



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

Atty Kruthers, Heather H. (for Public Guardian – Conservator of the Estate)
Atty Motsenbocker, Gary L. (for Catherine Foin – Previous Co-Conservator of the Person)
Atty Amador, Catherine A. (for Susan Schlievert – Previous Co-Conservator of the Person and Objector)

(1) Second and Final Account and Report of Successor Conservator; (2) Petition for Allowance of Compensation to Successor Conservator and Attorney; (3) and Distribution [Prob. C. 1860; 2620; 2623; 2630; 2942]

DOD: 12-4-11	PUBLIC GUARDIAN , Conservator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	Account period: 7-1-10 through 12-4-11	Note: Petition for Probate of Will and for Letters of Administration With Will Annexed; Authorization to Administer Under IAEA With Limited Authority filed by Susan Schlievert (daughter) in Case #12CEPR00333 is set for hearing on 5-29-12.
	Accounting: \$ 290,426.45	
	Beginning POH: \$ 155,989.48	
	Ending POH: \$ 158,060.67	
<input type="checkbox"/> Aff.Sub.Wit.	Account period: 12-5-11 through 3-5-12	Note: Ms. Schlievert was originally represented by Atty Donald Lescoulie; however, per Substitution of Attorney filed 4-19-12, she is now represented by Atty Catherine A. Amador of Pascuzzi, Moore & Stoker. Atty Amador filed a Declaration stating that due to a sudden health issue, Attorney Lescoulie was unable to sign the Substitution form.
<input checked="" type="checkbox"/> Verified	Accounting: \$ 168,495.45	- Examiner notes that Atty Lescoulie's name does not appear on the Substitution and he was not served with notice of the Substitution. The Court may require clarification and service on Atty Lescoulie pursuant to CCP §284.
<input type="checkbox"/> Inventory	Beginning POH: \$ 158,060.67	
<input type="checkbox"/> PTC	Ending POH: \$ 78,355.48	
<input type="checkbox"/> Not.Cred.	(\$42,447.33 cash plus a vehicle, securities and an investment account)	
<input checked="" type="checkbox"/> Notice of Hrg	Conservator: \$4,764.80	
<input checked="" type="checkbox"/> Aff.Mail	(25.25 Deputy hours @ \$96.00/hr and 30.80 Staff hours @ \$76.00/hr, itemized)	
<input type="checkbox"/> Aff.Pub.	Attorney: \$2,460.00 (16.40 attorney hours @ \$150.00/hr, itemized, including 850 petition and accounting)	
<input type="checkbox"/> Sp.Ntc.	Costs: \$395.00	
<input type="checkbox"/> Pers.Serv.	Bond fee: \$616.62 (ok)	
<input type="checkbox"/> Conf. Screen	Petitioner prays for an Order:	
<input type="checkbox"/> Letters	1. Approving, allowing, and settling the account and report as filed, and ratifying, confirming, and approving all acts and transactions of Petitioner relating to matters in the account;	
<input type="checkbox"/> Duties/Supp	2. Authorizing the conservator and attorney fees and commissions;	
<input checked="" type="checkbox"/> Objections	3. Authorizing payment of the bond fee; and	
<input type="checkbox"/> Video Receipt	4. Authorizing distribution of the remaining cash of \$34,210.91 and other property on hand to the executor of the estate, Susan Schlievert, upon her appointment.	
<input type="checkbox"/> CI Report	Susan Schlievert, previous Co-Conservator of the Person, filed an Objection on 5-10-12.	
<input type="checkbox"/> 9202	SEE PAGE 2	
<input checked="" type="checkbox"/> Order		SEE PAGE 2
<input type="checkbox"/> Aff. Posting		Reviewed by: skc
<input type="checkbox"/> Status Rpt		Reviewed on: 5-10-12
<input type="checkbox"/> UCCJEA		Updates:
<input type="checkbox"/> Citation		Recommendation:
<input type="checkbox"/> FTB Notice		File 1 - Foin

Susan Schlievert, previous Co-Conservator of the Person, filed an Objection on 5-10-12. Objector states that pursuant to a Settlement Agreement (re Petitioner's 850 Petition) filed 10-18-11, Catherine, Elizabeth, and Owen were to deed their respective 25% interests back to the Conservatee; however, they have not done this, and the Successor Conservator has taken no action to enforce the Settlement Agreement or obtain compliance of the Order.

As a result, $\frac{3}{4}$ of the value of the property is not part of the conservatorship estate, and Objector's inheritance will, therefore, be reduced by as much as \$50,000.00. If the $\frac{3}{4}$ of the property currently held by Catherine, Elizabeth, and Owen is not returned to the conservatorship estate, the result will be an unfair distribution of the estate.

