



ATTENTION

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

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

Thank you for your patience.

1 Ron C. Wade (CONS/PE)

Case No. 0226015

Atty Bagdasarian, Gary G.

Probate Status Hearing Re: Filing Receipt for Blocked Account

Age:		NEEDS/PROBLEMS/COMMENTS: OFF CALENDAR. Receipt for Blocked Account filed on 4/26/13.
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		Reviewed by: KT
		Reviewed on: 5/13/13
		Updates:
		Recommendation:
		File 1 - Wade

Amended Report of Administrator, Petition for Distribution upon Waiver of Accounting and Allowance of Fees for Attorney

DOD: 1/26/2004		<p>ANTONETTE FREGOSO, Administrator, is petitioner.</p> <p>Accounting is waived.</p> <p>I & A - \$264,250.00</p> <p>POH - \$ 1,500.00</p> <p>Administrator - waives</p> <p>Attorney - \$4,099.00 (less than statutory)</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 4/8/13. Supplement to the Petition was filed on 4/8/13. As of 5/14/13 the following issues remain:</p> <ol style="list-style-type: none"> Petition was not verified. Probate Code §1021. Supplement to the Petition was not verified. Probate Code §1021 Supplement to the Petition was not signed by the fiduciary Antonette Fregoso. Probate Code §1023 states an attorney cannot sign or verify pleadings for a fiduciary. Cynthia Arroyo was originally the attorney of record in this case. Petition states she waives Ms. Arroyo is only requesting reimbursement for costs incurred in the amount of \$1,214.00. Need waiver of statutory fees from Ms. Arroyo. Cynthia Arroyo's billing statement includes reimbursement for \$50.00 for sanctions, however the sanctions were set aside by minute order dated 6/8/2004. Therefore costs listed totals \$1,164.00 and not \$1,214.00 as requested. This waiver of account does not include information required by California Rules of Court 7.550 <ol style="list-style-type: none"> Creditor's claims Sales purchases, or exchanges of assets Changes in the form of assets Petition states all heirs have signed an assignment of their share of the "J" Street property to the Petitioner. Need assignments.
Cont. from 022513, 040813			
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Reviewed by: KT			
Reviewed on: 3/28/13			
Updates:			
Recommendation:			
File 2 - Canales			

NEEDS/PROBLEMS/COMMENTS (cont):

8. Petition states the decedent's 1997 Buick was distributed to Kristina. Property of the estate cannot be distributed prior to creditor's being satisfied.
9. Petition states the "H" Street property was deeded to the personal representative in 2005. There is no "H" Street property listed on the inventory and appraisal. Need clarification.
10. Order does not comply with Local Rule 7.6.1.

Petition states all other beneficiaries have filed waivers of accounting of administrator and acceptance of \$10,000 as their full beneficial interest in the estate on 6/6/11. Because of the EDD lien the proceeds could not be distributed from escrow. All the funds, except administration and attorney fees, had to be paid to the mortgage on the "J" Street property, or the EDD would not allow the partial release of the lien. Since there was no money remaining after the payment of title fees, costs, attorney fees and property taxes, the Personal Representative took \$20,000 from her own retirement funds and paid all other beneficiaries \$5,000.00 each. All other beneficiaries have signed an assignment of their share of the "J" Street property to the petitioner. Petitioner has used this property as collateral to acquire enough money to pay off the "I" Street property's mortgage, back property taxes, and other debts of the decedent. Petitioner is still making payments on these loans.

The "H" Street property was deeded to the personal representative in 2005 and used as collateral for loans to pay back taxes and mortgage payments on the "I" Street property. The decedent's portion of the "I" Street property was sold in July 2012 and the proceeds were applied to the mortgage on the "H" Street property. There is still an outstanding balance on the "H" Street property that is being paid in full by the personal representative [who now holds title to the property].

	INLAND COUNTIES REGIONAL CENTER, INC., is Trustee.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 4-5-13</u> 1. Need 5th account.
	The Trustee's Fourth Account heard on 5-17-12 and the petition granted except for the fee increase, which was to be addressed separately.	
	The Order Settling Fourth Account signed 5-24-12 set this status hearing for the filing of the Fifth Account.	
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		Reviewed on: 5-14-13
		Updates:
		Recommendation:
		File 3 - Appleton

	<p>RICHARD ROSS filed <i>Second Amended Complaint for Breach of Fiduciary Duty and <u>FRAUD</u> [emphasis in original]</i> on 2-4-10.</p> <p>SUSAN ROSS ALLEY filed <i>Answer to Plaintiff's Second Amended Complaint</i> on 3-22-10.</p> <p>On 9-2-10, Richard Ross filed a Notice of Motion to Compel Further Responses to Discovery Requests. On 12-16-10, Judge Kazanjian granted that motion and ordered Ms. Alley to provide further responses and pay \$905 sanctions.</p> <p>On 3-26-12, RICK ROSS and RICHARD ROSS opened a new case 12CEPR00278 and filed a new Petition to Compel Accounting, Surcharge and Remove Trustee. The matter was continued, and on 6-5-12, an Amended Petition was filed.</p> <p>On 7-5-12, the matter was set for trial on 2-5-13, which was continued to 2-19-13.</p> <p>On 2-14-13, the parties reached settlement and were ordered to file agreement. However, at status hearing on 4-5-13, no agreement had been filed, and the Court continued the matter (See Page 6) and also set this outstanding matter 09CEPR00285 for status hearing on the Second Amended Complaint that has been outstanding since 2010.</p> <p>09CEPR00285 Update: Richard Ross filed an Application to Set Case for Trial on 4-18-13. Susan Ross Alley filed Defendant's Objection on 5-2-13.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: There are numerous cases regarding this decedent and his testamentary trusts involving these parties:</p> <ul style="list-style-type: none"> • 0557330-8 Estate of Earl Jackson Ross (Estate settled 9-29-97; Created testamentary trusts: Earl J. Ross Marital and Earl J. Ross Family Trusts) • 04CEPR00370 Earl Jackson Ross Trust Affirmed on appeal 4-12-10. (Examiner has not reviewed that file at this time to determine what the judgment was that was affirmed.) • 05CECG01626 Rick Ross vs. Susan Alley (dismissed, dismissal affirmed on appeal 7-18-07) • 08CECG02515 Richard Ross vs. Susan Alley Contained two causes of action and a <u>prayer to reopen the original probate</u>, and for damages and costs. Specifically, Plaintiff sought to determine ownership of the <u>Idaho property</u> where he resided with Decedent, alleging it was fraudulently transferred to Ms. Alley in 1994. An Amended Complaint was filed 8-17-09. A Demurrer was filed and it was ruled to transfer the case to Probate as 09CEPR00285 Matter of Earl Jackson Ross. • 09CEPR00285 Matter of Earl Jackson Ross 1-25-10 Judge Kazanjian signed an order on the Demurrer overruling the first cause of action (extrinsic fraud) and sustaining the second cause of action (breach of fiduciary duty) with leave to amend. Second Amended Complaint was filed 2-4-10; Answer filed 3-22-10. Richard Ross filed Notice of Motion to Compel Further Responses to Discovery Requests on 9-2-10; granted 12-16-10 with \$905 sanctions. • 12CEPR00278 Earl J. Ross Marital and Earl J. Ross Family Trust (Rick Ross, Richard Ross, Petitioners, v. Susan Clarke Ross Alley) <p>Reviewed by: skc</p> <p>Reviewed on: 5-14-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 5 – Ross</p>
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FTB Notice		

