts being in Fresno County;
- On 8/11/2005, Loretta created the **LORETTA M. DRUMMOND ''S TRUST''** ("**S Trust**") (*copy attached as Exhibit C)*; *Schedule A* to the **S Trust** identifies 27,000 shares of the Drummond Co. as property of the **S Trust**, and the terms of this trust permit the subsequent addition of property to the trust;
- At the time of the **S Trust** creation, Loretta and Janette (Respondent) knew and/or through the exercise of reasonable care should have known that up to ½ of the 27,000 shares of the Drummond Co. stock were assets of the irrevocable **Decedent's Trust**;
- On 3/1/2007, Loretta amended the distribution scheme of the **S Trust** to provide for equal shares of the trust estate to be distributed to all seven of the Drummond children *(copy of First Amendment to the S Trust attached as Exhibit D*); *[Examiner's Note: While ¶ 11 of the Petition states the amendment to the S Trust provided for equal shares of the trust estate to be distributed to "all seven" children, it appears from the copy of the First Amendment to the S Trust that distribution of the trust property was to be made to Janette Burch, David A. Thomas, Joann E. Dawson and Sandra L. Thompson only.]*
- Pursuant to the **S Trust**, Janette Burch Courtney is the acting trustee of the **S Trust**, and the principal place of its administration is **Cincinnati, OH**;
- During Ernest's life, Petitioner worked at the Drummond Co. and while doing so acquired a **10% interest** in the company from Ernest and Loretta with the understanding and promise that he would inherit control of the Drummond Co. upon Ernest's death; Petitioner believed he would receive the additional shares of the Drummond Co. necessary for control from a trust established by Ernest;
- Upon Ernest's death, Petitioner was informed by Janette that Ernest had never established the trust he expected and she stated Ernest had attempted to establish a trust but that the trust did not actually exist because it had never been funded;
- Despite repeated requests to both Loretta and Ernest, Petitioner was unable to obtain a copy of the **Ernest Trust** from Janette until after Loretta's death;
- Although Petitioner believed that Ernest and Loretta had intended to leave the Drummond Co. to him upon Ernest's death, Janette indicated that because the shares in the Drummond Co. were held in joint tenancy between Ernest and Loretta, Loretta had become the owner of **90%** of the shares of the Drummond Co. through right of survivorship and was free to place those share into the **S Trust**;
- Janette, a**s** Trustee of the **S Trust**, called a meeting of the shareholders of the Drummond Co. and by voting the shares of the Drummond Co. held in the **S Trust** and by acting as a majority shareholder, Janette removed Petitioner as an officer of the Drummond Co. and installed herself as president of the company;
- Petitioner subsequently left the employ of the Drummond Co., and after his departure, Janette offered to buy Petitioner's **10%** interest in the Drummond Co., demanding that Petitioner waive any interest in the Drummond Co. under both Ernest's and Loretta's estate plans, claiming that such waiver was necessary because there was a possibility she would sell the company and potential buyers might offer a lower price if they believed a conflicting claim to the company existed; in order to ensure Petitioner accepted her offer, Janette also raised a number of potential claims that the Drummond Co. could have against Petitioner and his wife, **MELANIE THOMAS**, at the time related to their tenures as employees of the Drummond Co.;
- A *Settlement Agreement Regarding Disputed Legal Matters* (*attached as Exhibit E*) was entered into by Petitioner, his wife, Janette, Loretta, the Drummond Co. and **SAUNDRA SOUSA**, Loretta's sister and the person who had actually been operating the Drummond Co. during Janette's tenure as president; the *Settlement Agreement* pertained to the various claims held or potentially held by the parties;
- Petitioner believes that as part of the settlement contemplated by that agreement, Petitioner and Janette also executed a stock purchase agreement that transferred Petitioner's **10%** interest in the Drummond Co. to Janette as Trustee of the **S Trust**; in the stock purchase agreement, Janette warranted that "Buyer has full power and right to enter into this Agreement and to purchase Seller's interest in the company;" Loretta signed the agreement as the owner of the Drummond Co. (*copy of stock purchase agreement attached as Exhibit F)*;

~Please see additional page~

Petitioner states, continued:

