1 **Michael Goering (Special Needs Trust)** **Case No. 0575302**

Atty **Knudson, David N. (for Michael Poppacoda and Ann Poppacoda – Trustees)**

Fifteenth Account and Report of Trustees, and Petition for Its Settlement, for Approval and Allowance of Trustees' Compensation and Attorney's Fees

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

MICHAEL PAPPACODA and **ANN PAPPACODA**, Trustees, are petitioners.

Account period: 01/01/11 – 12/31/11

Accounting - **$187,472.38**
Beginning POH - **$154,821.51**
Ending POH - **$153,816.94**

Bond has been waived.

Trustees - **$ 4,838.17**(1% of the value of the assets for general services totaling $1,538.17 plus 66 hours @ $50/hr ($25/hr for each trustee) for specific services such as taking the beneficiary to the doctor, social outings and time spent maintaining trust equipment (van, wheelchair repair, etc.))

Attorney - **$2,318.75** (per itemization and declaration, 7.05 hrs at $275/hr. attorney time and 4.75 hrs @ $80/hr. paralegal time)

Costs - **$271.20** (filing fee and postage (more than 10 people)

Petitioners pray as follows:

1. That the Fifteenth Account and Report of Trustees is approved, allowed and settled;
2. That all acts and transactions of the Trustees and shown in the account be approved;
3. That the Trustees be allowed the sum of $4,838.17 for their services as Trustees;
4. That the Attorney for the Trustee be allowed the sum of $2,318.75 for his legal services rendered to said Trustees plus costs of $271.20 during the account period.

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: JF

Reviewed on: 05/31/12

Updates:

Recommendation:

File 1 - Goering

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

2A **Norvell Brown, Sr. (Estate)** **Case No. 08CEPR00473**

Atty **Franco, Paul C. (for Administrator Michele L. Brown)**

Probate Status Hearing Re: Filing of Bond and/or Issuance of Letters

DOD: 10/24/2007	**MICHELE L. BROWN** was appointed Administrator on 7/21/2008 with bond set at $150,000.00. **Bond has not been filed and Letters have not issued.** This status hearing was set for the filing of the bond and the issuance of Letters. Notice of Status Hearing was mailed to Attorney Paul Franco and Administrator Michele Brown on 2/21/12.	**NEEDS/PROBLEMS/COMMENTS:** **Continued from 4/10/12. Minute order states** Darlene Kelley appeared via court call. Ms. Kelley informs the court that they might need to be relieved as counsel. Public Administrator could be appointed and needs to attend the hearing. Michele Brown is order to personally appear on 6/5/12. Please see page 2B Order to Show Cause. 1. **Need Bond or current status report** 2. **Need Letters**
		Reviewed by: KT
		Reviewed on: 5/31/12
		Updates:
		Recommendation:
		File 2A - Brown

Cont. from 041012, 041012

	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	

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

2B **Norvell Brown, Sr. (Estate)** **Case No. 08CEPR00473**

Atty **Franco, Paul C. (for Administrator Michele L. Brown)**

Order to Show Cause: Personal Appearance of Michelle Brown

DOD: 10/24/2007	**MICHELE L. BROWN** was appointed Administrator on 7/21/2008 with bond set at $150,000.00. **Bond has not been filed and Letters have not issued.** A status hearing was set for the filing of the bond and the issuance of Letters. At the hearing on 4/10/12 the Court set this Order to Show Cause hearing and ordered Michele Brown to be personally present. A copy of the Minute Order was mailed to Michele Brown on 4/10/12.	**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		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		**Reviewed by: KT**
Status Rpt		**Reviewed on: 5/31/12**
UCCJEA		**Updates:**
Citation		**Recommendation:**
FTB Notice		**File 2B - Brown**

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

3 Alberta L. Andrews (Estate) **Case No. 08CEPR01015**

Atty Ratzlaff, Ruth E. (for Dale Eugene Andrews – Son – Executor)

Probate Status Hearing for Failure to File a First Account or Petition for Final Distribution (Prob. C. 12200, et seq); Failure to File Inventory and Appraisal

DOD:8-27-07		
Cont. from 022112, 041012		
	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	

DALE EUGENE ANDREWS, Son, was appointed Executor with Full IAEA without bond and Decedent's Will dated 2-18-02 was admitted to probate on 1-13-09. Letters issued on 3-6-09.