		RICK ROSS and RICHARD ROSS filed an amended petition on 6-5-12 to compel accounting, surcharge and remove trustee .	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 4-5-13</u> Minute Order 4-5-13: Court also sets status for related case 09CEPR00285 on 5-17-13 at 9am in Dept 303.
		SUSAN ALLEY filed Objection on 6-29-13.	
		Minute Order 2-14-13: Parties reach a settlement agreement as fully set forth by the Court. Counsel is directed to prepare the agreement. The trial date of 2-19-13 is vacated.	1. Need agreement per minute order 2-14-13 or dismissal. <u>Previously noted:</u> 2. This Petition opened a new case; however, there is already an open probate case regarding this matter, as referenced in the Petition. <u>If this matter goes forward, the Court may consolidate this case with Matter of Earl Jackson Ross, Case No. 09CEPR00285.</u> <i>Note: Petitioner Rick Ross' Second Amended Complaint filed 2-4-10 is currently outstanding in 09CEPR00285 (Answer filed 3-22-10). The Court may require status of that complaint.</i> <i>Note: See Page 5 re status on 09CEPR00285.</i>
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Petition of Beneficiary to Remove Successor Co-Trustees, Appoint Temporary Successor Trustee, and for Payment of Attorneys' Fees and Costs (Probate Code 15642, 16000, 16002, 16003, 16004, 16006, 16007, 16009, 16060, 16062, 17200, 17206)

Frank K. Ishii DOD: 11-10-93	GERALD ISHII , Beneficiary and Co-Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:			
Lily Y. Ishii DOD: 3-7-05	Petitioner states he and LESLIE ISHII (Respondent) were named successor co-trustees of the ISHII FAMILY TRUST	Continued from 7-2-12, 7-27-12, 8-31-12, 9-27-12, 11-26-12, 1-14-13, 2-25-13, 3-29-13			
	DATED 3-3-92 (the "Trust") . The Trust consisted of interests in 8 parcels of real property, stocks, bonds, securities, cash, and other assets in Prudential-Bache Securities, and 300 shares of common stock in Frank K. Ishii & Sons, Inc. , a California corporation owned by the Settlor.	Status Report filed 1-7-13 by Attorney Fanucchi states further continuance is needed. Gerald Ishii maintains his brother Leslie is wasting the vineyard known as Candy Ranch by inappropriately pruning, tying, tilling, chemical control, and irrigating control which has diminished the value of the realty.			
Cont. from 070212, 072712, 083112, 092712, 112612, 011413, 022513, 032913	At the death of Frank K. Ishii on 11-10-93, two irrevocable and one revocable sub-trusts were created:	Status Report filed 1-9-13 by Attorney Burnside states inquiry has been made to Les' accountant Jim Horn whether he has any documents in his possession regarding the expenses Les incurred to operate the Candy Ranch, but Mr. Horn has been unable to review his files due to his year-end workload. Counsel will follow up this week.			
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<table border="1"> <tr> <td><input checked="" type="checkbox"/></td> <td>Verified</td> <td></td> </tr> </table>	<input checked="" type="checkbox"/>	Verified		On 3-15-95, Lily Ishii , individually and as Trustee of the Trust, assigned a 36.44% interest to the FRANK K. ISHII TRUST , a 13.56% interest to the ISHII FAMILY MARITAL DEDUCTION TRUST , and a 50% interest to the ISHII FAMILY SUIVOR'S TRUST of the assets listed on Exhibit F, including accrued rent payable from the corporation of \$105,548 as of 11-10-93, a receivable due from the corporation of \$26,089 as of 11-10-93, and a proprietorship known as Lily's Hair Stylists consisting of furniture and fixtures, cash, supplies, inventory and goodwill.	Status Report filed 2-19-13 by Attorney Fanucchi states Gerald Ishii is unable to accept or reject what has been presented to date and has forwarded information to his accountant. Further continuance is needed.
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<table border="1"> <tr> <td><input type="checkbox"/></td> <td>Order</td> <td>X</td> </tr> </table>	<input type="checkbox"/>	Order	X	Lily Ishii died on 3-7-05 and he and LESLIE ISHII (Respondent) became Co-Trustees.	Status Report filed 2-19-13 by Attorney Burnside states the accountants had to reschedule their meeting and further continuance is needed.
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<table border="1"> <tr> <td><input type="checkbox"/></td> <td>Aff. Posting</td> <td></td> </tr> </table>	<input type="checkbox"/>	Aff. Posting		Pursuant to Section 5.02 of the Trust, the three sub-trusts were to be combined on the death of the surviving settlor and certain distribution was to occur:	Reviewed by: skc
<input type="checkbox"/>	Aff. Posting				
<table border="1"> <tr> <td><input type="checkbox"/></td> <td>Status Rpt</td> <td></td> </tr> </table>	<input type="checkbox"/>	Status Rpt		<ul style="list-style-type: none"> • \$75,000.00 to Sharon J. Shoji (daughter) • One-half of the remaining balance to Gerald • One-half of the remaining balance to Leslie 	Reviewed on: 5-13-13
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<table border="1"> <tr> <td><input type="checkbox"/></td> <td>UCCJEA</td> <td></td> </tr> </table>	<input type="checkbox"/>	UCCJEA			Updates:
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SEE PAGE 2

PAGE 2

As to the corporation: Petitioner and Leslie each hold 300 shares individually and the Trust holds 300 shares. Petitioner and Leslie as individuals and as Co-Trustees may vote an equal number of shares, but have been in a deadlock as to the operation of the corporation since approx. 2007. As such, the corporation's status has become suspended with many tax liabilities remaining outstanding, which continues to decrease the value of the corporation.

A meeting of the directors of the corporation was noticed on 6-3-10 by Gerald, who is secretary; however, the meeting did not occur because Leslie found the principal place of business of the corporation to be an inconvenient meeting location, although it is approx. one mile from her home. No meetings have occurred since. Because the corporation is one-third owned by the trust, the deadlock between the Co-Trustees is impairing the administration of the Trust and causing trust assets to lose value.

Petitioner requests that the Court remove both Co-Trustees of the Trust and subtrusts because due to hostility and lack of cooperation among Co-Trustees, administration of the Trust and sub-trusts continue to be impaired and trust assets neglected. Probate Code §§ 15642(a)(3), 17200(b)(10). The Trust does not appoint a successor trustee in the event of removal; rather, it provides only the manner of successor appointments should one of the two become unable to perform. Petitioner requests appointment of **BRUCK BICKEL** as Successor Trustee with compensation to be approved by the Court. Mr. Bickel consents to act. Petitioner requests appointment without bond for one year to allow the corporate affairs to be brought to order, with authority to apply for an extension by Mr. Bickel should the corporate affairs remain unresolved and the Trust assets undistributed. Petitioner believes this appointment is in the best interests of the Trust and sub-trusts, and those persons interested in the Trust estate.

Petitioner requests that:

- 1. The Court temporarily and partially remove Gerald Ishii and Leslie Ishii as Co-Trustees of the ISHII FAMILY TRUST DATED 3-3-92;**
- 2. The Court appoint Bruce Bickel as temporary Successor Trustee to serve without bond for a period of one year, with the ability of Mr. Bickell to petition the Court for additional time should the corporate affairs remain deadlocked;**
- 3. The Court award reasonable compensation to the temporary Successor Trustee;**
- 4. The Co-Trustees to deliver the Trust assets to the temporary Successor Trustee within 30 days after issuance of an Order;**
- 5. The Court order Leslie Ishii to file an accounting with the Court detailing their respective acts as Co-Trustees no later than four weeks after the Court makes its order;**
- 6. The Court order Petitioner's attorneys' fees in the amount of \$1,000.00 and costs advanced to be paid to such attorneys directly from the Trust, to be charged 100% to income, and paid within 10 days after the Court makes its order; and**
- 7. Such further orders as the Court deems proper.**

SEE PAGE 3

PAGE 2

Objection of LESLIE ISHII states this probate proceeding is not the proper forum or vehicle to resolve such corporate issues. This lawsuit is premature at best and legally inapposite to the issues it proposes to resolve at worst. The corporation is deadlocked; however, the instant petition filed as a trust proceeding does not request any form of relief that will serve to end the shareholders' deadlock and restore the corporation to operational status. Specifically, the appointment of a neutral third party trustee will not resolve any issues with regard to the operation of the corporation. While a trustee may have the right to vote shares of stock held in trust, a trustee's paramount duty is to distribute trust property pursuant to the terms of the trust instrument. Here, the trust instrument requires the residue be distributed one-half each to Petitioner and Respondent. If a neutral third party trustee is appointed, he will be obligated to distribute the shares held in trust accordingly, not to vote the shares, and, in effect run the business of the corporation.

