1 **Frank James Coelho (Estate)** **Case No. 0577720**

Attorney **Frame, Ted R. (for Laverne T. Coelho – Executor)**

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution

DOD: 4/7/96	**LAVERN T. COELHO** was appointed Executor and Letters issued on 2/11/97. Inventory and Appraisal was filed 9/15/97. Executor's First Account was settled 7/10/98. On 9/30/05, Executor filed a Petition for Instructions and Authorization to Transfer Real Property of the Estate Pursuant to the Terms of a Litigation Settlement Agreement, which was granted 11/28/05. On 12/1/08, Executor filed a Petition to Authorize Settlement and Compromise of Actions and Claims Against the Estate, which was granted 1/22/09. Thereafter, nothing further was filed. The Court set this status hearing for failure to file a petition for final distribution and sent notice to Attorney Ted R. Frame on 4/6/15.	**NEEDS/PROBLEMS/COMMENTS:** 1. **Need petition for final distribution pursuant to Probate Code §12200 or status report pursuant to Local Rule 7.5.**
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:** 5/8/15
UCCJEA		**Updates:**
Citation		**Recommendation:**
FTB Notice		**File 1 – Coelho**

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

2 Elvira Rodriguez (Estate) Case No. 05CEPR00988

Atty **Murillo, Joel M. (Attorney/Executor)**

Probate Status Hearing Re: Failure to File First Account or Petition for Final Distribution

DOD: 4-15-05		
	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	

JOEL MURILLO was appointed Executor with Full IAEA without bond and Letters issued on 2-22-06.

The Second Amended Petition for Probate filed 1-3-06 estimated the estate to contain real property valued at $155,000; however, no Inventory and Appraisal was ever filed.

Dept. of Health Care Services filed two creditor's claims on 12-30-05 totaling $297,816.16 as well as Requests for Special Notice.

Notice of Pendency of Action filed 10-16-08 indicates an action entitled "Sandra Shewry, Director of the Department of Health Care Services vs. Joel M. Murillo, as Personal Representative of the Estate of Elvira Rodriguez, Decedent; and Does 1 through 20, inclusive." The nature of the action is a Complaint to Enforce and Collect Money Due on a Medi-Cal Creditor's Claim for $41,055.02 pursuant to W&I Code §14009.5.

Thereafter, nothing further was filed herein.

The Court set status hearing re failure to file I&A and petition for final distribution for and sent notice of hearing to Attorney Joel Murillo on 11-22-13. Hearings were held on 2-28-14, 5-16-14, 6-9-14 and 8-11-14.

I&A filed 6-25-14 indicates real property valued at $130,000.00

Minute Order 8-11-14 states Attorney Murillo will file documents to close this matter, and the status hearing was not continued. However, nothing further was filed.

The Court set this further status hearing for failure to file a petition for final distribution and sent notice to Attorney Murillo 4-6-15.

NEEDS/PROBLEMS/COMMENTS:

1. **A Petition to Determine Succession was filed in separate case 14CEPR00329 to pass the real property that was alleged to be an asset of the estate to Ms. Garcia outside of this probate estate.**

   The petition was granted 6-9-14, and pursuant to the Order Determining Succession, the property passed to Ms. Garcia.

   On 6-25-14, a Final I&A was filed in this estate reflecting that property. However, the property has now been determined to have passed to Ms. Garcia pursuant to the Order Determining Succession. That means that the property is *no longer* an asset of this estate, and the I&A filed 6-25-14 is incorrect.

   Regardless, it appears that this estate, having been opened in 2005, still needs to be closed, with notice as appropriate. (Note: A Request for Special Notice was filed 7-3-06 by the California Department of Health Care Services.)

Reviewed by: skc

Reviewed on: 5-8-15

Updates:

Recommendation:

File 2 – Rodriguez

3 **Eileen May Grubb (Estate)** **Case No. 08CEPR00233**

Attorney **Milnes, Michael A. (for Peter A. Wagner – Executor – Petitioner)**

First and Final Report of Executor with Waiver of Accounting, for Allowance of Attorneys Fees for Ordinary Services, and for Final Distribution.

DOD: 9/8/06			
	Aff.Sub.Wit.		
✓	**Verified**		
✓	**Inventory**		
✓	**PTC**		
✓	**Not.Cred.**		
✓	**Notice of Hrg**		
✓	**Aff.Mail**	W	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	**Letters**	6/2/08	
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
✓	**9202**		
✓	**Order**		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
✓	**FTB Notice**		

PETER A. WAGNER, Executor with Full IAEA without bond, is Petitioner.

Accounting is waived by Peter A. Wagner as Trustee of the Grubb Family Trust.

I&A: $318,191.93

POH: $318,191.93
($85,071.47 cash plus securities)

Executor (Statutory): Waived

Attorney (Statutory): $9,363.83

Distribution pursuant to Decedent's will:

Peter A. Wagner as trustee of the Grubb Family Trust: Entire estate

NEEDS/PROBLEMS/COMMENTS:

<u>Note</u>: Order has been interlineated to reflect the dollar amount of cash distributed as $75,707.64 pursuant to Local Rule 7.6.1.A.

Reviewed by: skc

Reviewed on: 5/8/15

Updates:

Recommendation: SUBMITTED

File 3 - Grubb

4A In Re the Trust of Elaine A Mclain (Trust) Case No. 11CEPR00028

Atty Panzak, Gordon G. (for Jeff Dale – Successor Trustee – Petitioner)
Atty Marshall, Jared (Associated counsel for Jeff Dale)
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

Cont from 033015, 042715

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

JEFF DALE, Successor Trustee, is Petitioner.

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.

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.

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.

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.

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.

SEE ADDITIONAL PAGES

NEEDS/PROBLEMS/ COMMENTS:

Continued from 3-30-15, 4-27-15. The following issues remain:

SEE ADDITIONAL PAGES

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. See Page B.

Reviewed by: skc
Reviewed on: 5-8-15
Updates: 5/11/15
Recommendation:
File 4 – Mclain

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 he 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

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. Duehnin'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

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.

Declaration of Debbie Duehning in Response to Rebuttal of Jeff Dale filed 5/7/15 states she never authorized attorney James Pasto to make certain agreements. See declaration for specifics.

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. See Page B.

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.**

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.**

4. **Notice of Hearing filed 4-22-15 indicates service was mailed to Michele Dale on 3-30-15, which is not quite the 30 days' notice required by Probate Code §17203.**

4B In Re the Trust of Elaine A Mclain (Trust) Case No. 11CEPR00028

Atty Freed, William J. (for Debbie Duehning, Conservator of Beneficiary George McLain, IV)

Petitioner Debbie Duehning's, Conservator for George McLain IV, Notice of Motion and Motion for Leave to Amend Petition (CCP §§ 473(a)(1), 576)

DOD: 5-21-08		
	Aff.Sub.Wit.	
✓	Verified	
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✓	Notice of Hrg	
✓	Aff.Mail	w
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	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	x
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

DEBBIE DUEHNING, Conservator of George McLain IV, is Petitioner.

Petitioner moves the Court for an Order allowing her leave to amend her Petition originally filed on or around 4/6/11. The Proposed Second Amended Petition for Orders as follows is attached:

1) Compelling Trustee to Make Distribution to Trust Beneficiary;
2) For Damages for Breach of Trust/Fiduciary Duties;
3) For Damages for Fraud/Concealment;
4) For Recovery of Trust Property/Quiet Title;
5) For Recovery of Trust Assets;
6) Compelling Trustee to Perform an Accounting;
7) For Removal of Trustee;
8) For Cancellation of Deeds

Declaration of William Freed in support of petition states the Second Amended Petition (SAP) will:

a) Add Jeffrey Dale, as Conservator of the Estate of Michele Dale, Gordon Panzak as former Conservator for Michele Dale and as an individual, Dalpar Investments, and Dalpar Investments LLC as named Respondents;
b) Add allegations regarding the history of the trusts in question;
c) Add allegations regarding Jeffrey Dale's role in historic Trust transactions;
d) Add allegations that Jeffrey Dale sold Trust real property to his friend, Gordon Panzak, who then transferred title to the Trust real property to Jeffrey Dale's company, originally Dalpar Investments and later Dalpar Investments, LLC, and that these transactions were concealed from George McLain IV;
e) Add allegations regarding Jeffrey Dale's companies' roles in this matter;
f) Add allegations regarding the tracing of Trust assets;
g) Add allegations that both Gordon Panzak and Jeffrey Dale marshaled assets away from the Trusts and into Michele Dale's Conservatorship;

SEE ADDITIONAL PAGES

NEEDS/PROBLEMS/ COMMENTS:

Reviewed by: skc

Reviewed on: 5-11-15

Updates:

Recommendation:

File 4 – Mclain

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

h) Add an actual Request for an Order Directing Jeffrey Dale to distribute George McLain IV's beneficial interest in the trust assets. Petitioner's original petition requested the order in the prayer for relief, but did not specify an actual Request for Relief;
i) Add a Request for Relief for Damages for Breach of Trust and Breach of Fiduciary Duty, and for aiding and abetting the same;
j) Add a request for Relief for Damages, for Fraud and Concealment;
k) Add a request for Relief for Quiet Title. Petitioner alleges that Jeffrey Dale fraudulently sold Trust real property. Petitioner also alleges that Gordon Panzak never had title to the real property when he purportedly transferred it to Jeffrey Dale's company;
l) Add a Request for Relief for Removal of Trustee;
m) Add a Request for Relief for Cancellation of Deeds; and
n) Add Prayers for Relief that reflect the above changes.