- In June 2011, Petitioner was finally able to obtain copies of the **Ernest Trust** and its *First Amendment*; Petitioner was unaware until that time that the claims set forth in the *Petition* existed or were legally supported;
- After reviewing the **Ernest Trust** and its *First Amendment*, Petitioner first learned that upon the death of Ernest, Petitioner should have become a vested remainder beneficiary in a majority of the shares of the Drummond Co. despite Janette's statements and Loretta's actions to the contrary;
- Petitioner will file contemporaneously with this petition a complaint for damages and rescission in Fresno County Superior Court on the basis of these same facts. *[Note: Civil case filed 12/29/2011 in Case #11CECG04320; first amended complaint filed 1/25/2012.]*

Petition requests the Court determine the validity of the Ernest Trust on the following additional bases:

- Petitioner believes Ernest and Loretta executed the **Ernest Trust** and its *First Amendment* so as to ensure that all of their shares in the Drummond Co. distributed to Petitioner upon the death of the survivor of the two;
- Petitioner further believes that despite the fact that the shares were held in joint tenancy between Ernest and Loretta until Ernest's death, the declaration contained in the **Ernest Trust** that Ernest and Loretta "hereby transfer and deliver to the Trustees and their successors the property listed in Schedule A" was sufficient to fund the **Ernest Trust** pursuant to Heggstad because **100%** of the Trustors' shares of the Drummond Co. were listed in *Schedule A*;
- Petitioner asserts that the **Ernest Trust** and the *First Amendment* thereto are valid, binding, and enforceable trust instruments.

Petition requests the Court determine the [in]validity of the S Trust on the following additional bases:

- Petitioner believes the **S Trust** was executed in August 2005, after Ernest's death;
- **Improper funding:** Petitioner believes that due to the operation of the **Ernest Trust** and its *First Amendment*, Loretta did not have possession of or legal title to the 27,000 shares listed in *Schedule A* of the **S Trust**;
    - Petitioner believes that due to the operation of the **Ernest Trust** and its *First Amendment*, 100% of the shares of the Drummond Co. were set aside to be distributed to Petitioner free of trust upon the death of Loretta;
    - Ernest had often told Petitioner and his siblings, including Janette, that Petitioner would receive control of the Drummond Co. upon his death;
    - Because Loretta did not have possession of or legal title to the 27,000 shares listed in *Schedule A* to the **S Trust**, the **S Trust** and/or Janette as Trustee of the **S Trust** never acquired possession of or legal title to any of the Drummond Co. shares owned by the **Ernest Trust**; because the **S Trust** was never funded with shares in the Drummond Co., the **S Trust** is invalid insofar as it purports to control the distribution of any shares in the Drummond Co.;
- **Undue Influence**: Petitioner believes that the entirety of the **S Trust** is invalid because Loretta executed the **S Trust** as a result of undue influence on the part of Janette;
    - Petitioner believes that Janette and Loretta were in a confidential relationship because they were mother and daughter, because Janette principally handled her mother's affairs, and because Janette had a durable power of attorney over Loretta at that time;
    - Petitioner believes that Loretta was susceptible to undue influence because she suffered from acute alcoholism and was frequently intoxicated or suffering from the effects of alcohol withdrawal;
    - Petitioner believes Janette was active in the procuring of the **S Trust** because Janette was principally in charge of Loretta's affairs, and because, due to Loretta's intoxication or other illness, Loretta could not have driven herself to an attorney's office, secured her own transportation, or otherwise interacted with an attorney without Janette's assistance;
    - Petitioner believes Janette unduly benefitted under the terms of the **S Trust** because the **S Trust** allowed for Janette to vote Petitioner off of the board of the Drummond Co. and to install herself as president of the company, reaping the benefits of that position; in addition, had the **S Trust** never been executed, the shares of the Drummond Co. would have been distributed to Petitioner pursuant to the intent of both Loretta and Ernest.

~Please see additional page~

Petition for Relief under Probate Code § 850 Against Janette Burch Courtney as Trustee of the S Trust:

- Petitioner believes that Janette is in possession of either shares of the Drummond Co., proceeds from the sale of shares of the Drummond Co., or some combination thereof;
- Petitioner believes that those shares or the proceeds from the sale thereof are properly the property of the **Ernest Trust** and/or Petitioner acting as Trustee of the **Ernest Trust**;
- Petitioner seeks an order of the Court that Janette Burch Courtney transfer to Petitioner or otherwise hold in constructive trust for Petitioner any shares of the Drummond Co. and/or any funds derived from the sale of any and all funds and assets Janette has wrongfully removed from the Drummond Co.