Respondent has no objection to the immediate equal distribution of the shares of the corporation currently held in trust. In the likely event that said distribution does not resolve the deadlock, however, Petitioner's only recourse will be to file a lawsuit for involuntary dissolution in the unlimited civil department of the Superior Court.

Respondent requests that the Court issue an order requiring the Co-Trustees to immediately distribute 150 shares of Frank K. Ishii & Sons, Inc., each to Petitioner and Respondent, and for reasonable attorneys' fees and costs incurred herein.

Alternatively, Respondent requests the Court issue an order removing Petitioner and Respondent as Co-Trustees, but only as to their fiduciary ownership of the Trust's 300 shares of Frank K. Ishii & Sons, Inc.; appointing Bruce Bickel as temporary successor trustee without bond solely for the purpose of administering the Trust's 300 shares of Frank K. Ishii & Sons, Inc.; authorizing Mr. Bickel to petition to continue to serve should it be in the best interests of the beneficiaries or the affairs of the corporation that he remain in such role; awarding reasonable compensation to the temporary Successor Trustee; requiring the Co-Trustees to deliver the shares of Frank K. Ishii & Sons, Inc., to the temporary Successor Trustee by a date certain; for reasonable attorneys' fees and costs incurred herein; and for any and all other relief the Court deems just and proper.

Status Conference

Frank K. Ishii DOD: 11-10-93	GERALD ISHII , Beneficiary and Co-Trustee, filed the petition at Page 6A on 5-17-12.	NEEDS/PROBLEMS/COMMENTS:		
Lily Y. Ishii DOD: 3-7-05	LESLIE ISHII , Beneficiary and Co-Trustee, filed an objection on 6-21-12.	Note: See Page 6A for details of the petition and file to date.		
Cont. from 032913	Hearings have been continued since 7-2-12 (8 total, including this hearing).			
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Reviewed by: skc
Reviewed on: 5-13-13
Updates:
Recommendation:
File 7B - Ishii

8A Estate of George Anderson & Rose Anderson (Trust) Case No. 13CEPR00085

Atty Sullivan, Robert L. (for George H. Anderson, Jr., Barbara J. O'Bar, and Cheryl M.

Black – children/Petitioners)

Atty Flanigan, Philip M. (for Steven Anderson and Ida Anderson – Objectors)

Petition for: (1) Neglect [W&I C. 15610.57]; (2) Financial Elder Abuse [W&I C. 15610.30]; (3) Recovery of Estate Property [Prob. C. 850, et seq.]; (4) Removal of Trustee for Breach [Prob. C. 15642]

George DOD:01/21/12	GEORGE H. ANDERSON, JR. , son, BARBARA J. O'BAR		NEEDS/PROBLEMS/COMMENTS:
Rose DOD: 01/27/12	and CHERYL M. BLACK , daughters, are Petitioners.		
	Petitioners state:		CONTINUED FROM 03/18/13
Cont. from 031813	1. Petitioners are beneficiaries under the terms of the George H. Anderson and Rose M. Anderson Revocable Living Trust dated 05/12/13 (the "Trust").		
Aff.Sub.Wit.		2. Steven M. Anderson, also a son of the decedent's, is trustee of the Trust and also a beneficiary of the Trust.	1. Petition does not include the names and addresses of each person entitled to notice as required by Probate Code 17201. (See also, CA Rules of Court 7.902.) Need supplement to Petition.
✓ Verified		3. Steven Anderson was appointed successor trustee of the Trust following the deaths of the settlors.	
Inventory		4. Under the terms of the Trust, Steven Anderson, George Anderson, Jr., Barbara O'Bar, and Cheryl Black each receive 20% of the Trust assets. The remaining 20% is to be distributed to the settlor's living grandchildren.	2. Need proof of service by mail at least 30 days prior to the hearing to all persons entitled to notice pursuant to Probate Code § 17203.
PTC		5. In approximately 2002, Steven and Ida Anderson (Steve & Ida/Respondents) jointly purchased a piece of property with George & Rose Anderson. Steven and Ida moved onto said property in approximately December 2002 and George and Rose moved onto said property in early 2003. Similar to a duplex, they all lived in one building that was divided into two separate living areas. Steven & Ida lived in 2/3 of the building and George & Rose lived in 1/3 of the building.	
Not.Cred.		6. Just prior to moving onto the property, Rose was diagnosed with Alzheimer's disease and George also suffered from significant health problems and dementia. Steven & Ida voluntarily began caring for George and Rose after they moved onto the property; however they failed to provide the care that George & Rose required as outlined below.	3. Need Order.
✓ Notice of Hrg		7. First, Respondents failed to ensure that George & Rose were eating properly. Despite repeated requests, Respondents failed to monitor or track George & Rose's meals, causing missed meals and poor nutrition.	
✓ Aff.Mail	w/		Note: A Notice of Hearing with proof of service by mail was filed by Petitioners on 03/21/13; however, because the Petition does not list the persons entitled to notice, the Examiner is unable to determine if notice has been sent to all parties as required.
Aff.Pub.			
Sp.Ntc.			Reviewed by: JF
Pers.Serv.			
Conf. Screen			Reviewed on: 05/13/13
Letters			
Duties/Supp			Updates:
Objections			Recommendation:
Video Receipt			File 8A - Anderson
CI Report			
9202			
Order	x		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Continued on Page 2

8. Respondents also failed to provide adequate medical care for physical and mental health needs. Specifically, Respondents refused to take Rose to see her doctor, despite a clear need given her deteriorating condition due to Alzheimer's disease. In fact, Respondents altogether failed to take Rose to a single doctor's appointment after 2008 and even missed scheduled appointments with Rose's primary care physician. Similarly, Respondents failed to take George to the doctor or maintain regular doctor visits.
9. Respondents also failed to protect George and Rose from health and safety hazards. Despite assuming the role of caring for George and Rose, Respondents frequently failed to provide adequate protection from hazards. Respondents routinely unplugged their telephone at night in order prevent George & Rose from waking them up, this directly led to injuries to both George and Rose. Rose was injured early one morning and was bleeding profusely. After repeated failed attempts to obtain assistance from the Respondents, George called Barbara O'Bar. By the time Barbara arrived, there was blood all over the house. This was not the only incident where Respondents were unavailable when George and Rose needed their assistance.
10. Respondents also created health and safety hazards within George & Rose's home. Specifically, Respondents kept and maintained live turkeys in George & Rose's garage. Respondents also maintained a live rabbit inside George & Rose's bathroom. As a result, there were animal feces inside George & Rose's home, causing a severe odor and bugs inside the home. The odor and butts were hazardous to George & Rose's health in light of their weakened physical condition.
11. Respondents also failed to assist in providing property hygiene for George & Rose. Both were often visibly filthy and reeked of body odor when Petitioners visited. George was hospitalized on 12/27/11 and the hospital noted that he had "crystals" around his genitals demonstrating an utter and prolonged lack of proper hygiene. During the same hospitalization, George was also found to be severely dehydrated and was believed to have been for approximately 10-14 days. He was also suffering from stage 4 pressure ulcers on his heels, which were so severe; the hospital notified Adult Protective Services ("APS").
12. In December 2011, after APS was notified of George's condition, APS came to the home and investigated Rose's condition as well. At that time, Rose also demonstrated signs of neglect. She was found to have a pressure sore on her tailbone and was also suffering from a bladder infection and ringworm. Ringworm is commonly associated with and transmitted through animal feces, which Respondents failed to clean from George and Rose's home. Further, it was clear that Rose had not been properly bathed and that her hygiene had been severely neglected. Approximately 2 days after the visit from APS, Rose was taken to the Bedford Group, which is a private care home, where she ultimately died. George also died, just weeks after his hospitalization.
13. **First Cause of Action** (Neglect): At all relevant times, George and Rose Anderson were over the age of 65, with George being 94 at the time of his death and Rose being 89. Respondents, having care or custody of George & Rose Anderson both elders under the Welfare and Institutions Code, failed to exercise that degree of care that a reasonable person in a like position would exercise by 1) failing to assist in providing personal hygiene, 2) failing to provide medical care for physical and mental health needs, 3) failing to ensure provision for food, 4) failing to protect from health and safety hazards, and 5) failing to prevent dehydration. As a direct and proximate result of this neglect and physical elder abuse, Decedents suffered damages in an amount according to proof at trial. In addition, Petitioners are entitled to recover punitive damages, and are also entitled to recover remedies provided for in the Welfare & Institutions Code § 15657, including reasonable attorneys' fees and costs.