Attorney Freed states Petitioner's original counsel did very little work on her behalf and was facing disciplinary proceedings that led to his disbarment during his representation of Petitioner. He did not keep her well-informed. After Mr. Freed took over as counsel, he was only able to obtain a minimal amount of information from former counsel, and Petitioner had few documents to provide. After receiving this matter and obtaining records from three different court matters, his office was able to discover additional information. Petitioner believes this new evidence shows potential fraudulent acts by Respondent, Jeffrey Dale, and his counsel of record, Gordin Panzak. Specific details and timeline is provided in the declaration.

Mr. Freed states the request to amend was not made earlier for several reasons, as alleged in the SAP, including:

- Respondents were actively covering up actions and inactions, including utilizing Gordon Panzak as a "strawman" to cover up a real property sale to Jeffrey Dale's own company.
- George McLain IV was not a participant in Michele Dale's conservatorship proceedings, and neither he nor Petitioner were aware of the allegations made therein.,
- Following months of no communication, Petitioner's first counsel, Mr. Pasto, provided almost no file information to Petitioner after she obtained new counsel, which placed additional difficulties on Mr. Freed's properly advising Petitioner the course of action to take and who to involve, in uncovering new facts and obtaining assets rightfully belonging to George McLain IV.
- Finally, once he received Respondent's Motion to Dismiss, he did not feel it was proper to file the Motion for Leave to Amend until after this Court rendered its decision on the dismissal.

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

Attorney **Barron, Richard B. (for Perine & Dicken – Trustee)**

Petition of Trustee to Settle Fourth Account Current, for Approval of Trustee's Fees and for Authorization to Compensate Counsel for the Trustee

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

PERINE & DICKEN PROFESSIONAL FIDUCIAIRES, Trustee, is Petitioner, consisting of the following individuals licensed as Private Professional Fiduciaries: **PATRICIA DICKEN, RONALD DICKEN, KAREN STEELE**

Account period: 2/1/14 – 1/31/15
Accounting: $132,653.46
Beginning POH: $109,520.36
Ending POH: $100,077.57
($14,333.58 is cash)

Trustee: $6,702.00 (already received, for 55.85 hours @ $120/hr by Trustees and Affiliates (employees), pursuant to itemization at Exhibit B. Under Paragraph 13 of the Order Establishing the Diaz SNT, Petitioner is authorized to receive monthly payments at the rate of $120/hr of up to $1,500/month without prior Court approval.)

Attorney: $2,396.00 ($2,110.00 for 4.3 attorney hours @ $250/hr, 5.1 paralegal hours @ $90/hr, and 6.4 bookkeeper hours @ 90/hr, plus $286.00 in costs)

Bond: Petitioners states current bond is $145,000.00. Based on POH and anticipated income plus cost of recovery totaling $122,077.57, Petitioner requests that bond be reduced to $135,000.00.

Petitioner prays for the following orders:
1. Settling the Fourth Account and allowing, confirming and approving all acts and transactions set forth therein'
2. Approving Trustee fees for services rendered through 1/31/15 of $6,702.00 as just and reasonable;
3. Approving the attorney fees and costs in the total sum of $2,396.00;
4. Reducing the trustee's bond to $135,000.00; and For such other further relief as the Court deems proper.

NEEDS/PROBLEMS/COMMENTS:

<u>Note</u>: Petitioner states current bond is $145,000.00; however, pursuant to Confirmation of Bond Reduction filed 6/12/14, the bond was reduced from $152,000.00 to $150,000.00 (not $145,000.00). Petitioner requests to reduce bond to $135,000.00.

<u>Note</u>: If granted, the Court will set a status hearing for the filing of the Fifth Account as follows:

- **Thursday, April 7, 2016 if a one-year account is required;**

  <u>OR</u>

- **Thursday, April 6, 2017 if a two-year account is required.**

Reviewed by: skc
Reviewed on: 5/8/15
Updates:
Recommendation:
File 5 - Diaz

6 Roxanne Ruiz (GUARD/E) Case No. 12CEPR00058

Attorney **Janian, Paulette (for Grace Ruiz – Guardian/Petitioner)**

Second Account and Report of Guardian, Petition for Settlement and for Order Authorizing Withdrawal from Blocked Account for Payment of Attorneys Fees.

Cont. from		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	w/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	**2620(c)**	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

GRACE RUIZ, mother/Guardian of the Estate, is Petitioner.

Account period: 02/24/13 – 03/10/15

Accounting: **$170,027.79**
Beginning POH: **$166,816.03**
Ending POH: **$167,775.79**

Guardian - **waives**

Attorney - **$500.00** (2.5 hours @ $250/hr.)

Costs - **$462.00** (filing fees, certified copies)

Petitioner prays for an Order:

1. Approving, allowing and settling the second account; and
2. Authorizing the payment of attorney fees and costs

NEEDS/PROBLEMS/COMMENTS:

Note: If the petition is granted, a status hearing will be set as follows:

- **Thursday, April 13, 2017** at 9:00 a.m. in Department 303, for the filing of the third account

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

Reviewed by: JF
Reviewed on: 05/08/15
Updates: 05/12/15
Recommendation:
File 6 - Ruiz

7 Mark Carlson Lee (CONS/PE) Case No. 12CEPR00343

Petitioner **Lee, Madeleine (pro per – daughter)**

Petition for Instructions and Authorization Regarding Payment of Tuition for Conservatee's Daughter.

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	x
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

MADELINE LEE, daughter, is Petitioner.

Petitioner states the conservatee is currently incarcerated in Fresno County Jail. He was receiving monthly income prior to his arrest. Petitioner is unsure if he is still receiving a monthly allowance due to his incarceration. Petitioner believes the conservatee has $131,849.97 cash on hand in his estate.

Petitioner is one of Mr. Lee's daughters and began college this year. Her annual expenses for school, including room and board and books, total $34,161.00. Through scholarships, grants, she will be able to cover $22,949.00 of that. She needs another $11,212.00 to fully pay for her first year.

Petitioner states that in the past, Mr. Lee has expressed his desire to provide assistance to his daughter for her education. Since Mr. Lee is currently estranged from his daughters due to his lifestyle and has pending charges against him, the court's instruction and authority are necessary.

Probate Code §2423 allows authorization, upon petition, for the conservator to pay and distribute surplus income of the estate to relatives within the second degree whom the Conservatee would, in the judgment of the court, have aided but for the existence of the conservatorship. The Court, in ordering payments under this section, may impose conditions if the court determines that the Conservatee would have imposed conditions if he had capacity to act.

Petitioner states the Court can order payments by finding that the Conservatee would have aided his daughter but for the existence of the conservatorship of his estate. Mr. Lee stated that he would like to provide her with financial assistance for school.

Petitioner prays that the Court find that Mr. Lee would provide financial assistance to his daughter but for the existence of the conservatorship; and that the Court order a payment of $12,950.00.00 to Madeleine Lee.

NEEDS/PROBLEMS/COMMENTS:

1. On page 1 of the Petition, Petitioner states that she needs $11,212.00 to fully pay for her first year of college. However in the prayer, Petitioner request $12,950.00 be distributed to her. Need clarification as to the amount requested.

2. The Conservatee has been represented by attorney Kim Aguirre in these proceedings. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing on Mr. Aguirre.

3. Need Order.

<u>Note</u>: The Court may require further information regarding the request at the hearing.