Examiner Notes the following items re background:

- Conservatee had four children: Susan, Catherine, Elizabeth, and Owen. Susan and Catherine were Co-Conservators of the Person and Estate, but were removed as to the Estate, and Public Guardian was appointed on 7-13-09. They remained Co-Conservators of the Person until Conservatee's death on 12-4-11.
- Public Guardian filed an 850 Petition on 3-25-11 that alleged that in 2004, Conservatee did not have capacity to: 1) deed a Santa Cruz property to Susan, or 2) to deed three 25% interests in the Fresno property to Catherine, Elizabeth, and Owen. (She retained a 25% interest that was part of the conservatorship estate, such that Conservatee and the three children were joint tenants.)
- A Settlement Agreement was reached and accepted by the Court on 10-18-11; *however*, it only addressed the Fresno property interests. *It did not address the Santa Cruz property.*
- The Settlement Agreement provided that Catherine, Elizabeth, and Owen shall deed their interests (25% each) back to the Conservatee by grant deed, but that they would retain their 25% interests in the property or the sale proceeds therefrom. However, if needed for the Conservatee's care during her lifetime, all sale proceeds could be used for her care.
- According to this final accounting, the Conservatee's 25% interest in the Fresno property reverted to the joint tenants upon the death of the Conservatee and therefore is not included in the proposed distribution to the estate. The Santa Cruz property was not part of the conservatorship, and therefore is not addressed.

NEEDS/PROBLEMS/COMMENTS (Cont'd):

1. **Petitioner requests distribution of the remaining cash and assets to "Susan Schlievert, upon her appointment" as Executor of the estate. The Court cannot order distribution on the anticipated outcome of another proceeding. Continuance may be necessary for appointment of the Executor to occur before such distribution is ordered. The hearing on appointment is set for 5-29-12, and it is unknown whether at that time it will require further information or continuance.**

Atty Teraoka, Steve G., of Teraoka & Partners, San Francisco (for Co-Petitioners Konrad Nishikawa and Patty Nishikawa, Co-Administrators)

(1) Petition for Final Distribution; (2) First and Final Report of Executors and Petition for Its Approval; (3) Petition for Payment of Attorney Fees

DOD: 1/11/2004		<p>KONRAD NISHIKAWA and PATTY NISHIKAWA, children and Co-Administrators with Will annexed, are Petitioners.</p> <p>Accounting is waived.</p> <p>I & A - \$134,800.52 POH - \$134,800.52</p> <p>Co-Administrators - waive</p> <p>Attorney (statutory) - \$5,044.00</p> <p>Costs - \$529.00 <i>(filing fees, probate referee)</i></p> <p>Distribution pursuant to Decedent's Will is to:</p> <ul style="list-style-type: none"> KONRAD NISHIKAWA and PATTY NISHIKAWA as Co-Trustees of the HIROSHI AND MARY NISHIKAWA FAMILY TRUST – \$2.64 cash, stock, and mutual fund valued at \$134,800.52. 	<p>NEEDS/PROBLEMS/COMMENTS:</p>
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
✓ Inventory			
✓ PTC			
✓ Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail	W/O		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters	091807		
Duties/Supp			
Objections			
Video Receipt			
✓ Decl. of Trust			
✓ 9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice	N/A		
		<p>Reviewed by: LEG</p> <p>Reviewed on: 5/10/12</p> <p>Updates:</p> <p>Recommendation: SUBMITTED</p> <p>File 2 - Nishikawa</p>	

Report of Sale and Petition for Order Confirming Sale of Real Property - 200 Tyler Street