On 1-6-12, the Court set this status hearing for failure to file an Inventory and Appraisal and failure to file a first account or petition for final distribution.

Notice was mailed to Attorney Ruth E. Ratzlaff on 1-6-12.

On 2-21-12, counsel requested continuance.

On 4-10-12, Attorney Ratzlaff informed the Court that they are waiting for the I&A from the referee. If I&A and final distribution are filed and approved, no appearances are needed. Matter continued to 6-5-12.

As of 5-31-12, nothing further has been filed.

NEEDS/PROBLEMS/COMMENTS:

Continued from 2-21-12, 4-10-12.

As of 5-31-12, nothing further has been filed. The following issues remain:

1. **Need Inventory and Appraisal.**
2. **Need account or petition for final distribution or current status report.**

Note: The original petition estimated the value of the estate at $200,000.00 (personal property only). The Court may require clarification as to the nature and status of the assets at this time. (Local Rule 7.5)

Note: The decedent's will is a pour-over will that devises the entire estate to the Trustee of the Alberta Andrews Living Trust dated 2-18-02.

Reviewed by: skc
Reviewed on: 5-31-12
Updates:
Recommendation:
File 3 - Andrews

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

4 Jacqueline Jean Johnson (CONS/PE) **Case No. 10CEPR01097**

Atty Janian, Paulette (Court Appointed for Conservatee)

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

Petition for Approval of Attorney's Fees to Court-Appointed Counsel Paulette Janian [Prob. C. 1472, et seq.]

Age: 90		
DOB: 07/15/21		
Cont. from		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	w/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

PAULETTE JANIAN, Petitioner, was Court appointed to represent the Conservatee on 12/28/10.

PUBLIC GUARDIAN, was appointed Conservator of the Person and Estate on 04/22/11.

Petitioner requests fees in connection with the representation of the Conservatee from 04/16/11 – 04/17/12.

Petitioner **asks that she be paid** from the conservatorship estate for **25.125 hours @ $200.00/hour for a total of $5,025.00**.

Services are itemized by date and includes review of documents, visits with client, court appearances, meetings and with conservator, and corresponding with various attorneys regarding issues with the Conservatee's daughter and estate.

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: JF

Reviewed on: 05/31/12

Updates:

Recommendation:

File 4 - Johnson

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

5 Twila Glee Pedersen (Estate) **Case No. 11CEPR00951**

Atty Sullivan, Robert L. (for Susan Ann Hays – Daughter – Administrator – Petitioner)

(1) First and Final Report of Administrator and Petitioner for Its Settlement, (2) for Statutory Attorney's Fees, and (3) for Final Distribution of Estate on Waiver of Accounting

DOD: 7-22-10			
	Aff.Sub.Wit.		
✓	Verified		
✓	Inventory		
✓	PTC		
✓	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	w/o	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	Letters	12-2-11	
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
✓	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
✓	FTB Notice		

SUSAN ANN HAYS, Daughter and Administrator with Full IAEA without bond, is Petitioner.

Accounting is waived.

I&A - $310,000.00 (real property only)
POH - $310,000.00 (real property only)

Administrator – Waived

Attorney (Statutory) - $9,200.00

Costs: $1,198.00 (filing fees, publication, certified copies, etc.)

Distribution pursuant to intestate succession is to Lavern Pederson and Sue Ann Hays, each as to an undivided one-half interest as tenants in common in certain real property in Monterey.

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: skc

Reviewed on: 5-31-12

Updates:

Recommendation: SUBMITTED

File 5 – Pedersen

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

6 **Thomas C. Harrison (Estate)** **Case No. 11CEPR00952**

Atty **Sullivan, Robert L. (for Edwina G. Harrison – Executor/Petitioner)**

First and Final Report of Executor and Petition for Its Settlement, (2) for Statutory Attorneys' Fees, (3) and for Final Distribution of Estate on Waiver of Accounting [Prob. C. 11600, et seq.]