Reviewed by: JF

Reviewed on: 05/11/15

Updates:

Recommendation:

File 7 - Lee

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

8 **Dollie Boothe Tolman (CONS/PE)** **Case No. 12CEPR00843**

Attorney **Amador, Catherine A. (for Conservator Christina Tolman)**

Probate Status Hearing Re: Filing 2nd Account

			CHRISTINA TOLMAN, Daughter, is Conservator. Pursuant to Order Settling Conservator's First Account filed 7/17/14, the Second account is due 5/14/15.	**NEEDS/PROBLEMS/COMMENTS:** 1. **Need Second Account current or status report pursuant to Local Rule 7.5.**
	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:** 5/8/15
	UCCJEA			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 8 - Tolman**

9 **Juanita Mason (Estate)** **Case No. 12CEPR00881**

Attorney **Armas, J. Todd (for Gregory Taylor – Executor – Petitioner)**
***[Sixth]* Amended Waiver of Accounting and Petition for Final Distribution and for Allowance of Compensation**

DOD: 3/31/12		
	Aff.Sub.Wit.	
✓	Verified	
✓	Inventory	
✓	PTC	
✓	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	w
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✓	Letters	11/9/12
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	FTB Notice	

GREGORY TAYLOR, Son and Executor with Full IAEA without bond, is Petitioner.

Accounting is waived.

[Third] Amended I&A filed 4/13/15: $276,973.17

POH: $279,049.78 (cash)

Executor (Statutory): Waived

Attorney (Statutory): $8,539.46

Decedent's Will dated 8/23/04 devises the entire estate to the Mason Family Trust of 2004.

Petitioner Gregory Taylor states he is the son of the decedent and sole heir of the Mason family upon the death of the Administrator Joseph Mason. Gregory Taylor is the court appointed executor for the estate of Juanita Mason. Gregory Taylor is the person entitled to distribution of all the estate and has waived an accounting. Petitioner requests distribution as follows:

Christopher Taylor: $10,000.00
Jeffrey Taylor: $5,000.00
Nicole Taylor: $5,000.00
Gregory Taylor: $248,433.71, plus any residue

"Declaration of J. Todd Armas as Supplement to Petition for Probate" filed 4/13/15 concurrently with this petition states there has been ongoing confusion regarding whether the decedent funded a trust. The decedent prepared a trust, but did not transfer any assets to it. Attached are account statements and deed to real property. Review of the documents clearly show that none of the assets subject to distribution were put into a trust.

NEEDS/PROBLEMS/ COMMENTS:

<u>Note</u>: In related case, 14CEPR00064, Estate of Joseph Mason (post-deceased spouse of Juanita), there were no appearances at a status hearing on 5/1/15 for the filing of the first account or petition for final distribution, and the Court set an Order to Show Cause for 6/11/15 to Attorney J. Todd Armas and Executor Cheryl Mason as to why they should not be sanctioned for failure to appear and failure to file the accounting. Both are ordered to be present on 6/11/15.

<u>SEE ADDITIONAL PAGES</u>

Reviewed by: skc
Reviewed on: 5/11/15
Updates:
Recommendation:
File 9 - Mason

NEEDS/PROBLEMS/COMMENTS:

1. **The *Third* Amended I&A filed 4/13/15 contains a copied signature page of the Probate Referee's signature dated 10/31/12, which is the page attached to the original I&A filed 11/2/12.**

2. **This *Sixth* Amended Petition does not contain any information required by Cal. Rule of Court 7.550 for petitions on waiver of account, including information about sales, purchases, or exchanges of assets, and changes in the form of assets, such as the various policies and accounts and the sale of the real property.**

3. **Morgan Stanley Acct xx18216 (inventory value $14,287.74 as Juanita's half) was a joint tenancy account with right of survivorship, as reflected on the statement attached to Mr. Armas' declaration ("JTWROS"). Therefore, this account should not be inventoried as part of Juanita's estate, as it belonged solely to Joseph upon her death.**

4. **Morgan Stanley IRA Acct xxE13216 is titled in Joseph's name only, but is inventoried with half of the balance ($18,767.29) as Juanita's "separate" property. Morgan Stanley IRA Acct. xx C13216 is titled in Juanita's name only, and is inventoried in this estate in its entirety. The Court may require clarification as to why Joseph's was divided into one-half shares with have as Juanita's "separate" property, but Juanita's was not divided.**

5. **As previously noted: The Decedent's will dated 8/23/04 devises her estate to the Mason Family Trust, or pursuant to Article Fifth, in the event the trust is not operative, invalid, fails or has been revoked, "in trust to the Trustee or Successor Trustee named in said Declaration of Trust to be held, administered and distributed by said Trustee or Successor Trustee as provided in this Will as follows…," which language appears to create a testamentary trust. Attorney Armas' Declaration states the trust was never funded. Petitioner requests outright distribution.**

10 Johnny Miranda Special Needs Trust Case No. 12CEPR01009

Attorney: Richard Barron (for Petitioners/Trustees Perine & Dickens)

Petition to Settle Second Account Current of Trustee and for Allowance of Fees and Costs to the Trustee and its Counsel

Cont. from		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	W/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	**2620(c)**	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

RONALD DICKEN, PATRICIA DICKEN, and **KAREN STEELE,** and of **PERINE & DICKEN PROFESSIONAL FIDUCIARIES & CONSERVATORS,** Trustee(s), is Petitioner.

Account period: **03/01/14 – 02/28/15**

Accounting - **$116,444.40**
Beginning POH - **$114,201.58**
Ending POH - **$106,373.42**

Trustee - **$4,650.00**
(37.2 hours @ $125/hr. (rate authorized by Court). $4,650.00 has already been paid.)

Attorney - **$1,795.00**
(itemized by date for 3.4 attorney hours @ $250/hr., 5.4 paralegal @ $90/hr., and 5.10 bookkeeper hours @ $90/hr.)

Attorney Costs - **$286.00**
(filing fee and courtcall appearances)

Current bond is $126,000.00 (o.k.)

Petitioner prays for an Order:

1. Approving, allowing and settling the second account;
2. Approving the trustee's charges to the Trust of $4,650.00; and
3. Authorizing the attorney's fees and costs in the total amount of $2,081.00.

NEEDS/PROBLEMS/COMMENTS:

1. Petition is only signed by Patricia Dickens. Probate Code §1020 requires the petition be signed by all petitioners.
2. Disbursement schedule shows a payment of $775.00 that was requested in the first account in addition to the $4,756.25 that had already been paid. The court reduced the $775.00 to $462.50. Therefore it appears the trust estate should be reimbursed $312.50 from the Trustee.
3. Attorney fees include charges totaling $459.00 for the bookkeeper to enter check register and bank statements into the accounting program. Local Rule 7.17B considers clerical services to be a cost of doing business and are therefore not reimbursable.

Please see additional page.

Reviewed by: KT
Reviewed on: 5/11/15
Updates:
Recommendation:
File 10 - Miranda

10 Johnny Miranda Special Needs Trust Case No. 12CEPR01009

Note: If the petition is granted, a status hearing will be set as follows:

- **Wednesday, May 17, 2017** at 9:00 a.m. in Department 303, for the filing of the third account.

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.

11 Jacob Martin Elias Farino (GUARD/P) Case No. 12CEPR01138

Attorney **Koligian, Robert, Jr. (for Carol Jarvis and Danyelle Farino – Co-Guardians)**
Attorney **Harris, Richard (for Jon Farino – maternal grandfather/Petitioner)**
Probate Status Hearing RE: Visitation

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	

DANYELL FARINO, maternal step-grandmother, and **CAROLE JARVIS,** maternal grandmother, were appointed as Co-Guardians on 03/19/13.

JON FARINO, maternal grandfather, petitioned for visitation with his grandson. Minute Order from hearing on his visitation petition on 01/22/15, set this matter for status regarding visitation and set the visitation schedule as follows: Mr. Farino will have visitation with the minor on alternating Sundays from 11am to 4pm, every Tuesday during the spring, summer and winter vacations from school from 11am to 4pm, and every Halloween from 4pm to 8pm.

Declaration of Jon Farino re Visitation filed 04/13/15 lists additional visitation times he would like and also information he would like from the guardians regarding Jacob's baseball games, medical appointments, school activities, etc.

Declaration of Attorney Robert Koligian, Jr. Re Current Guardianship filed 05/08/15 states: Jon's actions both by inappropriate conduct when he is with the minor and in his failure to cooperate with the co-guardians has imperiled his visitation with the minor child. The guardians want Jacob to have a loving and safe relationship with Jon, but in a manner that is determined by them. The co-guardians are prepared to address the court regarding Jon's lifestyle of drinking and womanizing and how it poses a threat to the minor. The co-guardians have limited resources to continue to come to court regarding visitation and requests that the court allow them, as guardians to decide what is in Jacob's best interest regarding visitation.

Objection to Declaration of Attorney Robert Koligian filed 05/11/15 states that Mr. Koligian's declaration should be stricken as it is inadmissible hearsay.