Continued on Page 3

14. **Second Cause of Action** (Financial Elder Abuse): For several years prior to Decedent's deaths, Respondents had access to George & Rose's bank account through an ATM card and check book. After gaining access to the bank account, Respondents repeatedly took, appropriated and retained money from George & Rose's account. Despite Respondents' failure to properly care for George & Rose, they routinely paid themselves money from George & Rose's account in order to "compensate" themselves for the care provided. Respondents took, appropriated, and retained said money for a wrongful use and with the intent to defraud George & Rose Anderson. Specifically, Respondents repeatedly withdrew and stole money from Decedent's bank account for their personal gain and without Decedent's knowledge or consent. Petitioners are informed and believe and thereon allege that Respondents wrongfully stole in excess of \$250,000.00 from Decedent's bank account from 2006 until the Decedent's deaths in January 2012. Respondents conduct constituted "financial abuse" within the Welfare & Institutions Code § 15610.30 in that George and Rose were "elders" during the perpetration of the acts of Respondents upon them, and that Respondents tool and appropriated Decedent's property in bad faith to a wrongful use and with intent to defraud, and diminished the resources available to Decedents for their care and support during their lifetime. George & Rose were harmed by Respondent's depletion of their assets. As a direct and proximate result of this financial elder abuse, George & Rose Anderson suffered damages in an amount according to proof at trial. In addition, Petitioners are entitled to recover punitive damages, and are also entitled to recover remedies provided for in the Welfare & Institutions Code § 15657.5, including reasonable attorneys' fees and costs.
15. **Third Cause of Action** (Recovery of Property pursuant to Probate Code § 850): Respondent Steven Anderson holds title and possession to property contained within the Anderson Trust, money held in Decedent's bank accounts at the time of their deaths, and any other property, both real and personal, owned by the Decedent's at the time of their deaths, all of which property rightfully belongs to the Trust. Petitioners claim the right to title and possession of the property as beneficiaries of the Trust.
16. **Fourth Cause of Action** (Removal of Trustee): Prior to George and Rose Anderson's deaths, Steven Anderson committed both physical and financial elder abuse upon George & Rose. He also frequently converted Trust assets for his own use and benefit to the detriment of other beneficiaries. Steven Anderson's conduct was hostile and repugnant to the interests of George & Rose, and to the interests of the Trust. As such, Steven Anderson is not fit or qualified to serve as trustee. Additionally, Steven Anderson committed breaches of trust since assuming the role of trustee. Petitioners are informed and believe that Steven has improperly used Trust funds after appointment as trustee in order to pay attorneys' fees that were incurred for his personal benefit and not the benefit of the Trust. He has further demonstrated hostility towards the other beneficiaries and refused to provide an accounting of Trust assets. In so doing, Steven Anderson breached the fiduciary duties owed to the beneficiaries of the Trust. Namely, Steven Anderson violated the following duties: duty of impartiality (Probate Code § 16003); duty not to use or deal with trust property for the trustee's own profit (§ 16004); duty to preserve trust property (§ 16006); duty to inform (§ 16060); and duty to account (§16061).

Petitioners pray for an Order:

ON THE FIRST CAUSE OF ACTION:

- A. For consequential and special damages proximately cause by Respondents' acts of elder abuse and neglect upon Decedents George & Rose Anderson, according to proof at trial;
- B. For Respondents to be deemed to have predeceased George & Rose Anderson for the purposes of inheritance, pursuant to Probate Code § 259;
- C. For punitive damages, according to proof at trial;
- D. For attorneys' fees and costs; and
- E. For any and all further relief as the Court deems just and proper.

Continued on Page 4

ON THE SECOND CAUSE OF ACTION:

- A. For consequential and special damages proximately cause by Respondents' acts of financial elder abuse occasioned upon Decedents George & Rose Anderson, according to proof at trial;
- B. For Respondents to be deemed to have predeceased George & Rose Anderson for the purposes of inheritance, pursuant to Probate Code § 259;
- C. For a constructive trust compelling Respondents to transfer all wrongfully obtained property to the Trust pursuant to Civil Code § 2223 and 2224;
- D. For punitive damages, according to proof at trial;
- E. For a treble award of damages against Respondents pursuant to Civil Code § 3345;
- F. For attorneys' fees and costs; and
- G. For any and all further relief as the Court deems just and proper.

ON THE THIRD CAUSE OF ACTION:

- A. Directing Respondents to transfer to the Trust the property that was wrongfully removed from the Trust and to execute any documents or file any court proceedings necessary in order to fully complete the transfer;
- B. Directing Respondents to immediately deliver possession of to the Trust property that was wrongfully removed from the Trust;
- C. For statutory damages in the amount of twice the amount wrongfully taken by Respondents, pursuant to Probate Code § 859;
- D. For attorneys' fees and costs; and
- E. For any and all further relief as the Court deems just and proper.

ON THE FOURTH CAUSE OF ACTION:

- A. To immediately suspend the powers of the trustee, appoint a temporary trustee or trustees, and compel the trustee to surrender all Trust property to such temporary trustee(s);
- B. To remove the trustee and to appoint a successor trustee or trustees to take possession of the Trust property and administer the Trust;
- C. To compel the trustee to redress his breaches through the payment of monetary damages;
- D. To deny or otherwise reduce the compensation to the trustee;
- E. To impose a constructive trust on property of the Trust which has been wrongfully converted;
- F. To cause proceedings to trace and recover property and proceeds to with the Trust is entitled; and
- G. For any and all further relief as the Court deems just and proper.

Respondent's Opposition to Petition for (1) Neglect; (2) Financial Elder Abuse; (3) Recovery of Estate Property; and (4) Removal of Trustee for Breach of Trust filed 03/18/13 by Steven Anderson and Ida Anderson admits some facts of the Petition, denies the allegations in the Petition and asserts the following affirmative defenses:

1. Petitioners fail to state facts sufficient to constitute any grounds for the relief requested in their Petition.
2. Petitioners' claims are barred by the applicable statute of limitations.
3. Petitioners lack standing to seek the relief requested in their Petition.
4. Petitioners are barred by the doctrine of unclean hands.
5. Petitioners are barred by the doctrine of laches.
6. Respondents allege that at no time during his lifetime was George Anderson suffering from any form of dementia. In fact, throughout his lifetime, George Anderson had excellent memory function and was aware of his surroundings.
7. Respondents allege that George and Rose Anderson voluntarily paid Respondents and other caregivers to care for them so that they could remain in their own home.