DOD: 01/08/11		
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	12/02/11
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	**9202**	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	**FTB Notice**	

EDWINA G. HARRISON, Executor, is Petitioner.

Accounting is waived.

I & A - **$1,044,158.27**
POH - **$1,067,621.95**
($271,469.10 is cash)

Executor - **waived**

Attorney - **$11,720.79** (less than statutory)

Costs - **$1,198.00** (for filing fees, publication, certified copies)

Distribution, pursuant to decedent's Will, is to:

Edwina G. Harrison and Joy Frantz, Co-Trustees of the Harrison Family Trust dated December 29, 2003 - $271,469.10 cash, plus assets held at TD Ameritrade Acct. No. 8xx-xxx067

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: JF

Reviewed on: 05/31/12

Updates:

Recommendation: SUBMITTED

File 6 - Harrison

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

7A **Re: Jeri L. Shubin 2007 Trust (Trust)** **Case No. 11CEPR01018**

Atty **Keeler, William J. (for Roberto Garcia – beneficiary/Petitioner)**

Atty **Phillips, John W. (for Evelyn Lauderdale – Trustee)**

Petition to Remove Trustee and for Appointment of Successor Trustee; (2) for Surcharge of Trustee; (3) for Order directing Trustee to Return Trust Property to Trust; (4) and for Order Compelling Trustee to Account and Report [Prob. C. §§ 850, 15642, 16064, 17200(b)]

DOD: 06/29/11

Cont. from 01/10/12, 022812, 031312, 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	

ROBERTO GARCIA, Trust Beneficiary, is Petitioner.

Petitioner states:

1. Decedent created the Jeri L. Shubin 2007 Trust (the "Trust") and a pour-over Will on August 23, 2007;
2. Decedent amended the Trust on July 1, 2009 (the "First Amendment");
3. Decedent amended the Trust a second time on December 15, 2009 (the "Second Amendment");
4. Decedent amended the Trust a third and final time on December 13, 2010;
5. Decedent died on June 29, 2011, at which time the Trust became irrevocable;
6. Petitioner is a named beneficiary of the Trust and also was nominated as second successor trustee in the Third Amendment to the Trust;
7. Petitioner states that Evelyn Lauderdale is the current acting trustee;
8. Petitioner states that Evelyn Lauderdale is a contingent beneficiary only, in that she succeeds to the personal property of the Trust only in the event the decedent did not leave a letter of instructions governing the distribution of such property;
9. Petitioner states that Evelyn Lauderdale was present when decedent discussed her estate planning with her attorney as was aware that she was solely a contingent beneficiary and successor trustee of the Trust;
10. Petitioner states that Evelyn Lauderdale was a co-owner of a Chase bank account with the decedent due to the decedent needing assistance in paying bills as her health declined;
11. Petitioner states that decedent owned investment accounts with Merrill Lynch, John Hancock, and Wells Fargo Financial either individually or in her capacity as trustee of the Trust and Petitioner understands that certain individuals, including the Petitioner, were pay-on-death beneficiaries of one of more of these accounts;
12. Petitioner states that Evelyn Lauderdale was not an authorized signer on any of these accounts;

See Page 2 for more information

NEEDS/PROBLEMS/COMMENTS:

<u>CONTINUED FROM 04/23/12</u>
As of 05/31/12, no additional documents have been filed.

<u>Notes</u>:
Consent of Bruce Bickel to serve as neutral third party trustee was filed on 02/01/12.

<u>Note to Judge</u>: The proposed order has a space to write in a successor trustee and a space for a surcharge amount.