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: JF
Reviewed on: 05/12/15
Updates:
Recommendation:
File 11 - Farino

12 Debra J. Jensen (SNT) Case No. 13CEPR00766

Atty Shepard, Jeff S. (for Petitioner Bryan Jensen, Trustee)

Second Account and Report of Trustee Petition for Settlement, for Mileage Reimbursement, Commissions and Fees to Trustee and Attorney

Cont. from 030415		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	W/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	**2620**	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

BRYAN JENSEN, son and Trustee, is Petitioner.

Account period: 1/1/2013 – 12/31/2014

Accounting - **$26,400.00**
Beginning POH - **$25,988.99**
Ending POH - **$12,397.05**
(all cash)

Trustee - **$500.00**
(for trustee's services @ $27.15 per hour (consisting of ½ Petitioner's usual $54.29 hourly rate as sergeant for Santa Barbara Police Dept.; total 192 hours would result in fee of $5,212.00;)

Trustee Costs - **$1,518.00**
(for 2,760 miles @ $0.55/mile, for travel from Petitioner's home in Santa Barbara to Beneficiary's convalescent facility in Gardena; for trust business matters, to review Beneficiary's care, condition, mental and physical status, and personal visits.)

Attorney - **$500.00**
(per Local Rule 7.19.2 for 2.50 hours @ $200.00/hour;)

Bond - **$25,988.66**
(Proof of Bond issued for the instant SNT Case 13CEPR00766 was filed on 5/12/2015;)

Petitioner prays for an Order:

1. Settling and allowing the Second Account and Report of the Trustee, and confirming the acts of Petitioner as Trustee;
2. Authorizing payment of the Trustee's commission and Attorney fees; and
3. Allowing mileage reimbursement to Petitioner.

NEEDS/PROBLEMS/COMMENTS:

Continued from 4/16/2015. *Minute Order* states counsel requests 30 days.

Note: BRYAN JENSEN is Conservator of the Person and Estate appointed on 4/1/2009 in Case **09CEPR00152**. Conservatee has resided in Los Angeles County since 11/12/2010. *Order on Petition for Transfer* filed 11/19/2014 grants the Court Investigator's *Petition to Transfer the Proceedings to Los Angeles*. The case file was sent to Los Angeles County on 12/9/2014 by certified mail. *Minute Order* dated 4/1/2015 states counsel requests 6 months, and continued the *Probate Status Hearing Re: Receipt of Transfer to* **10/7/2015.**

Note: Court will set a status hearing as follows:

- **Thursday, February 9, 2017 at 9:00 a.m. in Dept. 303** for filing of the third account;

Pursuant Local Rule 7.5, if the document noted above is filed 10 days prior to the dates listed, the hearing will be taken off calendar and no appearance will be required.

Reviewed by: LEG
Reviewed on: 5/11/15
Updates: 5/12/15
Recommendation:
File 12 - Jensen

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

13 **Jeri Lorena Shubin (Estate)** **Case No. 14CEPR00416**

Attorney **French, G Dana (for Evelyn C. Lauderdale – Executor – Petitioner)**

Final Report and Petition for Settlement Thereof; for Allowance of Attorneys' Compensation; for Allowance of Executor's Compensation; for Allowance of Costs Advanced; and Petition for Final Distribution.

DOD: 6/29/11			**EVELYN C. LAUDERDALE,** Executor with Full IAEA without bond, is Petitioner.
			Accounting is waived.
			I&A: $209,784.24
	Aff.Sub.Wit.		POH: $264,659.00 (cash)
✓	**Verified**		
✓	**Inventory**		Executor (Statutory): $7,195.68
✓	**PTC**		
✓	**Not.Cred.**		Attorney (Statutory): $7,195.68
✓	**Notice of Hrg**		Costs: $1,500.78 (filing, publication, certified letters, probate referee)
✓	**Aff.Mail**	w	
	Aff.Pub.		Distribution pursuant to Decedent's will is to:
	Sp.Ntc.		
	Pers.Serv.		Evelyn C. Lauderdale, Trustee of the Jeri L. Shubin 2007 Trust: $248,766.86
	Conf. Screen		
✓	**Letters**	6/25/14	
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
✓	**9202**		
✓	**Order**		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
✓	**FTB Notice**		

NEEDS/PROBLEMS/COMMENTS:
Reviewed by: skc
Reviewed on: 5/8/15
Updates:
Recommendation: SUBMITTED
File 13 - Shubin

14 Marcy Marie Reyes (CONS/P) Case No. 14CEPR00996

Pro Per **Reyes, Maria De Jesus (Pro Per Petitioner, mother)**

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

			NO TEMPORARY REQUESTED	NEEDS/PROBLEMS/COMMENTS:
			MARIA DE JESUS REYES, mother, is Petitioner and requests appointment as Conservator of the Person with medical consent powers.	**Court Investigator Advised Rights on 11/18/2014.**
Cont. from 010815, 022615 , 040915				**<u>Continued from 4/9/2015</u>.** *Minute Order* states examiner notes handed in open Court. *(Note: All defects have been addressed.)*
	Aff.Sub.Wit.		***Capacity Declaration filed 5/12/2015.***	
✓	**Verified**			
	Inventory		***~Please see Petition for details~***	
	PTC			
	Not.Cred.			
✓	**Notice of Hrg**		**Court Investigator's *Report* was filed on 12/18/2014.**	
✓	**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:** LEG
	Status Rpt			**Reviewed on:** 5/11/15
	UCCJEA			**Updates:** 5/12/15
✓	**Citation**			**Recommendation:**
	FTB Notice			**File 14 – Reyes**

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

15 Alan Boyajian Living Trust of 2000 Case No. 14CEPR01058

Atty Magness, Marcus; Janisse, Ryan; of Gilmore, Wood, Vinnard & Magness (for Petitioners Tim Quirk and Laurel Scholar, Successor Co-Trustees)

Petition for Order: Determining Interest in Trust Property; Compelling Former Trustee to Deliver Property to Trustees; and Requiring Former Trustee to Account

DOD: 6/16/2010			**TIM QUIRK and LAUREL SCHOLAR**, accountants of the Decedent and Successor Co-Trustees, are Petitioners. ***~Please see Petition for details~***
Cont. from 011515, 031915			
	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		

NEEDS/PROBLEMS/COMMENTS:

Continued from 3/19/15. *Minute Order* states counsel requests 60 days.

Note for background: *Status Statement* filed 3/13/2015 states Petitioner and Respondents had a meeting to discuss the issues raised by the instant petition; Petitioner requested a 60-day continuance to provide further time for efforts to resolve the dispute without Court involvement.

Reviewed by: LEG
Reviewed on: 5/11/15
Updates:
Recommendation:
File 15 - Boyajian

16 Kenneth Harold Moore (Estate) Case No. 15CEPR00081

Attorney: Jeffrey B. Pape (for Petitioner Harold Rick Moore, son)
Attorney: Steven P. Braccini; Brian Wilson, of Palo Alto (for Respondent Kenneth Randolph Moore, son)
Attorney: Mark S. Poochigian (also for Respondent Kenneth Randolph Moore, son)

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

DOD: 7/14/2014

Cont. from

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

HAROLD RICK MOORE, son, and second named Executor without bond, is Petitioner.

Full IAEA — OK

Lost Will Dated: 4/10/2001

Residence — Fresno
Publication — Business Journal

Estimated value of the Estate:

Personal property	-	**$300,000.00**
Total	-	**$300,000.00**

Probate Referee: **Rick Smith**

Petitioner states:

- Decedent's pour over Will conveyed assets to the **MOORE FAMILY TRUST dated 4/10/2001**, which provided that Decedent's assets were to be distributed in 5 equal shares to Decedent's children;
- After Decedent's stroke in 2011, the Will and the **MOORE FAMILY TRUST** were in physical possession of Decedent's son, **KENNETH RANDOLPH (RANDY) MOORE**, who was named executor;

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

Page 18 is the related *Moore Family Trust*, 15CEPR00111.

Note: *Petition for Letters of Special Administration* filed 5/7/2015 by Petitioner Harold Rick Moore seeking the appointment of Bruce Bickel is set for hearing on **6/16/2015**.

1. Probate Code § 8223 provides a petition for probate of a lost or destroyed will shall include a written statement of the testamentary words or their substance, and that if the will is proved, the provisions of the will shall be set forth in the order admitting the will to probate. Pursuant to Probate Code § 8223, need revised proposed order containing the provisions of the lost Will.