DOD: 04/15/10	DANIEL M. O'QUINN , Administrator without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 04/18/12</u> Minute order from 04/18/12 states: No appearances. Matter continued to 05/16/12. As of 05/10/12, no new documents have been filed and the following items remain: <ol style="list-style-type: none"> 1. Petition is not signed by attorney. 2. Pursuant to Probate Code § 10308(c) - Need proof of service by mail at least 15 days before the hearing of the <i>Notice of Hearing on:</i> - Richard A. McCabe (purchaser) - Wells Fargo Card Services (Request for Special Notice filed 11/12/10) 3. The sales price is only 38.46% of the appraised value of the property. Probate Code § 10309 states that no sale of real property at private sale shall be confirmed by the Court unless the sum offered is at least 90% of the appraised value. Need reappraisal for sale or higher offer. 4. Need Order.
Cont. from 022312, 041812		
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
✓ Notice of Hrg		
Aff.Mail	x	
✓ Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order	x	
✓ Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	Sale Price - \$10,000.00 Overbid - \$1,000.00 Reappraisal - \$26,000.00 Property - 200 Tyler St. Coalinga, CA Publication - The Business Journal Buyer - RICHARD A. McCABE, as his separate property Broker - None Declaration of Daniel M. O'Quinn, Administrator filed 01/19/12 states that the property is in a dilapidated and uninhabitable condition and he estimates that it would cost tens of thousands of dollars to correct the habitability issues (roofing, windows, lack of appropriate heat, flooring issues) and to remove junk from the premises. Based on the condition of the home, Petitioner has deemed it appropriate to sell the property to a willing investor in an as-is condition. Petitioner made inquiries to investors and was able to obtain a bid on the property. Petitioner also made inquiries with real estate brokers who market properties in the Coalinga area; however, the decision was made not to use the services of a broker because commissions and other expenses would reduce the funds available to the estate, it was also inferred, but not directly stated, by the brokers that the anticipated sales price of the property would not generate enough commission in relation to the amount of effort marketing the property would take. Petitioner states that he was granted full IAEA authority to sell the property and is also authorized by decedent's will to sell the property without a prior order of the court, but due to the circumstances, decided to seek court approval of the sale so that any interested party could express their concerns regarding the sale. Petitioner states that although the offer is less than ½ the appraised value of the property, it is his opinion that the offer is fair and reasonable given the current condition of the property, especially since the estate does not have sufficient assets to make repairs to the property to make it more marketable.	

Report of Sale and Petition for Order Confirming Sale of Real Property - 220 Tyler Street

DOD: 04/15/10		DANIEL M. O'QUINN , Administrator without bond, is Petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 04/10/12</u> Minute order from 04/10/12 states: No appearances. Matter continued to 05/16/12</p> <p>As of 05/10/12, no new documents have been filed and the following items remain:</p> <ol style="list-style-type: none"> Petition is not signed by attorney. Petition states that the appraised value of the property is \$22,000.00; however, according to the Inventory & Appraisal filed 12/28/11, the property is valued at \$26,000.00. Pursuant to Probate Code § 10308(c) - Need proof of service by mail at least 15 days before the hearing of the <i>Notice of Hearing</i> on: <ul style="list-style-type: none"> Richard A. McCabe (purchaser) Wells Fargo Card Services (Request for Special Notice filed 11/12/10) The sales price is only 38.46% of the appraised value of the property. Probate Code § 10309 states that no sale of real property at private sale shall be confirmed by the Court unless the sum offered is at least 90% of the appraised value. Need reappraisal for sale or higher offer. Need Order. <p>Reviewed by: JF</p> <p>Reviewed on: 05/10/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 3B – Berry</p>
Cont. from 022312, 041812			
Aff.Sub.Wit.		Sale Price - \$10,000.00	
✓ Verified		Overbid - \$1,000.00	
Inventory		Reappraisal - \$22,000.00	
PTC		Property - 220 Tyler St. Coalinga, CA	
Not.Cred.		Publication - The Business Journal	
✓ Notice of Hrg		Buyer - RICHARD A. McCABE, as his separate property	
Aff.Mail	X	Broker - None	
✓ Aff.Pub.		Declaration of Daniel M. O'Quinn, Administrator filed 01/19/12 states that the property is in a dilapidated and uninhabitable condition and he estimates that it would cost tens of thousands of dollars to correct the habitability issues (roofing, windows, lack of appropriate heat, flooring issues) and to remove junk from the premises. Based on the condition of the home, Petitioner has deemed it appropriate to sell the property to a willing investor in an as-is condition. Petitioner made inquiries to investors and was able to obtain a bid on the property. Petitioner also made inquiries with real estate brokers who market properties in the Coalinga area; however, the decision was made not to use the services of a broker because commissions and other expenses would reduce the funds available to the estate, it was also inferred, but not directly stated, by the brokers that the anticipated sales price of the property would not generate enough commission in relation to the amount of effort marketing the property would take. Petitioner states that he was granted full IAEA authority to sell the property and is also authorized by decedent's will to sell the property without a prior order of the court, but due to the circumstances, decided to seek court approval of the sale so that any interested party could express their concerns regarding the sale. Petitioner states that although the offer is less than ½ the appraised value of the property, it is his opinion that the offer is fair and reasonable given the current condition of the property, especially since the estate does not have sufficient assets to make repairs to the property to make it more marketable.	
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			

(1) First Account current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorney and (3) for Dispensation of Further Accounts [Prob. C. 2620; 2623; 2628; 2630; 2942]