Reviewed by: JF

Reviewed on: 05/31/12

Updates:

Recommendation:

File 7A - Shubin

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

13. Petitioner states that in or around May 2011, while the decedent was in the hospital, Evelyn Lauderdale went to Merrill Lynch, John Hancock, and Wells Fargo Financial, and using a durable power of attorney signed by decedent, transferred between $150,000.00 - $250,000.00 from the decedent's investment accounts into the Chase account she co-owned with the decedent;
14. Petitioner states that the decedent did not know about and did not authorize Ms. Lauderdale to make such transfers;
15. Petitioner states that upon the decedent's death, the funds in the Chase account reverted to Ms. Lauderdale by operation of law;
16. Petitioner states that after decedent's death, Ms. Lauderdale closed the Chase account without any accountings having been given to the decedent before her death or to any other person with an interest in the funds, including the Petitioner or other pay-on-death beneficiaries of the investment accounts;
17. Petitioner states that he does not know what happened to the funds that were in the Chase account when Ms. Lauderdale closed the account;
18. Petitioner states that Ms. Lauderdale's removal of the funds from the decedent's accounts, without the decedent's knowledge or consent, constituted fraud on the decedent and on the intended beneficiaries of the accounts, including the beneficiaries of the Trust;
19. Petitioner states that as a result of her wrongful conduct, Ms. Lauderdale has breached her duties as successor trustee of the Trust and holds funds removed from the investment accounts;
20. Petitioner states that Ms. Lauderdale should be removed as trustee of the Trust and should be made to account and report for the funds she took from decedent's investment accounts and for her administration of the Trust estate;
21. Petitioner further states that Ms. Lauderdale, as successor trustee of the Trust, has a fiduciary duty to administer the Trust according to the Trust Instrument and applicable law, keep trust property separate from other property not subject to the Trust and see that the Trust property is designated as property of the Trust;
22. Further, Petitioner states that the Ms. Lauderdale, as successor trustee of the Trust, has a duty to keep the beneficiaries of the Trust reasonably informed of the Trust and its administration;
23. Petitioner alleges that Ms. Lauderdale has taken possession of Trust property and titled it in her own name individually. This property includes, but is not limited to, the funds taken from decedent's investment accounts;
24. Petitioner alleges that Ms. Lauderdale intentionally chose to act to her own benefit instead of to the benefit of the beneficiaries of the Trust, all contrary to her duties and responsibilities as successor trustee;
25. Petitioner also states that Ms. Lauderdale, in her capacity as successor trustee, has intentionally sought to harm Petitioner's interest as a beneficiary of the Trust by bringing a trust contest in the unlimited civil department of Fresno Superior Court (Case No. 11CECG02841), by failing to fully disclose in her pleadings the amendments to the Trust, which grant property to the Petitioner, by failing to disclose the existence of certificates of independent review related to the amendments to the Trust which grant property to the Petitioner, by failing to object to the amendments during the decedent's lifetime despite having been present at the time of their creation, and by seeking a temporary restraining order and preliminary injunction against Petitioner enjoining him from accessing the trailer without filing an unlawful detainer action and without disclosing Petitioner's entitlement to that property under the amendments to the Trust;

Continued on Page 3

26. Petitioner alleges that by her actions, Ms. Lauderdale has intentionally and willfully breached her fiduciary duties to the beneficiaries of the Trust, including Petitioner, thereby causing damage to the Petitioner and the other Trust beneficiaries;

Petitioner requests an Order:

1. Immediately removing Ms. Lauderdale as trustee of the Trust;
2. Appointing a neutral third-party as successor trustee;
3. Directing Ms. Lauderdale to prepare and file an account and report of her administration of the Trust for the period of May 1, 2011 up to and including her removal as successor trustee of the Trust, and set the account and report for hearing upon proper notice;
4. Directing Ms. Lauderdale to turn over to the successor trustee all assets in her possession or control removed from decedent's investment accounts, as well as any other assets properly belonging to the Trust;
5. Surcharging Ms. Lauderdale according to proof;
6. For damages according to proof;
7. For punitive damages in an amount warranted by Ms. Lauderdale's intentional and willful breach of her fiduciary duties;
8. For any other relief the Court deems just and proper.