Petition to Compel Trustee to Account and Report Against Janette Burch Courtney as Trustee of the S Trust:

- Petitioner alleges there is sufficient basis to compel Janette to render a complete account and report of her administration of the **S Trust** for the period of 8/11/2005 to the present, including the activities of the Drummond Co.;
- Petitioner requests the Court order Janette to include in her account and report her administration of any shares in the Drummond Co.

Petition for Financial Elder Abuse Against Janette Burch Courtney, individually and as Trustee of the S Trust:

- At all times relevant to this action, Loretta was aged 65 or older;
- Loretta created the **S Trust** with Janette's assistance and at Janette's direction; absent Janette's conduct, Loretta would not have so acted;
- Petitioner alleges that through Janette's assistance and by Janette's direction, 27,000 shares in the Drummond Co. were effectively put at Janette's disposal; Janette knew or should have known that her assistance in taking, secreting, misappropriating, obtaining, and/or retention of Loretta's property was likely to be harmful to Loretta, and that, by depriving Loretta of her shares, her conduct did in fact cause Loretta harm;
- Petitioner alleges that Janette's conduct constituted financial abuse under Welfare & Institutions Code § 15657.5 as defined in Welfare & Institutions Code § 15610.30.

Petitioner prays for an Order from the Court finding that:

1. The **Ernest Trust** is a valid and enforceable declaration of trust;
2. The *First Amendment* to the **Ernest Trust** is a valid and enforceable amendment to the **Ernest Trust**;
3. Any provision of the **S Trust** that relates to or that purports to control the distribution of any shares of the Drummond Co. is invalid;
4. The entirety of the **S Trust** is invalid due to undue influence;
5. That Janette Burch Courtney, as Trustee of the **S Trust**, holds any shares of the Drummond Co. or any proceeds from the sale thereof in constructive trust for the benefit of Petitioner Dennis L. Thomas;
6. That Janette Burch Courtney, as Trustee of the **S Trust**, is ordered to immediately transfer any shares of the Drummond Co. or any proceeds from the sale thereof to Petitioner Dennis L. Thomas;
7. That Janette Burch Courtney, as Trustee of the **S Trust**, is ordered to file and serve a complete account and report of her administration of the **S Trust** for the period of 8/11/2005 to the present and return all funds and assets taken from the Trust and/or the Drummond Co.;
8. That Petitioner is awarded general damages in an amount according to proof;
9. That Petitioner is awarded special damages in an amount according to proof;
10. That Petitioner is awarded punitive damages in an amount sufficient to punish and deter similar conduct; and
11. That Petitioner is awarded costs and reasonable attorneys' fees.

~Please see additional page~

***Response to Petition to Determine Validity of Trust Instruments; to Determine Title to Property; to Recover Trust Property; to Compel Trustee to Account and Report; for Financial Elder Abuse; and Request for Abatement per Probate Code § 854* filed on 1/30/2012 by Contestant Janette Courtney, in her individual capacity, and in her capacity as Executor, and as Trustee of the Loretta M. Drummond "S" Trust, states:**

- The *Petition* asserts various and serious allegations against her, most of which, if not all, are based upon allegations asserted on "information and belief" that are not sufficient evidence to support the relief granted in the *Petition*;
- Moreover, the *Petition* admits that Petitioner has also filed a civil action in Fresno County Superior Court (Case No. 11CECG04320) "on the basis of these same facts" as alleged in the *Petition*;
- Contestant cites the following: Pursuant to Probate Code § 854, the Probate Court, "upon request of any party to the civil action **shall abate the petition** until the conclusion of the civil action." Pursuant to Probate Code § 856.5, the Court "may not grant a petition under this chapter if the court determines the matter should be determined by a civil action." Pursuant to Probate Code § 852, any interested party may request a continuance to conduct discovery proceedings, or for other preparation for the hearing.
- The nature and complexity of the allegations set forth in the *Petition*, and the fact that almost all of the allegations are based upon "information and belief" not sufficient to support the granting of the *Petition* in any event, make it clear that these factual issues will be the subject of [extensive] and time-consuming discovery in the pending civil action;
- **Accordingly, Contestant requests that the Court deny the *Petition* pursuant to Probate Code § 856.5**;
- Given that the *Petition* admits Petitioner is seeking relief "on the basis of the same facts" as those alleged in the pending civil action, **Contestant requests that this Court abate this action and this *Petition* until the conclusion of the civil action pursuant to Probate Code § 854;**
- If the Court declines to abate or deny the *Petition* as requested above, **Contestant requests that the Court continue the hearing on the *Petition* for a minimum of 180 days pursuant to Probate Code § 852 to allow Contestant to conduct sufficient discovery to defend against the numerous and very serious claims that are currently all asserted simply upon "information and [belief]."**