Continued on Page 5

8. Respondents allege that Petitioners have committed acts of perjury in stating that the contents of the Petition are true and correct and that they are within their own personal knowledge.
9. Respondents allege that Petitioners' claims are in bad faith and with the sole intent of extorting money from Respondents and that in doing so, Petitioners are acting with recklessness, oppression, fraud and/or malice.
10. Respondents allege that all assets belonging to the George H. Anderson and Rose M. Anderson Revocable Living Trust remain titled in the name of the trust and have not been distributed or improperly used by Respondents.
11. Respondents allege that at no time has Steven Anderson failed or refused to provide an accounting for the trust during the time period he has acted as trustee nor has he in any way breached his duties and/or responsibilities as trustee under the trust.

Respondent's pray for an Order as follows:

1. Denying Petitioners' Petition;
2. That Petitioners take nothing by way of their Petition; and
3. That Petitioners be ordered to reimburse Respondents for all reasonable costs of suit herein incurred, including all attorney's fees and costs.

8B Estate of George Anderson & Rose Anderson (Trust) Case No.13CEPR00085

Atty Sullivan, Robert L. (for George H. Anderson, Jr., Barbara J. O'Bar, and Cheryl M.

Black – children/Petitioners)

Status Hearing

George DOD:01/21/12	<p>GEORGE H. ANDERSON, JR., son, BARBARA J. O'BAR and CHERYL M. BLACK, daughters, filed a Petition for (1) Neglect; (2) Financial Elder Abuse; (3) Recovery of Estate Property; and (4) Removal of Trustee for Breach of Trust on 01/30/13.</p> <p>STEVEN ANDERSON, son, and IDA ANDERSON, daughter-in-law, filed an Objection to the Petition on 03/28/13.</p> <p>Minute Order from hearing on 03/28/13 set this matter for a status hearing.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need status update.</p>
Rose DOD: 01/27/12		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	Reviewed by: JF	
	Reviewed on: 05/13/13	
	Updates:	
	Recommendation:	
	File 8B – Anderson	

Age: 41	<p>PEGGY NEUENSCHWANDER, mother, was appointed as Limited Conservator of the Person on 12/23/92.</p> <p>Court Investigator Charlotte Bien filed a report on 04/12/13. The report states that the Conservator, Peggy Neuenschwander, suffers from dementia, was hospitalized and could not return to independent living. The Conservator has designated her former daughter-in-law, Peggy David, to act as her power of attorney and the Conservatee is now living with Ms. David and her family. Ms. David states that CVRC is involved and have been very helpful in the transition. Due to the involvement of CVRC and the incapacity of the current conservator, it appears appropriate to terminate the limited conservatorship.</p> <p>Notice of Status Hearing filed 04/10/13 set this matter for a status hearing. Clerk's Certificate of Mailing filed 04/10/13 states that the Notice of Status Hearing was mailed to Sylvia E. Neuenschwander, Brian Neuenschwander, Peggy David, and Glen Gates on 04/10/13.</p>	NEEDS/PROBLEMS/COMMENTS:
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		<p>Reviewed by: JF</p> <p>Reviewed on: 05/14/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 9 – Neuenschwander</p>
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Status Hearing Re: Filing of the Sixteenth Account and Report of Trustees

		<p>MICHAEL PAPPACODA and ANN PAPPACODA, grandparents, have been serving as Trustees of the MICHAEL GOERING IRREVOCABLE SPECIAL NEEDS TRUST since 11/18/96.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>OFF CALENDAR</u> Sixteenth Account filed 05/02/13 and set for hearing on 06/18/13</p>
<p>Cont. from 042613</p>			
<input type="checkbox"/>	Aff.Sub.Wit.	<p>The Fifteenth Account and Report of Trustees was settled on 07/17/12.</p> <p>Minute Order from hearing on 07/17/12 set this matter for status regarding filing of the Sixteenth Account.</p>	
<input type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg		
<input 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 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 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		
			<p>Reviewed by: JF</p>
			<p>Reviewed on: 05/13/13</p>
			<p>Updates:</p>
			<p>Recommendation:</p>
			<p>File 10 – Goering</p>

Status Hearing Re: Settlement Agreement

<p>Louie Friguglietti DOD: 5-11-06</p>	<p>BRUCE BICKEL is Successor Trustee.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
	<p>ELAINE CORY, Beneficiary, filed a petition requesting various relief, including accounting and removal of the successor trustee.</p>	<p><u>Set on 4-17-13, continued from 4-26-13</u></p>
<p>Cont. from 042613</p>		
<p>Aff.Sub.Wit.</p>		
<p>Verified</p>	<p>Minute Order 4-17-13 (Settlement Conf): Parties engage in settlement discussions with the Court. Parties reach a resolution as fully set forth by the Court. The Court indicates for the minute order that this is a compromise and release of all claims and a global settlement of all claims known and unknown. Upon inquiry by the Court, each party individually agrees to the terms and conditions of the settlement. Counsel is directed to prepare the necessary document(s). Matter set for Status Hearing on 4/26/13. If all documents are signed by 4/26/13, no appearances will be necessary.</p>	<p>Note: Notice of Settlement of Entire Case was filed 4-23-13. Thomas Curry, counsel for Elaine Cory, indicates unconditional settlement and payment to be delivered by 4-24-13. However, no agreement has been filed.</p>
<p>Inventory</p>		
<p>PTC</p>		
<p>Not.Cred.</p>		<p>Note: Ex Parte Order Reducing Bond, Release of Surety and Discharge of Trustee was filed 4-30-13; however, no agreement has been filed.</p>
<p>Notice of Hrg</p>		
<p>Aff.Mail</p>		
<p>Aff.Pub.</p>		
<p>Sp.Ntc.</p>		
<p>Pers.Serv.</p>		
<p>Conf. Screen</p>		
<p>Letters</p>		
<p>Duties/Supp</p>		
<p>Objections</p>		
<p>Video Receipt</p>		
<p>CI Report</p>	<p>Minute Order 4-26-13: Katherine Rigby is appearing specially for attorney David Gilmore. Mr. Curry is appearing via CourtCall. Mr. Curry informs the Court that a cashier's check has been received from the trustee, but not from Mr. Gilmore. Ms. Rigby informs the Court that it is her understanding per Mr. Gilmore that some of the money has been paid. The Court approves the release of the Surety and the reduction of bond. Counsel is directed to prepare the order. Continued to: 5/17/13.</p>	
<p>9202</p>		<p>Reviewed by: skc</p>
<p>Order</p>		<p>Reviewed on: 5-13-13</p>
<p>Aff. Posting</p>		<p>Updates:</p>
<p>Status Rpt</p>		<p>Recommendation:</p>
<p>UCCJEA</p>		<p>File 11 – Friguglietti</p>
<p>Citation</p>		
<p>FTB Notice</p>		

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

Age:		NEEDS/PROBLEMS/COMMENTS: <p style="text-align: center;"><u>OFF CALENDAR</u> First and Final Accounting filed 04/19/13 and set for hearing on 05/29/13</p>	
DOD:			
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg		
<input 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 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 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		
			Reviewed by: JF
			Reviewed on: 05/14/13
			Updates:
		Recommendation:	
		File 12 – Chaidez	

Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution (Prob. C. 12200, et seq.)