Evelyn Lauderdale's Opposition to Petition to Remove Trustee and for Appointment of a Successor Trustee; For Surcharge of Trustee; For Order Directing Trustee to Return Trust Property to Trust; and for order Compelling Trustee to Account and Report filed 01/09/12 states:

Respondent, Evelyn Lauderdale specifically admits and denies the various allegations in the Petition.

Respondent states that she is in the process of preparing the statutory accounting for the Trust and states that the accounting should be finalized by late January or early February 2012. Respondent states that several of the allegations in the Petition are best responded to through the accounting and requests that the court defer ruling on this Petition until the accounting has been finalized and submitted to the parties and the Court.

Respondent states that this Petition is a response to litigation filed against the Petitioner based on his actions regarding the decedent and her assets prior to her death. Respondent alleges in that litigation that Petitioner, in a predatory manner, embarked on a scheme to lull decedent into a sense of security by promising to care for all of her needs, when Petitioner secretly intended to loot decedent, her estate and rightful beneficiaries of the assets of the estate by wrongfully coercing decedent to execute amendments to the Trust.

Respondent states that she is pursuing this litigation on behalf of the Trust to restore assets to the Trust to which omitted beneficiaries contend they are entitled. Respondent states that it is questionable whether a newly appointed "neutral" third party successor trustee would pursue such complex litigation.

Respondent further states that she has not transferred any assets of the Trust, other than as instructed by either the Fresno Police Department, her attorneys, or the decedent prior to her death and on that basis denies the suggestion of impropriety.

Continued on Page 4

Respondent requests a judgment as follows:

1. Denying the Petitioners request to remove Respondent as Trustee;
2. Denying the Petitioner's request directing Respondent to prepare and file an account and report for the period beginning May 1, 2011;
3. Denying Petitioner's request that the Respondent turn over all possessions in her control to a successor Trustee;
4. Denying Petitioner's request that Respondent be surcharged;
5. Denying Petitioner's request for damages;
6. Denying Petitioner's request for punitive damages; and
7. Any other relief the Court deems proper.

7B Re: Jeri L. Shubin 2007 Trust (Trust) **Case No. 11CEPR01018**

Atty Keeler, William J. (for Roberto Garcia – Beneficiary)

Atty Phillips, John W. (for Evelyn Lauderdale – Trustee/Petitioner)

Petition to Determine Validity of Purported First and Third Amendments to Trust and to Impose Constructive Trust (Prob. C. 17200, et seq., 21350, et seq; and 21360 et seq)

DOD: 06/29/11

Cont. from 022312, 022812, 031312

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

EVELYN LAUDERDALE, Trustee of the Jeri L. Shubin 2007 Trust, is Petitioner.

Petitioner alleges:

1. Jeri L. Shubin (the "Decedent"), died June 29, 2011, a resident of Fresno County, and left property in Fresno County.
2. On August 23, 2007, Decedent executed a Declaration of Trust known as the Jeri L. Shubin 2007 Trust that called for distribution of its assets as follows:
   a. Personal property to be distributed pursuant to a letter of instruction to the trustee, or in the absence of such a letter, in equal shares to James Shubin and Gary Shubin;
   b. Real property located at 4104 E. Washington, Fresno to Rick Davis;
   c. Any residue, 1/3 to Gary Shubin, 1/3 to James Shubin, and 1/3 to various charities.
3. On July 1, 2009, the Decedent executed a document purported to be the first amendment to the trust. This amendment passes personal property to Marlene Gunion in the absence of a letter to the Trustee; real property at 4104 E. Washington, Fresno to Rick Davis; 31.9 acres of real property to William Buchnoff; real property at 1582 N. Humboldt, a 1991 trailer, a 1997 Ford Explorer, and Bank of America bank account ending in 04563 to Roberto Garcia; and the residue of the estate to be divided 1/3 to Gary Shubin (with certain restrictions), 1/3 to James Shubin (with certain restrictions), and $250,000.00 of the remaining 1/3 to charities named in the original trust, with the balance to Roberto Garcia.
4. On December 15, 2009 the Decedent executed a Second Amendment to her Trust adding a specific distribution of real property located at 2045 W. San Ramon, Fresno to Marlene Gunion.