Contestant requests:

1. The Court deny the *Petition* pursuant to Probate Code § 856.[5] on the grounds that the matter should be determined in the currently pending civil action;
2. Alternatively, and only if the Court declines to dismiss the *Petition* pursuant to Probate Code § 856.5, the Court issue an order pursuant to Probate Code § 854 abating the *Petition* until the conclusion of the civil court action;
3. Alternatively, and only if the Court declines to dismiss and/or stay the *Petition* pursuant to Probate Code §§ 856.[5] and 854 as prayed, the hearing on the *Petition* be **continued for a minimum of 180 days** [pursuant to Probate Code § 852**]** to allow Contestant to conduct discovery and otherwise prepare for the hearing.

9 **Pat Neal Living Trust (Trust)** **Case No. 12CEPR00239**

Atty **Burnside, Leigh W**

Petition to Confirm Real Property and Bank Accounts as Assets of Living Trust
[Cal. Prob. C. 850(3)(b) & 17200(a)]

Age:				NEEDS/PROBLEMS/COMMENTS:
DOD:				**CONTINUED TO 6-18-12**
Cont. from				Per request of Attorney Burnside.
	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: skc
	Status Rpt			Reviewed on: 4-20-12
	UCCJEA			Updates:
	Citation			Recommendation:
	FTB Notice			File 9 – Neal

Dept. 303, 9:00 a.m. Monday, April 30, 2012

10 **Sammie Roy Bell Rocquemore (Estate)** **Case No. 12CEPR00264**

Atty **Rindlisbacher, Curtis D. (for Elbert Rocquemore, Jr. – Husband – Petitioner)**

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

DOD: 2-26-12			**ELBERT ROCQUEMORE, JR.**, Husband, is Petitioner and requests appointment as Administrator without bond. All heirs waive bond. Full IAEA – ok Decedent died intestate. Residence: Clovis Publication: Fresno Business Journal Estimated Value of Estate: Real property: $145,000.00 ($265,000.00 less $120,000.00 encumbrance) Probate Referee: Steven Diebert	**NEEDS/PROBLEMS/COMMENTS:**
	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			**Reviewed by:** skc
	Status Rpt			**Reviewed on:** 4-20-12
	UCCJEA			**Updates:** 4-23-12
	Citation			**Recommendation: SUBMITTED**
	FTB Notice			**File 10 - Rocquemore**

Dept. 303, 9:00 a.m. Monday, April 30, 2012

11 Maricella Isabella Becerra (GUARD/P) **Case No. 12CEPR00192**

Atty Soto, Dianna Blanco (Pro Per – Non-Relative – Petitioner)

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

Age: 10 months		
DOB: 6-7-11		
	Aff.Sub.Wit.	
✔	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✔	**Conf. Screen**	
✔	**Letters**	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	X
	Clearances	X
✔	**Order**	
	Aff. Posting	
	Status Rpt	
✔	**UCCJEA**	
	Citation	
	FTB Notice	

TEMPORARY EXPIRES 4-30-12

DIANNA BLANCO SOTO, Non-Relative (friend of Mother), is Petitioner.

Father: **UNKNOWN**
Mother: **KATHY GARVER**
- Nomination of Guardian and Consent and Waiver of Notice filed 2-27-12

Paternal Grandfather: *Not listed*
Paternal Grandmother: *Not listed*
Maternal Grandfather: *Not listed*
Maternal Grandmother: *Not listed*

Petitioner states the child has been in her care since birth and knows her as "mama." The adoption process has started but is not complete. Petitioner and the biological mother both think it is in the child's best interest for guardianship to be in place until the adoption process is complete.