Note: If *Petition* is granted, Court will set Status Hearings as follows:

- **Thursday, June 18, 2015 at 9:00 a.m. in Dept. 303 for the filing of final inventory and appraisal; and**
- **Thursday, July 14, 2016 at 9:00 a.m. in Dept. 303 for the filing of first account and/or petition for final distribution.**

Pursuant Local Rule 7.5, if the documents noted above are filed 10 days prior to the dates listed, the hearings will be taken off calendar and no appearance will be required.

Reviewed by: LEG
Reviewed on: 5/12/15
Updates:
Recommendation:
File 16 – Moore

<u>Petitioner states, continued</u>:

- Randy then caused to be created and presented to his incapacitated father (Decedent) an irrevocable trust entitled the "**KENNETH HAROLD MOORE IRREVOCABLE TRUST dated 4/7/2011**" which was intended to alter the disposition of the Decedent's assets by excluding all of Decedent's children and leaving the entirety of the estate to Randy;
- Randy has filed a lawsuit in Santa Clara County in an effort to obtain possession of all of Decedent's assets;
- Randy is disqualified to act as executor of the estate under Probate Code § 8502(d) and (e);
- As the named executor has already filed a lawsuit claiming that all of the assets of Decedent belong to the **KENNETH HAROLD MOORE IRREVOCABLE TRUST dated 4/7/2011** rather than being poured over into the **MOORE FAMILY TRUST dated 4/10/2001**, he cannot possibly protect the probate estate, the beneficiaries of the probate estate, and the **MOORE FAMILY TRUST**;
- The conflict goes to the very heart of his ability to act as a fiduciary; as such, the second named executor Petitioner **HAROLD RICK MOORE (Rick)** should be named as the executor.

***Response to Petition for Probate of Will and for Letters Testamentary* filed by KENNETH RANDOLPH MOORE on 5/12/2015 states:**

- There is simply no need to open a probate regarding the Decedent's estate because Decedent died with a trust to which the Decedent manifested his intent to transfer his assets;
- Decedent's Trust is the subject of 3 pending matters (2 in Santa Clara: a Heggstad Petition filed by Respondent and a Petition to invalidate Trust as restated in 2011 filed by Petitioner and his sisters; and 1 in Fresno 15CEPR00111);
- Respondent asserts that the **KENNETH HAROLD MOORE IRREVOCABLE TRUST dated 4/7/2011** ("2011 Trust") contains the operative terms of the trust, whereas Petitioner alleges that the **MOORE FAMILY TRUST dated 4/10/2001** ("2001 Trust") contains the operative terms of the trust;
- While this dispute is litigated, opening a probate is unnecessary because there are no assets that need management by a personal representative due to the fact that Respondent, as Trustee, is the Decedent's successor-in-interest; there is no need to open a probate in this matter, or to appoint a Special Administrator pending adjudication of this petition, at least not until the other matters regarding the Trust are adjudicated;
- Even assuming a probate should be opened now, Respondent is nominated as executor under the 2011 Will, so he should be appointed executor;
- Respondent is not disqualified from being appointed, as Decedent knew of any purported conflict in Respondents' appointment and acquiesced;
- **Respondent respectfully requests this Court issue an order either (1) denying this petition without prejudice, or (2) staying or abating this action until the other matters regarding the Trust are adjudicated;**
- *[Please refer to pages 3 to 6 for complete Response];*
- **To the extent the Court is inclined to do anything other than summarily deny this Petition or issue an order abating or staying this action, Respondent respectfully requests an evidentiary hearing to proffer documentary and testimonial evidence upon direct and cross-examination to refute the allegations.**

17 Joseph R. Martinez (CONS/PE) **Case No. 15CEPR00106**

Atty Krause, Stefanie J. (for Joseph R. Martinez, Jr. – Son – Petitioner)
Atty Boyett, Deborah (Court appointed for Proposed Conservatee)
Atty Kruthers, Heather (for Public Guardian)

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

			See petition for details.
Cont. from 31215, 041615			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	W	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.	X	
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
✓	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation	X	
	FTB Notice		

NEEDS/PROBLEMS/ COMMENTS:

<u>Court Investigator advised rights 2-25-15</u>.

<u>Voting rights affected – need minute order</u>

<u>Minute Order 4-16-15</u>: Ms. Kruthers requests 30 days for an investigation, with Joseph R. Martinez, Jr., remaining as Temporary Conservator in the interim.

<u>SEE ADDITIONAL PAGES</u>

Reviewed by: skc
Reviewed on: 5-8-15
Updates:
Recommendation:
File 17 - Martinez

NEEDS/PROBLEMS/COMMENTS: The following issues have not been addressed:

1. **Although the capacity declaration supports dementia powers, the petition did not request dementia powers – there was no Attachment Requesting Special Orders Regarding Dementia (Mandatory Judicial Council Form GC-313) attached to the petition or amendment. Amended petition may be required for notice to the proposed Conservatee and relatives that dementia powers are also being sought.**

   Note: Service on the proposed Conservatee, all relatives, and VA should include all amendments to the Petition as well as the mandatory Judicial Council Form GC-313 Attachment Requesting Special Orders Regarding Dementia.

2. **Need Citation and proof of personal service of Citation with a copy of the petition (*including all amendments requesting dementia powers and requesting appointment of the Public Guardian*) at least 15 days prior to the hearing on Proposed Conservatee Joseph R. Martinez pursuant to Probate Code §1824.**

3. **Need Notice of Hearing and proof of service of Notice of Hearing with a copy of the petition (*including amendments*) at least 15 days prior to the hearing on the proposed Conservatee's spouse, Carmen Lopez (Martinez), pursuant to Probate Code §1822(b)(1).**

4. **Need proof of service of Notice of Hearing with a copy of the petition (*including amendments*) at least 15 days prior to the hearing on the jurisdictional Office of Veterans Administration pursuant to Probate Code §1822(d).**

5. **The caption of the Capacity Declaration indicates that it was filed by the Fresno County Public Guardian; however, it does not appear that he Public Guardian is involved in this matter. Need clarification.**

6. **If Public Guardian is appointed, need new Order and Letters.**

Note: If granted, the Court will set status hearings as follows:
- **Thursday, October 15, 2015 for filing the Inventory and Appraisal**
- **Thursday, August 18, 2016 for filing the First Account**

If the proper items are on file prior to the status dates pursuant to Local Rules, the status hearings may come off calendar.

Note: Petitioner Joseph R. Martinez was appointed Temporary Conservator of the Estate on 3-12-15. The Court may require an accounting for the period of his conservatorship pursuant to Probate Code §2256. If required, the Court will also set status hearing as appropriate.

18 Moore Family Trust dated 4/10/01 Case No. 15CEPR00111

Attorney: **Jeffrey B. Pape (for Petitioner Harold Rick Moore, son)**
Attorney: **Steven P. Braccini; Brian Wilson, of Palo Alto (for Respondent Kenneth Randolph Moore, son)**
Attorney: **Mark S. Poochigian (also for Respondent Kenneth Randolph Moore, son)**

Petition to Determine Existence of Trust, for Appointment of Harold Rick Moore as Trustee, for Imposition of Constructive Trust, to Enforce No Contest Clause, for Damages and for Attorneys' Fees and Costs

DOD: 7/14/2014		
Cont. from 031715		
	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	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

HAROLD RICK MOORE, son and remainder beneficiary, is Petitioner.

Petitioner states:

- On 4/10/2001, Decedent created the **MOORE FAMILY TRUST dated 4/10/2001** (**2001 TRUST**), which formed the basis of Decedent's esate plan (*copy attached as Exhibit A);*
- The **2001 TRUST** devised the Decedent's trust property in equal shares to his 5 adult children: **KENNETH RANDOLPH MOORE, ROBIN LARAE WILSON, HAROLD RICK MOORE, SHEILA RENEE SHAW** and **RONALD DEAN MOORE**;
- At the same time, Decedent executed a pour over Will *(copy attached as Exhibit B);*
- **2001 TRUST** provides Kenneth H. Moore is trustee; successor trustees in order of preference are Randy Moore, Rick Moor (Petitioner), and Ron Moore; the Trust was administered by Decedent as trustee until January 7, 2011, when Decedent suffered a debilitating stroke requiring him to be hospitalized for several weeks; Decedent suffered another stroke requiring hospitalization on 2/24/2011;
- As a result of these strokes, Decedent was rendered bedridden, not lucid, and unable to speak coherently other than a few words and unable to express himself correctly; as such Decedent no longer had capacity to act as Trustee;

~Please see additional page~

NEEDS/PROBLEMS/ COMMENTS:

Page 16 is the related *Estate of Kenneth Harold Moore*, 15CEPR00081.

1. Need proposed order pursuant to Local Rule 7.1 which provides a proposed order shall be submitted with all pleadings that request relief.