DOD: 8-29-08		<p>DIANE PICKERING was appointed Executor with Full IAEA without bond and Letters issued on 1-13-09.</p> <p>On 1-26-12, the Court set status hearing for failure to file a First Account or Petition for Final Distribution.</p> <p>Minute Order 3-14-12: Counsel advises the Court that there is an insurance issue that he is trying to resolve.</p> <p>Minute Order 5-2-12: Matter continued to 6-20-12. Counsel is directed to file the required items by 6-20-12.</p> <p>Minute Order 6-20-12: Matter set for status on 9-21-12.</p> <p>Minute Order 9-21-12: No appearances. The Court sets the matter for an Order to Show Cause regarding failure to appear and imposition of sanctions in the amount of \$450.00. Sheldon Feigel is ordered to be personally present on 9-28-12.</p> <p>Minute Order 9-28-12: Counsel advises the Court that he is waiting on the assets from the estate. The Order to Show Cause is dismissed.</p> <p>Minute Order 3-15-13: Counsel informs the Court that they may be administering this matter outside of Probate. Counsel requests a two month continuance.</p> <p>As of 5-13-13, nothing further has been filed.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note: Executor was appointed in January 2009 (over four years ago). This is the 7th status hearing regarding failure to file I&A and account.</u></p> <p>The original petition indicated an estimated estate value of \$130,000.00 in personal property (<i>nature unknown, as I&A has not been filed</i>).</p> <p>Decedent's will devises the entire estate to The Mildred Pearl Rancilio Living Trust.</p> <p><u>As of 5-13-13, nothing further has been filed by the Executor.</u></p> <p><u>The following issues remain:</u></p> <ol style="list-style-type: none"> 1. Need Inventory and Appraisal. 2. Need First Account Current or Petition for Final Distribution pursuant to Probate Code §12200. 3. A Request for Special Notice was filed 4-29-13 by Mary Catherine Cooper, beneficiary of the trust. Any further hearings must be properly noticed by the Executor per Probate Code §1252.
Cont. from 031412, 050212, 062012, 092112, 092812, 031513			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt	X		
UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: skc</p> <p>Reviewed on: 5-13-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 13 - Rancilio</p>	

Probate Status Hearing Re: Failure to File Seventh Account

		The 6 th Account of BEVERLY MILLER, Mother and Trustee with bond of \$128,000.00 and accounts blocked, was settled on 6-22-11.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 3-29-13</u>
		The 6 th Account covered through 12-31-10.	
Cont. from 032913		On 2-5-13, the Court set this status hearing for failure to file the 7th account.	<u>Minute Order 3-29-13: Counsel is directed to address the issue of the appointment.</u>
Aff.Sub.Wit.		Status Report filed by Attorney Denning (Unverified) states he is the attorney for MATTHEW MILLER, Successor Trustee. Mr. Miller has been unavailable from 1-25-13 to 3-15-13 while teaching at New York University. The attorney is informed that the trust's accountant will have the information necessary for him to prepare the final accounting by 4-1-13. The trustee will file his final accounting of the trust as soon as possible thereafter but no later than 5-15-13.	<u>As of 5-13-13, nothing further has been filed. The following issue remains:</u>
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		1. A Nomination of Successor Trustee signed by Beverly Miller on 11-15-11 nominates Matthew Miller to serve as trustee without bond effective on her death or inability to serve. Matthew Miller accepted the nomination.	
Status Rpt		<u>However, Matthew Miller has not been appointed successor trustee by the Court pursuant to any petition or Probate Code, and bond cannot be waived by nomination.</u>	
UCCJEA		Examiner notes that Court records in the related conservatorship that the beneficiary Alison Miller has passed away, and it further appears that Beverly Miller <i>may have also</i> passed away based on a brief search of available Court records; <u>however, no information regarding these circumstances has been provided to the Court in this trust file.</u>	
Citation		<u>Therefore, need clarification and final account for periods 1-1-11 through date of death, and subsequent period pursuant to Probate Code §2620(b), or petition for appointment of Matthew Miller, or other petition under appropriate authority, with appropriate notice as required.</u>	
FTB Notice		Reviewed by: skc	
		Reviewed on: 5-13-13	
		Updates:	
		Recommendation:	
		File 14 - Miller	

Atty Marshall, Jared C. and Burnside, Leigh (for Colleen Pendergrass and Cathleen McClintic – daughters)

Atty Kruthers, Heather H. (for Public Guardian – Conservator)

Atty Sanoian, Joanne (for Marlene Hubbell – daughter)

Atty Wright, Janet (for Joseph McClintic – Conservatee)

Atty Brungess, Julia (for Marguerite McClintic – spouse)

Status Hearing Re: Revised Settlement Agreement

Age: 84	A Status Conference Re: Settlement Agreement was held between the parties on 03/08/13.	NEEDS/PROBLEMS/COMMENTS:
Cont. from 042613	Minute Order from 03/08/13 states: Order Appointing Court Approved Reporter as Official Reporter Pro Tempore is accepted and signed by the Court. Parties engage in further settlement discussions with the Court off the record. A revised settlement agreement is reached as fully stated on the record. Parties also agree that the permanent petition for conservatorship will be withdrawn without prejudice. The Court directs Ms. Burnside to reduce the revised agreement into writing. Ms. Hubbell is ordered to continue providing Mr. Marshall bank statements monthly including online statements.	CONTINUED FROM 04/26/13
Aff.Sub.Wit.		Minute Order from 04/26/13 states:
Verified		Order Appointing Court Approved Reporter Pro
Inventory		Tempore is signed by the Court. Ms. Sanoian informs the Court that she has not had an opportunity to review the response with her client. Matter continued to 05/17/13. The Court directs all counsel to meet and confer regarding the outstanding issues.
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen	Status Hearing Report and Request for Correction of Minute Order Due to Clerical Error filed 04/26/13 by Marlene Hubbell states: At the hearing on 03/08/13, although there were discussions regarding settlement, significant concerns regarding many matters were not addressed. An agreement was <i>not</i> reached on the record, and the proceedings were terminated without consensus of all the parties as to the settlement terms. There is currently no settlement agreement in place. The Court instructed Dowling, Aaron, Inc. to prepare a proposed settlement agreement. On 03/14/13, attorney Leigh Burnside circulated a proposed settlement agreement. On 04/04/13, attorney Joanne Sanoian e-mailed Ms. Burnside with a number of important questions regarding her proposed settlement agreement, necessary terms of her proposed settlement and how the terms of the settlement were to be effectuated. A response to the e-mail from Jared Marshall was received on 04/24/13. The responses did not address all the issues raised in the e-mail to Ms. Burnside. Further, at the March 8, 2013 hearing, Mr. Marshall represented that online banking information was incomplete. After the hearing, Mr. Marshall was asked specifically what he thinks is incomplete, and he was unable to provide any answer but offered to "look into it". To date, no specifics have been articulated regarding this questionable assertion.	
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		Reviewed by: JF
UCCJEA		Reviewed on: 05/13/13
Citation		Updates:
FTB Notice		Recommendation:
	A 4 day trial in the dissolution matter has been scheduled to begin on 07/09/13. A federal lawsuit against postal worker has been filed and Marlene Hubbell has been appointed Guardian Ad Litem in that proceeding. The minute order from 03/08/13 incorrectly states that "a revised settlement agreement is reached as fully stated on the record". It is requested pursuant to CCP § 473(d) that the minute order be corrected to accurately reflect that the parties had <i>not</i> reached a settlement agreement on that date, nor placed such agreement on a formal record, and that a proposed agreement was requested to be placed in writing so its full details could be reviewed and considered by all parties. It is further requested that a trial date be set in this matter on a date subsequent to the trial of the dissolution action.	File 15 – McClintic

Continued on Page 2

Status Report filed 04/25/13 by Colleen Pendergrass states: Pursuant to the Court's minute order from a hearing on 03/08/13, Leigh Burnside, counsel for Petitioner, prepared a revised written settlement agreement in accordance with the terms that had previously been read into the record as well as the Court's March 8, 2013 Order. The written settlement agreement prepared by Ms. Burnside has not yet been executed by Respondent Marlene Hubbell. Counsel for Respondent and counsel for Petitioner are still discussing the following issues:

- a. Since Cathleen McClintic has not formally appeared in this proceeding, how will the Court have jurisdiction over her for purposes of enforcing the settlement agreement?
- b. Will Cathleen be joined as a party and stipulate that the acts pleaded in the Petition are her own as if she had pleaded and sworn to them herself?
- c. Since Marguerite McClintic has not formally appeared in this proceeding, how will the Court have jurisdiction over her for purposes of enforcing the settlement agreement?
- d. Will Marguerite be joined as a party and stipulate that the acts pleaded in the Petition are her own as if she had pleaded and sworn to them herself?
- e. What consideration is Cathleen giving in exchange for the settlement of this matter?
- f. What consideration is Marguerite giving in exchange for the settlement of this matter?
- g. Why should the Petition be dismissed without prejudice?