Court Investigator Julie Negrete to file report, clearances.

NEEDS/PROBLEMS/COMMENTS:

1. **Petitioner states the father is unknown, but does not provide any further information or diligence to identify or locate him.**

   If notice is not excused, need proof of service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1511 or consent and waiver of notice or declaration of due diligence on the father.

2. **Need proof of service of Notice of Hearing with a copy of the Temporary Petition at least 15 days prior to the hearing per Probate Code §1511 or consent and waiver of notice or declaration of due diligence on:**
   - Paternal Grandfather (if not excused)
   -Paternal Grandmother (if not excused)
   - Maternal Grandfather
   - Maternal Grandmother

   (Examiner notes that information regarding the maternal grandparents' should be available from the mother.)

Reviewed by: skc
Reviewed on: 4-23-12
Updates:
Recommendation:
File 11 - Becerra

Dept. 303, 9:00 a.m. Monday, April 30, 2012

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

Age: 15		
DOB: 10-19-96		
	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**	
✔	**Clearances**	
✔	**Order**	
	Aff. Posting	
	Status Rpt	
✔	**UCCJEA**	
	Citation	
	FTB Notice	

TEMPORARY EXPIRES 4-30-12

CENAIDA GUZMAN-FIEL, Step-Mother, is Petitioner.

Father: **SALVADOR M. FIEL**
- *Nomination, Consent and Waiver of Notice filed 3-9-12*

Mother: *Deceased*

Paternal Grandfather: Roberto Fiel *(Deceased)*
Paternal Grandmother: Isabel Fiel *(Deceased)*

Maternal Grandfather: Unknown
Maternal Grandmother: Maria Estrada
- *address unknown for over 12 years*

Siblings: Christina Elena Fiel (18), Maya Nahyeli Fiel (10)
- *Nomination, Consent and Waiver of Notice filed 2-27-12*

Petitioner states Petitioner states guardianship has become necessary because Petitioner and the child's father were together for 15 ½ years until they separated in February 2011, and at that time the child's father left Fresno and made no provisions for support of Isabel or for her older sister and her younger half-sister (Petitioner's and the father's child.) Petitioner states the father made no contact with the child for eight months after leaving for Lemon Grove, provided no financial support for the child, and has failed to respond to the pending dissolution. Petitioner states the father abandoned her and the children, stating that he has no interest in returning to Fresno and does not care if the child remains in her care.

Court Investigator Charlotte Bien filed a report on 4-12-12.

NEEDS/PROBLEMS/COMMENTS:

1. **Petitioner states the maternal grandmother Maria Estrada's address is unknown.**

   ***<u>If notice is not excused</u>*, need proof of service of Notice of Hearing with a copy of the Petition per Probate Code §1511.**

Reviewed by: skc
Reviewed on: 4-23-12
Updates:
Recommendation:
File 12 - Fiel

Dept. 303, 9:00 a.m. Monday, April 30, 2012

13 Ayden Stephen Solozano (GUARD/P) **Case No. 12CEPR00198**

Atty Hopper, Cindy J. (for Elvia Solorzano – paternal grandmother/Petitioner)

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

Age: 23 months **DOB: 5/3/2010**		
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	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

TEMPORARY EXPIRES 4/30/2012

ELVIA SOLORZANO, paternal grandmother, is petitioner.

Father: **STEPHEN SOLORZANO** – *consent and waiver of notice filed 03/16/12*

Mother: **DESTINY GONZALES –** *personally served 03/15/12*

Paternal grandfather: SEVERIANO SOLORZANO – *consent and waiver of notice filed 03/19/12*

Maternal grandfather: ERNEST GONZALES – *served by mail on 03/19/12*
Maternal grandmother: GLORIA GONZALES – *served by mail on 03/19/12*

Petitioner states that the minor's mother is using drugs and left the minor in her care. The father is currently incarcerated. Neither parent is willing or able to care for the minor.

Court Investigator Jennifer Daniel's report was filed 04/20/12.