Reviewed by: LEG
Reviewed on: 5/12/15
Updates:
Recommendation:
File 18 – Moore

Petitioner states, continued:

- While Decedent was in hospital during the first part of 2011, the first successor trustee, Respondent Kenneth Randolph Moore (Randy) asked his sister in law, **PAULA MOORE**, to provide him with the original estate planning documents, which she procured and delivered to Respondent;
- On 4/7/2011, Respondent presented Decedent with a new trust, the **KENNETH HAROLD MOORE IRREVOCABLE TRUST dated 4/7/2011** (**2011 TRUST**), which devised all of the trust property to Respondent;
- Petitioner has filed a petition in Santa Clara County Superior Court, where the **2011 TRUST** is administered, seeking to have the **2011 TRUST** invalidated on the following founds: Decedent lacked capacity to execute the trust; trust was procured by undue influence of Respondent; trust was executed by mistake; and trust was procured by fraud of Respondent; petition is currently pending;
- In verified pleadings in the Santa Clara proceeding, Respondent seeks to establish by Heggstad Petition that properties owned by Decedent individually and/or in the **2001 TRUST** are assets of the **2011 TRUST**;
- Respondent has made statements under oath *[please refer to page 4, lines 3 – 21]* that Respondent believes that the Settlor revoked the 2011 Trust as it was not in Settlors possession during his life or after his death; Respondent has persisted in his denial that he has the original 2001 trust documents and pour over Will in his possession, despite the fact that these instruments were personally delivered to Respondent by Paula Moore in or around the first part of 2011;
- Schedule A to the **2001 TRUST** identified certain real and personal property transferred into the trust *[Please refer to page 5 – 6 for list of real and personal property Decedent transferred into the trust];* he later transferred additional assets into the trust; upon his demise, Decedent's pour-over Will transferred all of his personal assets into the trust;
- **2001 TRUST** holds interest in 2 cell phone tower partnerships, which Respondent attempted to retitle into his own name individually; Respondent executed 2 promissory notes to Decedent which were assigned to the **2001 TRUST**: (1) **$445,000.00** executed 2/1/1993, became due 2/1/2013; (2) **$404,250.00** executed 4/1/1997, became due 4/1/2002; *(copies of assignment, notes, and Deeds of Trust attached as Exhibits C, D and E);* Petitioner believes Respondent will contend that he paid these obligations, which is disputed by Petitioner; Decedent at no time released his Deeds of Trust in Respondent's properties which secured the obligations.

Please refer to pages 6 to 11 for Petitioner's complete arguments for the following:

- **Petition to Determine Existence of Trust:** Petitioner contends that the **MOORE FAMILY TRUST dated 4/10/2001** is valid and existing and of which he is a beneficiary, while Respondent contends it has been revoked; Petitioner is unaware of any writing conforming with Probate Code 15401 for revoking the 2001 Trust; therefore, it remains valid and a declaration of the trust's validity is necessary to determine the rights and obligations of the parties.
- **Petition to Appoint Harold Rick Moore as Trustee:** Respondent by his conduct has declined to act as successor trustee of the 2001 Trust and has taken the position under oath that it is no longer a valid trust and has been revoked; the 2001 Trust is in immediate need of administration; Respondent has conflicts of interest as the make of promissory notes totaling $849,250.00 owned by the 2001 Trust secured by deeds of trust in real property owned by Respondent; Respondent has taken possession and control of certain property as to which the 2001 Trust is the owner; Petitioner is the second named successor trustee of the 2001 Trust, he is willing and able to act as successor, and due to Respondent's declination and conflicts of interest, Petitioner should be appointed as successor trustee of the 2001 Trust; or as temporary trustee per § 17206.

~Please see additional page~

Continued: Please refer to pages 6 to 11 for Petitioner's complete arguments for the following:

- **Imposition of Constructive Trust:** Petitioner believes Respondent has taken title and/or possession of property belonging to the 2001 Trust, or belonging to Decedent individually that were subject to Decedent's pour over Will, and consequently Respondent holds title to the assets as constructive trustee for the benefits of the persons ultimately entitled to distribution of such assets.
- **Petition to Enforce No Contest Clause:** Decedent's Will contains a no contest clause; the 2001 Trust is part of an identifiable class of instruments governed by the no contest clause in Decedent's Will; Respondent's allegations that the 2001 Trust has been revoked and that the 2011 Trust supersedes the 2001 Trust is a direct contest without probable cause; Petitioner contends that the gifts to Respondent under the 2001 Trust have been forfeited under the no contest clause except for the payment of **$1.00** as the gift to Respondent.
- **Damages / Attorney Fees and Costs:** Respondent has taken possession and/or exercised control over property owned by Decedent at the time of his death or which belongs to the 2001 Trust; Respondent's conduct has caused damages to the 2001 Trust; Respondent has in bad faith wrongfully taken, concealed or disposed of property belonging to the Decedent at the time of his death or belonging to the 2001 Trust , or has wrongfully taken such property by the use of undue influence over Decedent; pursuant to Probate Code § 859, Respondent is liable for twice the value of any property recovered by Decedent's estate or the 2001 Trust, plus an award of attorney fees and costs, which Petitioner has incurred and will continue to incur in the present action; if Petitioner prevails, Petitioner will have created a common fund consisting of a pool of assets which will pass to Decedent's beneficiaries as determined by the Court; Petitioner alleges that by proving that gifts to Respondent under the 2001 Trust have been forfeited under the no contest clause, Petitioner should be entitled as a matter of equity to an award of attorney fees and costs to be paid out of the common fund consisting of the pool of forfeited assets.

Petitioner requests the Court issue an order:

1. Declaring that the **MOORE FAMILY TRUST dated 4/10/2001** is a valid and existing trust;
2. Appointing Petitioner Harold Rick Moore to serve as trustee of the **MOORE FAMILY TRUST dated 4/10/2001**, without bond;
3. In the alternative, appointing Harold Rick Moore as temporary trustee of the **MOORE FAMILY TRUST dated 4/10/2001,** without bond;
4. Declaring that Respondent holds as constructive trustee for the benefit of Petitioner all of Decedent's tangible personal property in his possession, including (a) all property located at Decedent's residence; (b) the proceeds of any of Decedent's personal effects sold or disposed of by Respondents and any assets traceable to those proceeds; and (c) any distributions of any trust assets previously made to Respondent and any assets traceable to any such distributions;
5. Declaring that Respondent has violated the no contest clause of the **MOORE FAMILY TRUST dated 4/10/2001**and thereby has forfeited all interests in the residue of the trust save $1.00 and any other trust property to which Respondent otherwise would have been entitled;
6. For actual damages according to proof;
7. For double damages pursuant to Probate Code § 859;
8. For punitive damages; and
9. For reasonable attorney fees and costs to be paid to Petitioner out of the pool of assets consisting of the forfeited gifts, under the common fund doctrine according to proof.

~Please see additional page~

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

18 Third Additional Page, Moore Family Trust Case No. 15CEPR00111

***Objection to Petition to Determine Existence of Trust, for Appointment of Harold Rick Moore as Trustee, for Imposition of Constructive Trust, to Enforce No Contest Clause, for Damages and for Attorneys' Fees and Costs* filed by Respondent KENNETH RANDOLPH MOORE on 5/11/2015 states:**

- Respondent objects to the petition, which was filed after an action was already filed and being litigated in Santa Clara County Superior Court involving the same parties and arising out of the same subject matter (the 2011 Trust) *[emphasis in original]*;
- Accordingly, in order to preserve judicial resources, to avoid duplicative litigation, and to avoid the possibility of inconsistent judgments, Respondent respectfully requests this Court issue an order abating or staying this action until judgments have been entered in the previously filed action in Santa Clara;
- *[Please refer to pages 2 – 6 for admissions and denials; Respondent states he is not acting in his capacity as an attorney in this matter and cannot admit or deny accuracy of legal conclusions in specified paragraphs, and on that basis denies those allegations];*
- Respondent asserts that the **MOORE FAMILY TRUST dated 4/10/2001** was superseded by the **KENNETH HAROLD MOORE IRREVOCABLE TRUST dated 4/7/2011**; and alleges that the *[specified]* assets should be transferred to the 2011 Trust because the assets are referenced in the Schedule A of the 2011 Trust, which supersedes the 2001 Trust;
- Respondent denies that he attempted to retitle the cell phone tower limited partnerships into his own name as Petitioner alleges; Respondent asserts that the promissory notes of **$445,000.00** and **$404,250.00** have been paid in full;
- Respondent notes that the Decedent revoked the 2001 Trust in writing signed by Decedent and delivered to the then-acting trustee;
- *[Please refer to pages 7 – 8 for affirmative defenses, including unclean hands; waiver; estoppel; laches; failure to state a cause of action; statutes of limitation; abatement or stay];*
- **To the extent the Court is inclined to do anything other than summarily deny this Petition or issue an order abating or staying this action, Respondent respectfully requests an evidentiary hearing to proffer documentary and testimonial evidence upon direct and cross-examination to refute the allegations.**

Supporting Memorandum* attached to Objection, argues** *[citations omitted, in sum]:**

- This action should be abated or stayed until judgments in the previously filed actions in Santa Clara County are entered;
- Santa Clara County is the proper venue for this matter anyway, where it is undisputed that Respondent is administering the trust;
- Stay/Abatement should be entered until judgment has been entered in Santa Clara; alternatively, a briefing schedule is provided by Respondent, proposing hearing dates for Court's convenience.