Petitioner Colleen Pendergrass takes the following positions with regard to these issues:

- a. Cathleen will sign the settlement agreement. A term can be included that explicitly states that she is submitting to the jurisdiction of this Court. Furthermore, Cathleen is subject to the jurisdiction of the Court as a party interested in the conservatorship of her father.
- b. Joining Cathleen as a party to the petition in the manner contemplated by Respondent is unnecessary.
- c. Marguerite does not need to be a party to the settlement agreement. The terms of the settlement on the record only not that Marguerite will enter into similar agreements in the family law proceeding. Those terms take into consideration the fact Marguerite could decide to leave her estate to her daughters in equal shares and explains what will happen if she does not. As a matter of fact, Marguerite has already made changes to her estate plan that conforms to the terms of the settlement read into the record and provides copies of her new estate plan to all counsel prior to the last status conference in this matter.
- d. Joining Marguerite as a party to the Petition in the manner contemplated by Respondent is unnecessary.
- e. Notwithstanding the language of the March 8, 2013 minute order, Petitioner is willing to withdraw her petition with prejudice.

Following the 03/08/13 status conference, Respondent has still failed to provide bank statements to Ms. Burnside or Mr. Marshall pursuant to the terms of the settlement read into the record by the Court and the Court's March 8, 2013 minute order. Additionally, for the past several months, Respondent has failed to provide her once customary reports of Mr. McClintic's health and medical treatment.

Status Report of Counsel for Joseph Robert McClintic filed 04/25/13 states: a revised draft of the Settlement Agreement was received on 03/14/13 from attorney Leigh Burnside. At an initial meeting with Mr. McClintic to discuss the settlement, he indicated that dealing with matter is stressful and he did not wish to discuss the settlement on that day. At a subsequent meeting on 04/25/13, Mr. McClintic reviewed the revised draft and requested that certain modifications be made. Those modification requests will be submitted to counsel prior to the hearing on 04/26/13.

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 08/30/12	<p>KATRINA BEST KENDALL, daughter, was appointed Administrator with full IAEA and bond set at \$260,000.00 on 11/26/12. Letters were issued on 12/06/12 upon the filing of the bond.</p> <p>Minute Order from hearing on 11/26/12 set this matter for status regarding filing of the Inventory & Appraisal.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 04/26/13</u> Minute Order from 04/26/13 states: No appearances. Matter continued to 05/17/13. Mara Erlach is ordered to be personally present on 05/17/13 if the Inventory & Appraisal is not filed by 05/17/13.</p> <p>A copy of the Minute Order was mailed to Mara Erlach on 05/02/13.</p> <p>As of 05/13/13, nothing further has been filed in this matter.</p> <p style="text-align: center;">1. Need Inventory & Appraisal.</p>
Cont. from 042613		
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: 05/13/13</p> <p>Updates:</p> <p>Recommendation: File 16 – Best</p>

Age: 67	<p>CHRISTINA TOLMAN, daughter, was appointed Conservator of the Person and Estate with bond set at \$38,920.00 on 10/30/12.</p> <p>Inventory & Appraisal filed 03/21/13 - \$328,440.00.</p> <p>Ex Parte Application to Increase Bond filed 03/21/13, requested to increase the conservator's bond by \$319,064.80 for a total bond of \$357,984.80.</p> <p>Ex Parte Order Increasing Bond filed 03/22/13 set this matter for status regarding filing of the increased bond.</p> <p>Status Conference Statement filed 05/10/13 states: the Conservator has paid the premium for the bond and is now awaiting issuance of the bond documents to be filed with the Court. She will make every effort to file the bond before the status hearing.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>CONTINUED FROM 04/26/13</p> <p>1. Need bond in the amount of \$319,064.80.</p>
DOB: 08/31/45		
Cont. from 042613		
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: 05/13/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 17 – Tolman</p>	

Age: 83	<p>DIANA RODRIGUES, daughter, was appointed Conservator of the Person and ROBERT CHREST, son, was appointed Conservator of the Estate with bond set at \$161,916.00 on 01/10/13.</p> <p>Letters of Conservatorship (of the Person) were issued to Diana Rodrigues on 01/25/13.</p> <p>Status Report filed on 05/17/13 states that Robert Chrest was appointed as conservator of the estate with bond in the amount of \$161,916.00 but has been unable to acquire a bond and therefore, failed to qualify as Conservator of the Estate and no Letters have been issued to Mr. Chrest. Petitioners, Diana Rodrigues and Robert Chrest, are proceeding with an Amended Petition to Appoint Probate Conservator to appoint the Public Guardian as Conservator of the Estate.</p> <p>Amended Petition for Appointment of Probate Conservator filed 05/07/13 and set for hearing on 06/19/13.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
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		
		Reviewed by: JF
		Reviewed on: 05/14/13
		Updates:
		Recommendation:
		File 18 – Chrest

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 05/29/10		<p>DEBORAH GURRY, spouse, was appointed as Administrator without bond with full IAEA on 01/08/13.</p> <p>Letters of Administration were issued on 01/14/13.</p> <p>Minute Order from hearing on 01/08/13 set this matter for status regarding filing of the Inventory & Appraisal.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Inventory & Appraisal.</p>	
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				
				Reviewed by: JF
				Reviewed on: 05/14/13
		Updates:		
		Recommendation:		
		File 19 – Gurry		

Age: 9	<p>JAMES BEEBE and YVETTE BEEBE, parents, were appointed Co-Guardians of the Estate on 10/03/12. Letters were issued on 10/03/12.</p> <p>Receipt & Acknowledgment of Order for the Deposit of Money into Blocked Account filed 11/30/12 - \$9,707.24 deposited on 09/28/12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>OFF CALENDAR</u> I & A filed 04/12/13</p>
Cont. from 031513, 041213		
<input type="checkbox"/> Aff.Sub.Wit.		
<input type="checkbox"/> Verified		
<input checked="" type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg		
<input 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 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 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		
		Reviewed by: JF
		Reviewed on: 05/13/13
		Updates:
		Recommendation:
		File 20 - Beebe

Atty Beebe, James Kern (pro per – father/Co-Guardian of the Estate)

Atty Beebe, Yvette Renee (pro per – mother/Co-guardian of the Estate)

Status Hearing Re: Filing of the Inventory and Appraisal

Age: 8	<p>JAMES BEEBE and YVETTE BEEBE, parents, were appointed Co-Guardians of the Estate on 10/03/12. Letters were issued on 10/03/12.</p> <p>Receipt & Acknowledgment of Order for the Deposit of Money into Blocked Account filed 11/30/12 - \$9,707.24 deposited on 09/28/12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>OFF CALENDAR</u> I & A filed 04/12/13</p>
Cont. from 031513, 041213		
<input type="checkbox"/> Aff.Sub.Wit.		
<input type="checkbox"/> Verified		
<input checked="" type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg		
<input 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 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 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		
		<p>Reviewed by: JF</p> <p>Reviewed on: 05/13/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 21 - Beebe</p>