Cont'd on Page 2

NEEDS/PROBLEMS/COMMENTS:

CONTINUED FROM 04/23/1212

As of 05/31/12, no new documents have been filed.

1. **Need Order.**

Notes:

Consent to Serve as Neutral Third Party Successor Trustee by Bruce Bickel was filed 02/01/12.

Reviewed by: JF

Reviewed on: 05/31/12

Updates:

Recommendation:

File 7B - Shubin

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

5. On December 13, 2010, Decedent executed a document purported to be a Third Amendment to her Trust. This Third Amendment revokes the second Amendment and affirms the First, except that it passes the personal property to Petitioner (Evelyn Lauderdale) in the absence of a letter of instruction; passes the 1991 trailer and real property located at 2045 W. San Ramon, Fresno to Roberto Garcia; and passes the residue of the Trust 1/3 to Gary Shubin (with certain restrictions), 1/3 to James Shubin (with certain restrictions), and the remaining 1/3 to the charities originally designated in the Trust.
6. On May 17, 2011, Decedent executed a Fourth Amendment to the Trust which appointed Petitioner to act as Co-Trustee with the Decedent.

Petitioner request that the Court rescind and nullify the purported First and Third Amendments to the Trust on the following grounds:

A. First Ground: Lack of Capacity
   1. At the time of the alleged execution of the purported Trust Amendments, the Decedent was not of sound and disposing mind. The Decedent did not have the sufficient mental capacity to understand the nature of her actions in executing the purported Trusts, understand and recollect the nature and situation of her property, or remember or understand her relationship to her family members.
B. Second Ground: Undue Influence
   1. The purported Trust Amendments were executed as a direct result of undue influence exerted on the Decedent by Roberto Garcia. This undue influence consisted of the following:
      a. Roberto Garcia was a confidant to the Decedent for approximately 3 years before and up to the time of her death;
      b. Mr. Garcia had a friendly and confidential relationship with Decedent, who trusted and had confidence in Mr. Garcia;
      c. Mr. Garcia took over the decedent's financial affairs'
      d. At the time the amendments were signed and at the time of the Decedent's death, she was aged and infirm, and suffered from memory problems. As a result of these mental infirmities, Decedent was easily influenced and controlled by Mr. Garcia;
      e. Mr. Garcia actively procured the purported Trust as part of a pattern of conduct aimed at gaining control of the Decedent's major assets;
      f. During the last few months of the Decedent's life, Mr. Garcia took active steps to isolate Decedent and prevent her from having contact with family members;
      g. The Trust Amendments confer an undue benefit on Mr. Garcia. Mr. Garcia "moved in" on the Decedent during the last few years of her life, taking over ever greater control of the Decedent's life and financial affairs. Before becoming a confidant to the Decedent, Mr. Garcia had been a stranger to the Decedent.
C. Third Ground: Duress and Menace
   1. The apparent consent of Decedent to the First and Third Amendments to the Trust was obtained by Mr. Garcia's duress and menace. Decedent made statements to persons during the course of executing the purported Amendments that she feared Mr. Garcia and feared not executing the purported Amendments. Petitioner alleges that Mr. Garcia coached and practiced with Decedent what she was supposed to tell the attorney who drafted the purported Amendments, as well as another attorney who executed Independent Certificate of Reviews relating to the Decedent's will. Decedents will passes her entire estate to her Trust. Petitioner states that the Decedent would not have consented to the First and Third Amendments absent the conduct of Mr. Garcia.

Continued on Page 3

D. Fourth Ground: Prohibited Transferee.
   1. Probate Code § 21350 et seq. prohibits Mr. Garcia from succeeding to any interest under the purported First and Third Amendments to the Trust as he was a care custodian to the Decedent as defined under Section 15610.7 of the Welfare and Institutions Code, and the Decedent would have been a dependent adult under the definition set forth in Welfare and Institutions Code § 15160.23 had she been between the ages of 18 and 64. Petitioner further alleges that an independent attorney did review the Decedent's will with her, but according to the Certificates of Independent Review, did not review the purported trust amendments with her.