NEEDS/PROBLEMS/COMMENTS:

1. **Need Order.**

Reviewed by: JF

Reviewed on: 04/23/12

Updates:

Recommendation:

File 13 - Solozano

Dept. 303, 9:00 a.m. Monday, April 30, 2012

14 Andrea Irene Rene Arreola (GUARD/P) **Case No. 12CEPR00201**

Atty Renteria, Paula A. (pro per Petitioner/maternal aunt)

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

Age: 14 years DOB: 11/13/1997		
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	

THERE IS NO TEMPORARY.
No temporary was requested.

PAULA A. RENTERIA, maternal aunt, is petitioner.

Father: **UNKNOWN**

Mother: **OLIVIA STEPHANIE TORRES**

Paternal grandparents: Unknown
Maternal grandfather: Alfredo Torres – deceased
Maternal grandmother: Grace Hernandez

Petitioner states the mother is incarcerated. The child needs someone to care for her.

Court Investigator Samantha Henson's Report filed on 4/23/12.

NEEDS/PROBLEMS/COMMENTS:

1. **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* of *Declaration of Due Diligence* on:**
   a. **Olivia Stephanie Torres (mother)**
   b. **Andrea Arreola (minor)**
   c. **Unknown father**

2. **Need proof of service of the *Notice of Hearing* along with a copy of the *Petition* or *Consent and Waiver of Notice* of *Declaration of Due Diligence* on:**
   a. **Sabrina Arreola (sister, age 16)**
   b. **Ricardo Arreola (brother, age 12)**
   c. **Unknown paternal grandparents**

3. **Petition is incomplete at item 1c – 1f of the Child Information Attachment. Need information on whether or not this minor is a member of, or eligible for membership in, an Indian tribe recognized by the federal government.**

4. **Petition does not include the Indian Child Inquiry attachment indicating whether or not the petitioner made inquiries as to the minor's Indian status.**

If the minor is an Indian child will need service on the Bureau of Indian Affairs and the tribe.

Reviewed by: KT
Reviewed on: 4/24/12
Updates:
Recommendation:
File 14 - Arreola

Dept. 303, 9:00 a.m. Monday, April 30, 2012

15 Darryl Allen Smith, III (GUARD/P) **Case No. 12CEPR00344**

Atty Simons, Suzy (pro per Petitioner/maternal grandmother)

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

Age: 4 years DOB: 5/18/2007		
Cont. from		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
✓	Pers.Serv.	W/
✓	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

GENERAL HEARING 6/14/12

SUZY SIMONS, maternal grandmother, is petitioner.

Father: **DARRYL A. SMITH –** *personally served on 4/19/12*

Mother: **COURTNEY SIMONS**

Paternal grandfather: Unknown
Paternal grandmother: Mrs. Smith
Maternal grandfather: Merle Simons

Petitioner states the mother has no home. The father has no home at present and no job. The mother has stayed at the Petitioners home for 5 days but is not willing to do what is necessary.

NEEDS/PROBLEMS/COMMENTS:

1. **Need proof of personal service of the *Notice of Hearing* along with a copy of the *Temporary Petition* or *Consent and Waiver of Notice* or *Declaration of Due Diligence* on:**
   a. **Courtney Simons (mother)**

Reviewed by: KT
Reviewed on: 4/23/12
Updates:
Recommendation:
File 15 - Smith

Dept. 303, 9:00 a.m. Monday, April 30, 2012

16 Leonard Bill Arnold Revocable Trust (Trust) Case No. 12CEPR00327

Atty Pape, Jeffrey B. (for Nichole Arnold and Evan Arnold – Applicants / Petitioners)
Atty Murillo, Joel (for Erica Yanneth Cortes – Trustee / Respondent)

Application for Order Shortening Time and Supporting Declaration [Probate Code § 1203 and 17203]

Leonard Bill Arnold
DOD: 2-10-12

	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	

NICHOLE ARNOLD and EVAN ARNOLD, are Applicants.

Applicants are the named residuary beneficiaries of the Leonard Bill Arnold Revocable Trust dated 4-19-05, Amended and Restated on 3-1-07. Should the trust dated 4-19-05, amended and restated on 3-1-07 as amended and restated on 4-5-11 be found to be invalid, Applicants will take the residual share of the trust estate pursuant to the 4-19-05 trust. Applicants are also the intestate heirs of the decedent if all trusts are found to be invalid.