Age: 77	<p>PUBLIC GUARDIAN, Conservator, is Petitioner.</p> <p>Account period: 12-14-10 through 12-31-11</p> <p>Accounting: \$ 17,028.30 Beginning POH: \$ 255.22 Ending POH: \$ 537.86 (cash)</p> <p>Conservator: \$5,005.92 (43.12 Deputy hours @ \$96.00/hr plus 11.40 Staff hours @ \$76.00/hr, itemized)</p> <p>Attorney: \$2,000.00 (per local rule)</p> <p>Bond fee: 25.00 (ok)</p> <p>Petitioner states that due to the insufficiency of the estate to pay the fees and commissions that a lien be imposed for any unpaid balances of the authorized fees and commissions.</p> <p>Petitioner states the conservatorship estate meets the requirements of Probate Code §2628(a) to dispense with further accountings, and requests to dispense with further accountings pursuant to Probate Code §2628(a).</p> <p>Petitioner prays for an Order:</p> <ol style="list-style-type: none"> 1. Approving, allowing and settling the first account; 2. Authorizing conservator and attorney fees and commissions; 3. Authorizing payment of the bond fee; 4. Authorizing Petitioner to impose a lien on the estate for any unpaid balances of the authorized fees and commissions; 5. Dispensation of further accounts; and 6. Other relief that the Court considers proper. 	NEEDS/PROBLEMS/COMMENTS:
DOB: 2-27-35		
Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
Inventory		
PTC		
Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail W		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
<input checked="" type="checkbox"/> CI Report		
9202		
<input checked="" type="checkbox"/> Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	<p>Reviewed by: skc</p> <p>Reviewed on: 5-10-12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4 – Geringer-Veach</p>	

(1) First Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorney [Prop. C. 2620; 2623; 2942]

Age: 84	PUBLIC GUARDIAN , Conservator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
DOB: 1-22-28	Account period: 12-8-10 through 2-13-12	Note: Timothy Moore, son, was appointed Conservator of the Person and Public Guardian was appointed Conservator of the Estate on 2-17-11.
	Accounting: \$309,117.55	
	Beginning POH: \$253,162.04	
	Ending POH: \$192,342.72 (cash)	
<input type="checkbox"/> Aff.Sub.Wit.	Conservator: \$3,642.40 (27.65 Deputy hours @ \$96.00/hr plus 13.00 Staff hours @ \$76.00/hr)	Note: "Notice of Change of Address" was filed 9-9-11 for the Conservatee by Timothy Moore (represented by Attorney Patricia Bone O'Neill). Examiner notes that this is an incorrect form to for a Conservatee. The appropriate form is the " <u>Post-Move Notice of Change of Residence of Conservatee</u> " (GC-080) because it contains the mandatory statements required by Probate Code §2352 and Cal. Rules of Court 7.1063, including a statement regarding the placement as the least restrictive alternative, etc.
<input checked="" type="checkbox"/> Verified	Attorney: \$2,000.00 (per local rule)	1. Need proof of service of Notice of Hearing at least 15 days prior to the hearing on Timothy Moore, Conservator of the Person, and his attorney, Nancy LeVan, per Probate Code §§ 1460(b)(1) and 1214 and Cal. Rules of Court 7.51.
<input type="checkbox"/> Inventory	Bond fee: \$678.58 (ok)	<i>(Notice of Hearing filed 4-11-12 does not include Timothy Moore.)</i>
<input type="checkbox"/> PTC	Petitioner prays for an Order:	Reviewed by: skc
<input type="checkbox"/> Not.Cred.	1. Approving, allowing, and settling the first account;	Reviewed on: 5-11-12
<input checked="" type="checkbox"/> Notice of Hrg	2. Authorizing conservator and attorney fees and commissions;	Updates:
<input checked="" type="checkbox"/> Aff.Mail	3. Authorizing payment of the bond fee; and	Recommendation:
<input type="checkbox"/> Aff.Pub.	4. Other relief the Court considers proper.	File 5 - Dunn
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input checked="" type="checkbox"/> 2620(c)		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

(1) First and Final Account and Report of Administration, Petition for Final Settlement, (2) for Allowance of Requested Commissions and Fees to Executor and Attorney and (3) for Final Distribution [Prob. C. 10900, 10951, 11000, 11640, 10800, 10810]

DOD: 7/9/2009		<p>ROSEMARIE JANIAN, Executor, is petitioner.</p> <p>Account period: 7/11/11 – 3/31/12</p> <p>Accounting - \$85,006.72 Beginning POH - \$83,642.18 Ending POH - \$81,839.35</p> <p>Executor - \$2,900.00 (less than statutory)</p> <p>Attorney - \$2,900.00 (less than statutory)</p> <p>Closing - \$1,000.00</p> <p>Distribution, pursuant to Decedent's Will, is to:</p> <p>Anthony Narvais - 1/3 interest in real property and \$13.12;</p> <p>Cynthia Gallegos - 1/3 interest in real property and \$13.12;</p> <p>Rosemarie Janian - 1/3 interest in real property and \$13.12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input checked="" type="checkbox"/>	Inventory		
<input checked="" type="checkbox"/>	PTC		
<input checked="" type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters 7/11/11		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input checked="" type="checkbox"/>	FTB Notice		
		Reviewed by: KT	
		Reviewed on: 5/11/12	
		Updates:	
		Recommendation: SUBMITTED	
		File 6 - Narvais	