E. Fifth Ground: Prohibited Transferee.
   1. Mr. Garcia is prohibited by Probate Code § 21360 et seq. from succeeding to any interest under the purported first and third amendments to the trust, as he was a care custodian of the Decedent as defined under section 21362 of the Probate Code and the Decedent was a dependent adult as defined under Probate Code § 21366(a). Petitioner alleges that the purported transfers are presumed to be the product of fraud and undue influence by virtue of Probate Code § 21380, subjecting Mr. Garcia to all costs, including reasonable attorney fees, should he fail to rebut the presumption (See Probate Code § 21380(d)).
   2. Because of the Decedent's lack of capacity, Mr. Garcia's exertion of undue influence, menace and duress over the Decedent, and/or because he was a prohibited transferee, Mr. Garcia holds title to trust assets as well as income therefrom, as constructive trustee for the benefit of persons entitled to distribution of the Decedent's estate. Those assets include cash and other personal property according to proof.

Petitioner prays for an order:
1. Finding the purported First and Third Amendments to the Trust void due to the mental incapacity of the Decedent;
2. Finding the purported First and Third Amendments to the Trust void due to the undue influence of Mr. Garcia;
3. Finding the purported First and Third Amendments to the Trust void due to the duress and/or menace of Mr. Garcia over the Decedent;
4. Declaring that Mr. Garcia holds any and all assets of the Trust that he has received already in trust, for the person entitled to distribution of the estate of the Decedent;
5. For costs of suit herein, including attorney fees, to the extent allowed by law;
6. Finding that Mr. Garcia is a prohibited transferee pursuant to Probate Code § 21350 et seq. and invalidating those provisions of the purported first and third Amendments to the Trust that purport to make gifts to Mr. Garcia.

Objection to Petition to Determine Validity of Purported First and Third Amendments to the Trust and to Impose Constructive Trust filed 02/16/12 by Roberto Garcia denies all of the allegations in the Petition except:
1. That the first amendment purports to convey 31.9 acres to William Buchnoff. Mr. Garcia alleges that the first amendment actually purports to convey 39.1 acres to William Buchnof.
2. That the fourth amendment purports to appoint Petitioner to act as co-trustee with the Decedent.
3. That Mr. Garcia had a friendly relationship with the Decedent.
4. That the address for the SPCA stated in the Petition is correct. Mr. Garcia also admits that McCormick Barstow has filed a request for special notice on behalf of the SPCA.

Mr. Garcia makes the following affirmative defenses:
1. The Petition and each and every cause of action therein does not state facts sufficient to constitute a cause of action against the Respondent.

Continued on Page 4

2. Petitioner lacks sufficient legal standing to maintain each and every cause of action alleged in the Petition.
3. The acts, errors and omissions of Petitioner constitute unclean hands and therefore bar any relief.
4. Petitioner is estopped from pursuing the causes of action set forth in the Petition.
5. The causes of action stated in the petition were not timely filed and are barred by the applicable statute of limitation set forth by California law, including, but not limited to: the California Code of Civil Procedure, California Civil Code, and the California Probate Code.
6. Petitioner has not brought and served in a timely manner but has delayed in bringing and serving suit until a substantial time after the alleged causes of action accrued. This delay worked to the Respondent's prejudice and thus this action and any claim purported therein is barred by the Doctrine of Laches.

Respondent prays for a judgment:

1. That Petitioner take nothing on the basis of her Petition to Determine the Validity of the Purported First and Third Amendments to the Trust and to impose constructive trust;
2. That the first and third amendments be found to be valid trust amendments;
3. That the Respondent be awarded costs of suit herein incurred; and
4. That the Respondent be awarded reasonable attorneys' fees to the extent permissible by contract or statute.