Respondent prays that:

1. The Court issue an order abating or staying this action until the actions filed in Santa Clara County Superior Court have reached a final resolution; or in the alternative
2. The Court deny the Petition in its entirety and with prejudice; and
3. Petitioner take nothing by way of the Petition.

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

19 Esther O. Tuttle 2002 Trust as Amended in 2005 Case No. 15CEPR00145

Attorney: Robert Q. Bergstrom (for Petitioner Tracie Bachman, Successor Trustee)

Petition for Order Confirming Trust Assets

DOD: 6/22/2011		
Cont. from 032615		
	Aff.Sub.Wit.	
✓	**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	

TRACIE BACHMAN, granddaughter and Successor Trustee, is Petitioner.

Petitioner states:

- Petitioner is the presently-acting Successor Trustee of the **ESTHER O. TUTTLE 2002 TRUST** as Amended in 2005 *(copy of Trust and Amendment attached as Exhibits 1 and 2);*
- In 1982, Esther O. Tuttle (then Esther O. Pearce) recorded an *Affidavit – Death of Joint Tenant* after the death of her husband and joint tenant, **BYRON M. PEARCE**, transferring title of real property located on Ashlan Avenue to herself *(copy of Affidavit attached as Exhibit 4)*;
- A grant deed transferring title of the real property located on Ashlan to the Trustee of the Trust was inadvertently not prepared by the attorney who prepared the Trust *(Declaration of Attorney Robert Q. Bergstrom attached as Exhibit 5);*
- Petitioner was in constant contact with Decedent up to her death; before her death, Decedent transferred her assets, including real and personal property, to Petitioner as Successor Trustee of the Trust *(see Declaration of Tracie Bachman attached as Exhibit 6);*
- Decedent executed a Last Will and Testament concurrently with execution of the Trust *(copy attached as Exhibit 7)*; Decedent's Will devises all property of her estate, both real and personal, to the Trust;
- Decedent's intent to transfer her assets, both under the terms of her Will and under the terms of her Trust, was consistent and is further evidence of her intent to transfer all of her assets to the Trust;
- Petitioner requests that this Court confirm the real property on Ashlan Avenue and listed in Schedule A attached to the Trust is an asset subject to the Trust and under the control of Petitioner as Successor Trustee;
- Petitioner believes this asset is subject to her control as Successor Trustee under both Paragraph 5 of the Will and Schedule A of the Trust, and on the basis of the demonstrated intent of the Decedent to transfer her assets to the Trust.

~Please see additional page~

NEEDS/PROBLEMS/ COMMENTS:

Reviewed by: LEG

Reviewed on: 5/11/15

Updates:

Recommendation:

File 19 – Tuttle

***Declaration of Tracie Bachman attached as Exhibit* 6 states:**

- She is the Trustee and a Beneficiary under the Trust; the Will of Esther O. Tuttle gives all of Esther's assets to the Trust and names her (misspelled as Tracie Backman) as personal representative of her estate;
- Schedule A attached to the Trust as amended in 2005 lists the real property on Ashlan as being specifically transferred to the Trust; at the time of Esther's death, title to the real property was in the name Esther O. Pearce because that was her name when title was transferred to her in 1982 after the death of her husband, Byron Pearce;
- On 8/2/2011 she signed an Affidavit of death of trustee, returned that document to Attorney Bergstrom on 8/4/2011, and his office submitted the affidavit along with change of ownership report and death certificate to the Recorder's Office on 8/12/2011;
- On 8/2/2011, Attorney Bergstrom also prepared a grant deed transferring title to the real property on Ashlan from Tracie Bachman, Trustee of the Trust, to Tracie Bachman, a single woman;
- She told Mr. Bergstrom's office that she did not want the property held in her name alone; she wanted the name of **DAVID FRISBY** also on the title;
- Mr. Bergstrom prepared a second grant deed transferring title from Tracie Bachman, Trustee of the Trust, to Tracie Bachman and David Frisby as tenants in common (see Exhibit 6(b) attached);
- On 8/2/2011, she told Mr. Bergstrom's office that she did not want to sign the grant deed and she would get back in touch to tell them what he wanted regarding title to the real property;
- On 6/27/2012, she talked to Mr. Bergstrom on the phone and told him she wanted to grant title of the real property located on Ashlan to David Frisby;
- On 7/12/2012, Mr. Begstrom's office mailed her a grant deed transferring title from Tracie Bachman, Trustee of the Trust, to David Frisby;
- On 7/18/2012, she signed the grant deed and returned it to Mr. Bergstom's office;
- On 7/30/2012, Mr. Bergstom's office submitted the grant deed and change of ownership report to the Recorder's Office, which was returned on 8/6/2012 unrecorded by the Recorder's office requesting that "Esther O. Tuttle 2002 Trust, as amended in 2005" be typed above her signature; that was done and the grant deed was submitted again on 8/7/2012; on 8/9/2012, the grant deed was recorded by the Recorder's office, the original deed was mailed to her and a copy was mailed to Mr. Bergstrom's office *(see Exhibit 6(c) attached);*
- It was not until October 2014 that David Frisby learned that the recording process was not completed because title to the property was never transferred from Esther O. Pearce to her 2002 Trust; David Frisby went to the Recorder's office, requested a copy of the deed and was told the recording process was not completed because the property title was never transferred from Esther O. Pearce to her 2002 Trust (see Exhibit 6(d) attached);
- It is her intention to transfer the real property on Ashlan to David Frisby, and she requests an order of the Court confirming this asset as part of the Esther O. Tuttle 2002 Trust as amended in 2005, and an order granting her permission to transfer title to David Frisby.

Petitioner prays the Court find:

1. The Esther O. Tuttle 2002 Trust as Amended in 2005 is valid;
2. The assets set forth in Exhibit 8 are assets subject to the management and control of Tracie Bachman, as Successor Trustee of the Trust; and
3. As Successor Trustee of the Trust, and as sole named beneficiary, Petitioner Tracie Bachman, may transfer title of the real property located on Ashlan Avenue from Esther O. Pearce to David Frisby as requested in *[the Declaration of Tracie Bachman.]*

20 Virginia Garcia (Estate) Case No. 15CEPR00159

Attorney **Guerrero, Danielle R. (for Martha Huerta – daughter/Administrator)**

Probate Status Hearing RE: Proof of Bond

DOD: 06/21/99	**MARTHA HUERTA,** daughter, was appointed as Administrator with full IAEA and with bond set at $110,000.00 on 04/02/15. **Minute Order from 04/02/15** set this hearing for status regarding Proof of Bond.	**NEEDS/PROBLEMS/COMMENTS:** **<u>CONTINUED FROM 04/30/15</u>** **Minute Order from 04/30/15 states: The Court is not waiving bond; no appearance necessary on 05/14/15 if proof of bond is filed at least two court days prior.** **<u>Note:</u>** Waivers of Bond have been filed by all living heirs. However, there are 3 post-deceased heirs, Frank Garcia, Beatrice Resendez, and Gilbert Resendez that are unable to waive bond. 1. Need Bond of $110,000.00.
		Reviewed by: JF
		Reviewed on: 05/08/15
		Updates:
		Recommendation:
		File 20 - Garcia

Cont. from 043015		
	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	

21 Vanie Lee Battle-Doyle (Det Succ) **Case No. 15CEPR00177**

Atty Brown, Mary Elizabeth (Pro Per Petitioner)