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

DOD: 7/7/2011	PUBLIC ADMINISTRATOR is petitioner and requests appointment as Administrator with Will Annexed. Full IAEA – ok. Will dated: 12/19/2003 Residence: Fresno Publication: Fresno Business Journal	NEEDS/PROBLEMS/COMMENTS: Continued from 4/4/12. As of 4/11/12 the following issues remain: 1. #8 of the Petition does not include all persons named in decedent's Will. 2. Petition indicates that the decedent was survived by issue of a predeceased child. # 8 of the petition does not list any issue of a predeceased child. 3. Proof of service for Gage Anthony Cervelli lists his address as unknown. Need declaration of due diligence. 4. Need proof of service of the Notice of Petition to Administer the Estate on: a. Violet Luchille Riser b. Issue of any predeceased child
Cont. from 040412		
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Petn w/		
<input type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.	Estimated value of the Estate: Real property- \$144,316.38 PROBATE REFEREE: Steven Diebert	
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting	Reviewed by: KT Reviewed on: 4/11/12 Updates: Recommendation: File 7- Cervelli	
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

Atty Burnside, Leigh; Marshall, Jared, of Dowling Aaron (for Petitioner Lurlean Norris)

Petitioner Lurlean Norris' Petition to Vacate Order Determining Succession to Real Property and to Enter New Order Determining Succession to Real Property

DOD: 3/8/2011		<p>LURLEAN NORRIS, daughter, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> At the time of Decedent's death, she owned two major assets consisting of real property and a checking account titled solely in Decedent's name; Decedent was survived by the Petitioner and the Decedent's granddaughter, SHARON BEASLEY, (Petitioner's niece) who is the daughter of Decedent's predeceased son; After performing her own independent research on intestate succession in California, Petitioner, acting in pro per, filed on 8/4/2011 a <i>Petition to Determine Succession to Real Property</i> for an order determining that she had succeeded to the property, based on Petitioner's mistaken belief that she was the sole legal heir to the real property that had been previously owned by the Decedent; Petitioner mistakenly believed that as Decedent's only surviving child, she was her mother's only heir and would therefore inherit all of her property; Petitioner's petition erroneously represented to the Court that she was Decedent's only surviving heir; Based upon Petitioner's representation, the Court issued an order on 10/18/2011 determining that Petitioner had indeed succeeded to Decedent's 100% interest in the real property; Notice of the proceedings and notice of the entry of the order were never served on Ms. Beasley; <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. <i>Petition</i> is signed by Attorney Jared Marshall, but is not verified by Petitioner pursuant to Probate Code § 1021 and CA Rule of Court 7.103. Probate Code 1023 allows an attorney to verify for the petitioner if she is absent from the county or for some other cause is unable to sign or verify the petition; however, these circumstances have not been shown in this matter. Therefore, need such showing or the Petitioner's verification of the <i>Petition</i>.</p> <p>Note: Declaration of Lurlean Norris in Support of Motion to Vacate Order Determining Succession to Real Property and to Enter New Order Determining Succession to Real Property filed on 4/5/2012 is verified by the Petitioner. While this is not the <i>Petition</i>, Court may deem verification of the Declaration is also sufficient as to the <i>Petition</i>.</p> <p>Reviewed by: LEG</p> <p>Reviewed on: 5/11/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 9 - Jones</p>
Cont. from			
Aff.Sub.Wit.			
Verified	X		
Inventory			
PTC			
Not.Cred.			
<input checked="" type="checkbox"/> Notice of Hrg			
<input checked="" type="checkbox"/> Aff.Mail	W/		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
<input checked="" type="checkbox"/> Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Petitioner states, continued:

- After issuance of the order, Petitioner learned that Ms. Beasley was also an heir of Decedent and that under Probate Code § 6402 and 240, she should have inherited an interest in the real property;
- Petitioner realized that she had inadvertently provided incorrect information to the Court, and now understands that Ms. Beasley is an heir of Decedent entitled to a **50% interest** in the property, and that the Court's order to the contrary is in error due to unintentionally incorrect information provided in Petitioner's petition;
- As a result, in the interest of justice, Petitioner now seeks to correct the error and have the 10/18/2011 *Order Determining Succession* vacated on the ground of mistake, and to have a new order entered that confirms that both Petitioner and Ms. Beasley have succeeded to the real property at issue;
- Both the petition filed by Petitioner and the order thereon were based on a mistake of fact that caused them to reach erroneous legal conclusions; the Court is empowered to vacate or modify its order containing that erroneous conclusion on the basis of CA Code of Civil Procedure §§ 116.725, 473 and 1008;
- The Court, sitting in equity, can and should set aside its previous order because a mistake led it to deprive a party of its interest in real property without notice of the proceedings to the aggrieved party; as a result, the Court should set aside its previous order and issue a new order determining that both Petitioner and Ms. Beasley have succeeded to the property.