Status Hearing Re: Filing of Receipt for Blocked Account

Age: 17	SONAE MARSHALL , sister, was appointed Guardian of the Estate on 01/09/13.	NEEDS/PROBLEMS/COMMENTS:
	The Petition stated that the minor was to receive life insurance proceeds in the amount of \$102,000.00.	<u>CONTINUED FROM 04/12/13</u>
Cont. from 022213,	Order to Deposit Money into Blocked Account was filed 01/09/13.	Minute Order dated 04/12/13 states:
<input type="checkbox"/> Aff.Sub.Wit.	Letters were issued on 01/16/13.	No appearance. The Court sets the matter for an Order to Show Cause on 05/17/13 regarding failure to appear and imposition of sanctions in the amount of \$500.00. The Court orders Sonae Marshall to be personally present on 05/17/13. Sonae Marshall is ordered to file a status report one week before the next hearing. In addition, she is to file the receipt for the blocked account before the next hearing.
<input type="checkbox"/> Verified		As of 05/14/13, the following notes remain:
<input type="checkbox"/> Inventory		1. Need Receipt and Acknowledgement of Order for the Deposit of Money into Blocked Account.
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg		
<input 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 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 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		
		Reviewed by: JF
		Reviewed on: 05/14/13
		Updates:
		Recommendation:
		File 22A - Marshall

Order to Show Cause Re: Failure to Appear; Imposition of Sanctions in the Amount of \$500.00

Age: 17	<p>SONAE MARSHALL, sister, was appointed Guardian of the Estate on 01/09/13.</p> <p>The Petition stated that the minor was to receive life insurance proceeds in the amount of \$102,000.00.</p> <p>Order to Deposit Money into Blocked Account was filed 01/09/13.</p> <p>Letters were issued on 01/16/13.</p> <p>Minute Order from hearing on 04/12/13, set this matter for an Order to Show Cause and states:</p> <p>No appearance. The Court sets the matter for an Order to Show Cause on 05/17/13 regarding failure to appear and imposition of sanctions in the amount of \$500.00. The Court orders Sonae Marshall to be personally present on 05/17/13. Sonae Marshall is ordered to file a status report one week before the next hearing. In addition, she is to file the receipt for the blocked account before the next hearing.</p> <p>Clerk's Certificate of Mailing filed 04/15/13 states that a copy of the 04/12/13 Minute Order and Order to Show Cause were mailed to Sonae Marshall on 04/15/13.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
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		
		Reviewed by: JF
		Reviewed on: 05/14/13
		Updates:
		Recommendation:
		File 22B – Marshall

Probate Status Hearing Re: Filing of Bond

Age:		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>OFF CALENDAR</u> Bond filed 03/22/13</p>
DOD:		
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		
		Reviewed by: JF
		Reviewed on: 05/14/13
		Updates:
		Recommendation:
		File 23 – Thomas

Second Account and Report of Co-Trustees, and Petition for Its Settlement [PC 17200(b)(5) and (9)]

Margaret Mitchell DOD: 9-17-09	SUSAN MITCHELL and ROBERT SMITTCAMP, Co-Trustees, are Petitioners.	NEEDS/PROBLEMS/COMMENTS:
William Mitchell DOD: 4-27-11		
Cont. from 041513, 050813	Accounting: \$ 518,833.66 Beginning POH: \$ 509,320.37 (cash plus note receivable)	Note: The following have been filed since the last hearing:
Aff.Sub.Wit.	Ending POH: \$ 55,754.40 (cash plus mineral interests in Nevada County of nominal value)	<ul style="list-style-type: none"> Confidential billings from Caswell Bell and Hillison LLP were submitted 5-9-13 in sealed envelope for <i>in camera</i> review by Judge Oliver, along with Declaration of Attorney Darlene Azevedo Kelly. The Declaration states the bills are confidential and privileged. The sole question to be addressed is whether the bills impermissibly include any fees for services rendered to one or both of the co-trustees in his or her individual capacity, in connection with litigation currently pending between Gail Burson and one or both of the co-trustees, and in which the firm represents one or both of the co-trustees individually. The account reflects attorneys' fees paid of \$12,722.00. The confidential documents filed herein are copies of the bills.
✓ Verified	<p>Petitioners state on or about October 2011, the Co-Trustees provided a first accounting to the beneficiaries for the period 4-28-11 through 9-30-11, together with a proposed distribution. All beneficiaries consented to distribution and there are no issues pending regarding that account.</p> <p>Distributions during this account period consisted of cash and note payable to each beneficiary.</p>	<ul style="list-style-type: none"> Declaration of Tracy A. Agrall, attorney for Gail Burson. Declaration provides information regarding the activity of the trustees during this account period and about additional litigation that may be relevant, including a dissolution action involving Ms. Stonehouse.
Inventory	<p>Petitioners pray for an order:</p> <ol style="list-style-type: none"> Settling, allowing, and approving the Account; Ratifying, confirming and approving all acts and transactions of the Co-Trustees relating to matters reflected in the Account, and For such other and further order or orders as the Court may deem appropriate. 	Reviewed by: skc
PTC	<p>Objections were filed 5-2-13 by Gail Burson.</p>	Reviewed on: 5-13-13
Not.Cred.	<p style="text-align: center;"><u>SEE PAGE 2</u></p>	Updates:
✓ Notice of Hrg		Recommendation:
✓ Aff.Mail w		File 25 - Mitchell
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
✓ Objections		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCC/JEA		
Citation		
FTB Notice		

Page 2

Objections to Approval of Second Account and Report of Co-Trustees filed 5-2-13 by Gail Burson states:

- The petition fails to disclose the existence of mineral interests.
- The petition alleges fees paid for services were charged one-half to income and one-half to principal when the account shows certain charges are allocated entirely to principal.
- The petition is inconsistent with the Special-Purpose Financial Statements and Supplemental Schedules Complied 10-1-11 to 4-30-12. Objector states the accountant's report provided in July 2012 (the "April Accounting") addresses a portion of the time period in the report currently before the Court. For whatever reason, rather than seeking approval of the April Accounting, an entirely new version is created and presented for approval here that contains material changes.

Specifically, the April Accounting shows disbursements of \$17,000 to each beneficiary. Here, these disbursements are gone, with no explanation. Also, fees paid for services rendered by accountants and attorneys are treated differently.

Objector had been waiting for what was represented to be the "final accounting" for months. An email from trustees indicated that final distributions were expected in May. Objector received answers and requested information to address her concerns for all items except the amount of attorney fees expended.

Objector states the final distributions are now held back with no indication when this matter will be wrapped up. Objector requests the Court set a date for closure of this trust and final disbursement.

- The amount of attorney's fees has not been validated. Objector states the attorney fees since the previous accounting were significantly higher in the April Accounting than in the first accounting. Because the attorneys were also defending one of the co-trustees in a separate litigation matter brought by Objector, it was important to insure that the Trust was not paying for the defense of an individual. The attorney refused to provide records, claiming attorney client privilege. Objector suggested a third party neutral review the entries to determine if they were properly chargeable to the Trust. Objector received no response. Rather, this action of approval of a different accounting was filed four months later.

Objector requests that this Second Account be amended to show the mineral interest as an asset of the trust, an explanation of the allocation of fees and why disbursements are being withheld. Objector renews her request for an examination of the attorney fee records to make sure they are proper charges to the trust, and requests that the Court set a date for a final distribution of assets and closure of the trust.

Note: No order on the Objections was submitted.