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

DOD: 11/28/14			MARY ELIZABETH BROWN (Daughter) is Petitioner. 40 days since DOD No other proceedings I&A: $65,000.00 (real property located at 1237 Irwin Ave., Fresno) Decedent died intestate Petitioner requests Court determination that the real (and personal?) property passes to her.	NEEDS/PROBLEMS/COMMENTS: 1. Petitioner indicates at #14 that she has two siblings, but requests that the estate pass to her alone. Pursuant to intestate succession (Probate Code §6400 et seq.), the estate would pass to all siblings equally. This estate cannot be distributed via summary proceeding unless all siblings petition together for the property to pass to them in equal shares. 2. Need Notice of Hearing. 3. Need proof of service of Notice of Hearing at least 15 days prior to the hearing on: - William Doyle (son) - Glenda Thompson (daughter). 4. Petitioner indicates at #1 and #13 that personal property is included in this petition; however, no personal property was inventoried. Need clarification. 5. The petition was filed with a fee waiver. If assets are distributed pursuant to this petition, the filing fee of $435 will be due prior to entry of order for distribution. 6. Need order, completed with legal description of the real property (and personal property, if any).
	Aff.Sub.Wit.			
✔	Verified			
✔	Inventory			
✔	PTC			
	Not.Cred.			
	Notice of Hrg	x		
	Aff.Mail	x		
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✔	Order	x		
	Aff. Posting			Reviewed by: skc
	Status Rpt			Reviewed on: 5/8/15
	UCCJEA			Updates:
	Citation			Recommendation:
	FTB Notice			File 21 – Battle-Doyle

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

22 Joe David Johnson (Det Succ) Case No. 15CEPR00224

Atty **De Goede, Dale A (for Nancy Richter and Davilyn Myrick – Petitioners – Daughters)**

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

DOD: 01/02/2012			**NANCY RICHTER,** daughter, and **DAVILYN MYRICK,** daughter are petitioners. 40 days since DOD No other proceedings I&A - **$55,000.00** Decedent died intestate Petitioners request Court determination that decedent's 100% interest in real property located at 1911 E. Princeton Fresno, Ca pass 50% to Nancy Richter and 50% pass to Davilyn Myrick pursuant to intestate succession.
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		

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: LV

Reviewed on: 05/12/2015

Updates:

Recommendation: Submitted

File 22 - Johnson

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

23 Robert Kurtovich (Estate) Case No. 15CEPR00225

Atty **Perkins, Jan T. (for Mike Pistorich – Petitioner – Nephew)**

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

DOD: 01/19/2015		
Cont. from 041615		
✓	**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	

MIKE PISTORICH, nephew, is petitioner and is requesting to be appointed as Administrator with will annexed without bond.

Full IAEA – o.k.

Will dated: 08/07/1984

Residence: Fresno
Publication: The Business Journal

Estimated value of the Estate:

Personal property	-	$630,450.53
Real property	-	$344,238.22
Total	**-**	**$974,688.75**

Probate Referee: Rick Smith

NEEDS/PROBLEMS/COMMENTS:

Continued to 06/02/2015 Amended Petition filed 04/28/2015.

1. Need original will to be deposited with the Court pursuant to Probate Code §8200(a)(1).

Note: If the petition is granted status hearings will be set as follows:

- **Tuesday, 10/06/2015 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Tuesday, 08/16/2016 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

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

Reviewed by: LV
Reviewed on: 05/11/2015
Updates:
Recommendation:
File 23 – Kurtovich

24 Jimmy Leo Hawkins (CONS/P) Case No. 15CEPR00363

Attorney LeVan, Nancy J. (for Petitioner Danna Gramme)
Attorney Bagdasarian, Gary G. (Court appointed for Proposed Conservatee)

Petition for Appointment of Probate Conservatorship of the Person

			See petition for details.
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	w	
	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		

NEEDS/PROBLEMS/COMMENTS:

Court Investigator advised rights on 4/21/15

Voting rights affected – need minute order.

Reviewed by: skc
Reviewed on: 5/11/15
Updates: 5/12/15
Recommendation:
File 24 - Hawkins

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

25 Mary Hernandez (Estate) Case No. 15CEPR00368

Atty French, G Dana (for David Hernandez – Petitioner – Son)

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

DOD: 03/03/2015		
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	

DAVID HERNANDEZ, son is petitioner and requests appointment as Administrator without bond.

All heirs waive bond – see Examiner note #1

Full IAEA – o.k.

Decedent died intestate

Residence: Fresno
Publication: The Business Journal

Estimated value of the Estate:

Personal property	-	$10,000.00
Real property	-	$80,000.00
Total	**-**	**$90,000.00**

Probate Referee: Steven Diebert

NEEDS/PROBLEMS/COMMENTS:

1. Need waiver of bond on Mandatory Judicial Council Form for David Hernandez and Talia Hernandez.

Note: If the petition is granted status hearings will be set as follows:

- **Thursday, 09/17/2015 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Thursday, 07/21/2016 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

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

Reviewed by: LV
Reviewed on: 05/11/2015
Updates:
Recommendation:
File 25 – Hernandez

26 Hazel Thomas (GUARD/P) Case No. 15CEPR00464

Petitioner: Sandra Renee Worley (pro per)

Petition for Appointment of Temporary Guardian of the Person

			GENERAL HEARING 7/6/15	NEEDS/PROBLEMS/COMMENTS:
			SANDRA WORLEY, paternal grandmother, is petitioner.	
			Please see petition for details.	
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg	X		
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.	X		
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			Reviewed by: KT
	Status Rpt			Reviewed on: 5/11/15
✓	UCCJEA			Updates:
	Citation			Recommendation:
	FTB Notice			File 26 - Thomas

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

27 Gabriel Banda & Audrey Banda (GUARD/P) Case No. 15CEPR00467

Petitioner: Steven Arroyo (pro per)

Petition for Appointment of Temporary Guardian

			GENERAL HEARING 7/6/15	NEEDS/PROBLEMS/COMMENTS:
			STEVEN ARROYO, non-relative, is petitioner. Please see petition for details.	1. Need Notice of Hearing. 2. Need proof of personal service, 5 court days prior to the hearing, 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. Carrie Clrila Banda (mother) b. Gabriel Banda (minor) c. Audrey Banda (minor) 3. Confidential Guardian Screening form is incomplete.
Cont. from				
	Aff.Sub.Wit.			
✓	**Verified**			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg	X		
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.	X		
✓	**Conf. Screen**			
✓	**Letters**			
✓	**Duties/Supp**			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	**Order**			
	Aff. Posting			**Reviewed by: KT**
	Status Rpt			**Reviewed on: 5/11/15**
✓	**UCCJEA**			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 27 - Banda**

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

28 Walter Albert Schmidt III (Spousal) Case No. 15CEPR00283

Attorney: Paulette Janian (for Petitioner Sylvia L. Schmidt)

Amended Spousal Property Petition

DOD: 1/28/15			**SYLVIA L. SCHMIDT**, surviving spouse, is petitioner. No other proceedings Decedent died intestate. **Petitioner states** she and the decedent were married on 10/29/1988, 26 years ago. Petitioner and decedent were employed full time during their marriage. At the date of marriage, decedent owed approximately $80,000 for the real property. Payments on the loans, property insurance, property taxes, property repairs, and life insurance premiums were made with the earnings of Petitioner and decedent. **Petitioner requests** court confirmation that ½ interest in real property located at 2405 Orange Avenue in Selma and all benefits due and owing under AIG Contract no. C10476697 passes to her and that ½ interest belongs to her.	**NEEDS/PROBLEMS/COMMENTS:**
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		**Reviewed by: KT**
	Status Rpt		**Reviewed on: 5/11/15**
	UCCJEA		**Updates:**
	Citation		**Recommendation: SUBMITTED**
	FTB Notice		**File 28 – Schmidt**

Dept. 303, 9:00 a.m. Thursday, May 14, 2015

29 Katherine Lilian Valencia (GUARD/P) Case No. 13CEPR00579

Petitioner: Christine Martinez (pro per)

Petition for Appointment of Temporary Guardian

			GENERAL HEARING 7/7/15.	**NEEDS/PROBLEMS/COMMENTS:**
			CHRISTINE MARTINEZ, paternal grandmother, is petitioner. Please see petition for details.	**It appears that the Probate Court no longer has jurisdiction. The guardianship was terminated on 8/13/14 and there is now an active Family Law case (14CEFL05880) filed on 10/24/14.** 1. Need Notice of Hearing. 2. Need proof of personal service, 5 court days prior to the hearing, 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. Jessica Valdivia (mother)
Cont. from				
	Aff.Sub.Wit.			
✓	**Verified**			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg	X		
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.	X		
✓	**Conf. Screen**			
	Letters	X		
✓	**Duties/Supp**			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	X		
	Aff. Posting			**Reviewed by: KT**
	Status Rpt			**Reviewed on: 5/11/15**
✓	**UCCJEA**			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 29 - Valencia**

Dept. 303, 9:00 a.m. Thursday, May 14, 2015