Petitioner requests an Order:

1. Finding that the Court's 10/18/2011 *Order Determining Succession to Real Property* is vacated; and
2. Finding that the real property located at 1109 Collins Ave., Fresno, passes to **LURLEAN NORRIS** and **SHARON BEASLEY** by way of intestate succession in **equal 50% shares**.

Declaration of Lurlean Norris in Support of Motion to Vacate Order Determining Succession to Real Property and to Enter New Order Determining Succession to Real Property filed on 4/5/2012 states:

- She is the daughter of Ola Mae Jones, and she had a brother, **SENDY THOMAS**, who predeceased her mother;
- Before he died, her brother had a daughter, **SHARON BEASLEY**, who is her niece and the granddaughter of Ola Mae Jones;
- After the death of Ola Mae Jones, she performed her own legal research, and on 8/4/2011 she filed a *Petition to Determine Succession* in pro per (copy attached as Exhibit A); in that *Petition* she mistakenly represented that she was the only heir of Ola Mae Jones and that she was therefore entitled to inherit an undivided **100% interest** in the property;
- She provided no notice of the entry of the order to Sharon Beasley;
- On 10/18/2011, the Honorable Robert H. Oliver issued an order determining succession to real property; the order confirmed that she had inherited a **100% interest** in the property (copy attached as Exhibit B); she provided no notice of entry of the order to Sharon Beasley;
- After she had received and recorded the order, she learned that, under California law, Sharon Beasley is an intestate heir of Ola Mae Jones and that she was entitled to a **50% interest** in the real property;
- Upon learning of her mistake, she promptly sought the advice of legal counsel to assist her in rectifying the matter with the Court.

Note: The exhibits referenced in the *Declaration* are not attached as stated; however, these documents are contained in the case file and were used for reviewing this matter.

(1) Petition for Final Distribution on Waiver of Accounting and (2) Allowance of Statutory Commissions [Prob. C. 10400-10406, 10954, 11600-11642]

DOD: 8-7-11		Jeffrey W. Baker , Son and Executor with Full IAEA without bond, is Petitioner. Accounting is waived. I&A: \$275,861.70 POH: \$229,347.95 (cash) Executor (Statutory): Waived Attorney (Statutory): \$8,517.24 Costs: Not requested Distribution pursuant to Decedent's will: Donna Baker (Geren): 1/5 Pamela Baker (Harrington): 1/5 Janet Johnson: 1/5 Jonathan Baker: 1/5 Jeffrey Baker: 1/5	NEEDS/PROBLEMS/COMMENTS: 1. Probate Referee Steven Diebert filed a Request for Special Notice on 5-7-12. Therefore, need proof of service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing pursuant to Probate Code §1252 <u>or</u> waiver of notice from Probate Referee Steven Diebert. <i>Note: Petitioner states all estate expenses have been paid. The Court may require clarification re payment of the Probate Referee.</i> 2. Need notice of the administration of the estate to the Franchise Tax Board pursuant to Probate Code §9202(c). The Court may require additional time for response or waiver. <i>Note: Petitioner states notice to the Franchise Tax board was not required; however, Probate Code §9202(c)(2) requires notice in all estates after 2008.</i> 3. Need new order in compliance with Local Rule 7.6.1.A. <i>Order must state monetary distributions in dollars, not as percentage of the estate.</i> <i>Note: Examiner calculates \$44,166.14 to each heir after payment of the statutory attorney fees. The Court may alternatively wish to interlineate the order provided upon verification of the distribution amount.</i>	
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	X			
Reviewed by: skc				
Reviewed on: 5-11-12				
Updates:				
Recommendation:				
File 10 - Baker				

Status Hearing Re: Filing of Inventory and Appraisal (Flores')