Applicants' Petition for Orders Determining Validity of Purported Trust, Imposing Constructive Trust, Removing Trustee, Appointing Temporary Trustee, Determining Title to Property, Compelling an Accounting and Elder Abuse filed 4-11-12 is set for hearing on 5-30-12.

Applicants also filed Petition for the Immediate Appointment of a Temporary Trustee, which is also set for hearing on 5-30-12.

Petitioners state: The applicable period for giving notice to be held on this matter is 30 days (Probate Code §17203). Good cause exists for shortening time for giving notice to two (2) days because the trust estate owns a valuable residence which has not been insured during the time **ERICA YANNETH CORTES** has been acting as the trustee. In addition, the decedent died owning multiple vehicles. The insurance on two of the vehicles will lapse 4-16-12 and the status of the insurance on the others is unknown.

The purported trustee has a duty to protect and safeguard the assets pending resolution of this litigation; however, given her failure to do so, Applicants seek appointment of a neutral trustee to protect and safeguard the trust assets.

Applicants' attorney Jeffrey Pape has communicated by phone with Ms. Cortes' attorney Joel Murillo, who informed Mr. Pape that he had power of attorney to act on the trustee's behalf and would accept service of process on behalf of Ms. Cortes. Mr. Murillo said he would consider agreeing to a neutral trustee such as Bruce Bickel, but did not commit to it. Mr. Murillo was informed that Applicants would be moving the Court ex parte to shorten time for the Petition for Immediate Appointment of a Temporary Trustee.

Petitioners pray for an order shortening the time for which notice of the hearing on the Petition for Immediate Appointment of Temporary Trustee must be given from 30 days to two (2) days.

NEEDS/PROBLEMS/ COMMENTS:

SEE PAGE 2

Reviewed by: skc
Reviewed on: 4-24-12
Updates:
Recommendation:
File 16 - Bill

16 Leonard Bill Arnold Revocable Trust (Trust) Case No. 12CEPR00327

Atty Pape, Jeffrey B. (for Nichole Arnold and Evan Arnold – Applicants / Petitioners)

Atty Murillo, Joel (for Erica Yanneth Cortes – Trustee / Respondent)

Application for Order Shortening Time and Supporting Declaration
[Probate Code § 1203 and 17203]

NEEDS/PROBLEMS/COMMENTS:

Note: The Petition for Immediate Appointment of a Temporary Trustee filed on 4-16-12 remains set for 5-30-12.

Examiner notes that the matter before the Court on this date (4-30-12) is the Application for Order Shortening Time for service, *not* the appointment of a temporary trustee. *As such, Examiner has not reviewed the Petition for Immediate Appointment of Temporary Trustee except with reference to this application to shorten time for notice.*

1. **Probate Code §17203(a) requires 30 days' notice on all trustees and beneficiaries. §17203(b) also requires 30 days' notice to other interest persons whose right, title, or interest would be affected by the petition. The Court may not shorten time for giving notice under (b).**

   It appears Petitioner is requesting to shorten time for notice to the *Trustee only* under (a), and not to any other parties. Is this correct? Need clarification.

   Examiner notes that the *Petition for Immediate Appointment of Temporary Trustee* does not list the names and addresses of each person entitled to notice of the petition pursuant to Probate Code §17201. If this petition is to be considered separately from the *Petition for Order Determining Validity, etc.*, it must meet the requirements of §17201.

   Examiner further notes that this application does not change the hearing date on the Petition for Immediate Appointment of a Temporary Trustee from 5-30-12. If it is the intent to request a sooner hearing date, information on the other persons entitled to notice is necessary, as it may be necessary to shorten time for their notice also, if possible, and subject to the restriction under §17203(b).

2. **Petitioner states that Mr. Murillo informed Mr. Pape that he had a power of attorney to act on the trustee's behalf and he would accept service of process on behalf of Ms. Cortes.**

   An agent under power of attorney cannot act for a person in the person's fiduciary capacity, such as trustee, including receipt of service of process.

   Further, Probate Code §1214 and Cal. Rules of Court 7.51 require direct notice in probate proceedings.

   Therefore, direct notice to the trustee is required.

3. **Need proposed order.**