Age: 16 DOB: 06/02/95	<p>ESPIRIDION FLORES and VIRGINIA FLORES, maternal uncle and aunt, served as guardian of the person and estate from 09/17/09 – 01/25/12. The order required all of the minor's monies to be deposited in a blocked account. A declaration filed 04/10/10 indicates that the minor's blocked account had a balance of \$42,199.72.</p> <p>On 11/22/11, MARY MORALES, maternal grandmother, petitioned to terminate the guardianship of Mr. & Mrs. Flores and petitioned to be appointed as Guardian of the Person and Estate.</p> <p>MARY MORALES, maternal grandmother, was appointed guardian of the person and estate on 01/25/12.</p> <p>Minute Order from 01/25/12 set this matter for status re filing the Inventory & Appraisal.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 04/18/12</u> Minute Order from 04/18/12 hearing states: The Court directs the parties to file an inventory & appraisal. The matter is continued to 05/16/12.</p> <p>As of 05/10/12, no additional documents have been filed and the following remains outstanding:</p> <p style="padding-left: 40px;">1. Need Inventory & Appraisal.</p>
Cont. from 041812		
Aff.Sub.Wit.		
Verified		x
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: JF
		Reviewed on: 05/10/12
		Updates:
		Recommendation:
		File 13 - Morales

Age: 15 years DOB: 06/13/97	<p>ANGELA M. RODRIGUEZ, sister, was appointed guardian on 7/28/10.</p> <p>Father: ROBERT RODRIGUEZ Mother: SALLY HERNANDEZ, deceased</p> <p>Petitioner/Guardian, ANGELA M. RODRIGUEZ, filed a Petition to Fix Residence Outside the State of California on 01/12/11. Said Petition was heard on 02/02/11 and states that a guardianship or its equivalent shall be commenced in the state of the new residence no later than 9/1/11.</p> <p>This status hearing is for the status of establishing a guardianship or its equivalent in the State of Oregon.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 11/16/11. Minute order states Angela Rodriguez is appearing via conference call. Ms. Rodriguez informs the court that she still has residence in California. The court continues the matter to 5/16/12. If the guardianship is established in Oregon and this court receives notification by 5/16/12, no appearance will be necessary.</p>
Cont. from 091411, 111611		
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: 5/11/12		
Updates:		
Recommendation:		
File 14 - Hernandez		

Age: 12	<p><u>TEMPORARY EXPIRES 05/16/12</u></p> <p>PAMELA JOY NEWMAN, paternal grandmother, is Petitioner.</p> <p>Father: ROBERT NEWMAN – <i>personally served 09/10/11</i></p> <p>Mother: SHANNON RAFFA – <i>court dispensed with notice on 09/19/11</i></p> <p>Paternal grandfather: ROBERT NEWMAN – <i>deceased</i></p> <p>Maternal grandfather: GREG RAFFA – <i>served by mail 09/26/11</i></p> <p>Maternal grandmother: JOAN RAFFA – <i>served by mail 09/26/11</i></p> <p>Petitioner states that Caitlin’s father is abusing her. He does not take care of her needs and spends her public assistance on drugs for himself. Petitioner states that Caitlin lived with her for several years in the past before living with her father. Petitioner states that she and Caitlin have a good relationship and Caitlin wants to live with her again.</p> <p>Declaration of Jacqueline Thornton, great-grandmother, filed 11/03/11 states that Caitlin and her father (Robert Newman) have lived in her home for the past year. Ms. Thornton states that she has witnessed Mr. Newman being verbally and physically abusive to Caitlin. She further states that Mr. Newman continues to use drugs. Ms. Thornton states that she does not believe that Mr. Newman should be raising his daughter under these conditions and asks the court to appoint Pamela Newman as guardian of Caitlin.</p> <p>Court Investigator Julie Negrete’s report was filed 11/03/11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 04/23/12</u></p> <p>As of 05/10/12, the following items remain outstanding:</p> <ol style="list-style-type: none"> 1. Need proof of personal service of <i>Notice of Hearing</i> along with a copy of the <i>Petition for Guardianship</i> at least 15 days before the hearing <u>or</u> Consent and Waiver of Notice for: - Caitlin Newman (minor)
DOB: 10/18/99		
Cont. from 110811, 012412, 042312		
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
✓ Notice of Hrg		
✓ Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
✓ Pers.Serv.		
✓ Conf. Screen		
✓ Letters		
✓ Duties/Supp		
Objections		
Video Receipt		
✓ CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		
<p>Reviewed by: JF</p> <p>Reviewed on: 05/10/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 16 - Newman</p>		

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

Declaration filed 04/24/12 attached a statement from the minor, Caitlin Newman and the Petitioner. The statement of Caitlin Newman states that visiting with her dad is making her anxious at both home and school and she is biting the skin off of her fingers so badly that they bleed sometimes, she also states that she has had a few nightmares about her father. She states that she does not want to visit with her father until he goes to rehab, parenting classes, and anger management classes because he has a very bad temper. She states that she would like proof of his attending all of these things before visiting with him in the future. **The statement of Pamela Newman** states that Caitlin has been seeing a psychologist since she has lived with her and is a lot more outgoing and more herself. She states that she feels Caitlin's father is putting forth an effort to make things right between he and Caitlin but she has seen this pattern many times and feels he needs rehab or else it will be just a matter of time before he relapses. She states that she feels Caitlin's wishes about visiting with her father should be considered as she has resumed having nightmares, chewing the skin off her fingertips and having panic attacks since visitation with her father began.

Pro Per Trujillo, Darlene (Pro Per Petitioner, maternal grandmother)

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

Age: 6 years	<p>TEMPORARY GRANTED ON THE COURT'S OWN MOTION EXPIRES 5/16/2012</p> <p>DARLENE TRUJILLO, maternal grandmother, is Petitioner</p> <p>Father: UNKNOWN; Declaration of Due Diligence filed 1/27/2012; Court dispensed with notice on 3/28/2012.</p> <p>Mother: JESSICA TRUJILLO; incarcerated; Declaration of Due Diligence filed 1/27/2012;</p> <p>Paternal grandfather: Unknown; Declaration of Due Diligence filed 1/27/2012;</p> <p>Paternal grandmother: Unknown; Declaration of Due Diligence filed 1/27/2012;</p> <p>Maternal grandfather: Ralph Trujillo; Declaration of Due Diligence filed 1/27/2012;</p> <p>Petitioner states the child has lived with her for over two years, as the mother is on drugs and homeless. Petitioner states the mother's whereabouts are unknown as she has not come to visit the child since June 2011, when she showed up on drugs at Petitioner's house wanting to visit the child. Petitioner states in October 2009, the mother, whose other child has been adopted by another family, had left the child with Petitioner's other daughter and never returned for the child, and Petitioner has raised the child since that time. Petitioner needs guardianship of the child to be able to make legal decisions for her.</p> <p>Court Investigator Samantha Henson's Report was filed 3/21/2012.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 3/28/2012.</u> Minute Order states the Court dispenses with further notice to father. The Petitioner is directed to provide notice to the mother. The Court on its own motion grants a temporary guardianship of the person in favor of Darlene Trujillo.</p> <p>1. Need Notice of Hearing and proof of personal service with a copy of the Petition for Appointment of Guardian, or a signed Consent to Appointment of Guardian and Waiver of Notice, for:</p> <ul style="list-style-type: none"> Jessica Trujillo, mother.
DOB: 1/26/2006		
Cont. from 032812		
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg X		
Aff.Mail N/A		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv. X		
✓ Conf. Screen		
Aff. Posting		
✓ Duties/Supp		
Objections		
Video Receipt		
✓ CI Report		
✓ Clearances		
✓ Order		
✓ Letters		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		

Reviewed by: LEG
 Reviewed on: 5/10/12
 Updates:
 Recommendation:
 File 18- Trujillo

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

	MICHAEL R. HAYS , son/named executor without bond, is petitioner.		NEEDS/PROBLEMS/COMMENTS:
	Full IAEA – o.k.		
	Cont. from 051412		
	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		
	Will dated: 11/1/10		
	Residence: Fresno		
	Publication: Fresno Business Journal		
	Estimated value of the estate: Personal property - \$161,416.57		
	Probate Referee: STEVEN DIEBERT		
	Reviewed by: KT		
	Reviewed on: 5/11/12		
	Updates:		
	Recommendation: SUBMITTED		
	File 19 – Hays		

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

DOD: 12/23/12		<p>CHRISTINE L. HAYS, daughter/named executor without bond, is petitioner.</p> <p>Full IAEA – o.k.</p> <p>Will dated: 11/30/10</p> <p>Residence: Fresno Publication: Fresno Business Journal</p> <p>Estimated value of the estate:</p> <table> <tr> <td>Personal property -</td> <td>\$1,577,338.77</td> </tr> <tr> <td>Annual income -</td> <td>\$42,815.00</td> </tr> <tr> <td>Real property -</td> <td><u>\$335,000.00</u></td> </tr> <tr> <td>Total -</td> <td>\$1,955,153.77</td> </tr> </table> <p>Probate Referee: STEVEN DIEBERT</p>	Personal property -	\$1,577,338.77	Annual income -	\$42,815.00	Real property -	<u>\$335,000.00</u>	Total -	\$1,955,153.77	<p>NEEDS/PROBLEMS/COMMENTS:</p>
Personal property -	\$1,577,338.77										
Annual income -	\$42,815.00										
Real property -	<u>\$335,000.00</u>										
Total -	\$1,955,153.77										
Cont. from 051412											
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											
		Reviewed by: KT									
		Reviewed on: 5/7/12									
		Updates:									
		Recommendation: SUBMITTED									
		File 20 - Hays									