7C **Jeri L. Shubin 2007 Trust (Trust)** **Case No. 11CEPR01018**

Atty **Keeler, William J. (for Roberto Garcia – beneficiary/Petitioner)**

Atty **Phillips, John W. (for Evelyn Lauderdale – Trustee)**

Petition for Preliminary Distribution and Injunction (Prob. C. 17200; CCP 526)

DOD: 06/29/11		
Cont. from 031312, 042312		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	w/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	x
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

ROBERTO GARCIA, Trust Beneficiary, is Petitioner.

Petitioner states:

1. Decedent created the Jeri L. Shubin 2007 Trust (the "Trust") and a pour-over Will on August 23, 2007;
2. Decedent amended the Trust four times during the course of her life, first on July 1, 2009, second on December 15, 2009, third on December 13, 2010, and a final time on May 27, 2011;
3. Decedent amended her Will once on December 13, 2010;
4. Decedent died on June 29, 2011 a resident of Fresno County;
5. Petitioner, Roberto Garcia, was a close friend of Decedent and is a beneficiary of the Trust pursuant to the First, Second, Third and Fourth Amendments. Petitioner is also nominated as the second successor executor in the first codicil to the Decedent's Will;
6. Paragraph 5 of the third amendment to the Trust amends paragraph 6 of the original document to include "The Trustee shall distribute the real property described in Item No. 1 in Exhibit A attached to the Jeri L. Shubin 2007 Trust, with a common address of 2045 W. San Ramon, Fresno, California (APN 415-520-44) to Roberto Garcia, if he survives….";
7. This specific bequest was noT subsequently amended or revoked in the fourth amendment;
8. Evelyn Lauderdale ("Trustee") is the acting trustee of the Trust;
9. There are currently three lawsuits pending between Petitioner and Trustee: a Second Amended Complaint for Damages filed by Trustee that is currently before Honorable Alan J. Simpson in Department 503 of the Fresno Superior Court, a Petition to Determine the Validity of the first and third amendments to the Trust, filed in this Court by the Trustee, and a Petition to Remove Trustee filed in this Court by Petitioner;

Continued on Page 2

NEEDS/PROBLEMS/COMMENTS:

<u>CONTINUED FROM 04/23/12</u>
As of 05/31/12, no additional documents have been filed

1. **Need Order.**

Reviewed by: JF

Reviewed on: 05/31/12

Updates:

Recommendation:

File 7C - Shubin

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

10. In the Second Amended Complaint for Damages, Trustee alleges causes of action for Fraud, Elder Abuse, Conversion, Accounting, Recovery of Funds pursuant to Probate Code § 850, and Undue Influence. In the prayer for relief however, Trustee seeks only the following:
    a. An order invalidating transfers of trust assets of the Plaintiff previously designated for transfer to Defendant Garcia and an order restoring title to the same in the trust;
    b. A declaration of the rights, duties, and obligations of the parties herein;
    c. An order that Defendant be required to account to Plaintiff for misappropriated funds and assets set forth;
    d. An order that Defendant be subject to surcharge under the Probate Code for any interest Defendant may have in trust properties or assets;
    e. For compensatory damages in amount according to proof;
    f. For exemplary and punitive damages;
    g. For interest at the legal rate on the sums alleged pursuant to § 3288 of the California Civil Code;
    h. For attorney's fees pursuant to Welfare and Institutions Code § 15657.5;
    i. For costs of suit, equitable relief, for trial by jury, and other such relief the Court deems just and proper;
    j. For treble damages pursuant to Civil Code §3345; and
    k. For judgment for twice the value of the property recovered as provided by Probate Code § 859.
11. In the Second Amended Complaint, Trustee does not seek an order finding any of the amendments, including the fourth amendment invalid;
12. In the Petition to Determine Validity of Purported First and Third Amendments to the Trust, Trustee seeks only to invalidate the First and Third Amendments to the Trust and does not seek to impair the enforceability of the Fourth Amendment;
13. Because Trustee does not seek to invalidate the Fourth Amendment, Petitioner is entitled to receive the real property at 2045 W. San Ramon, Fresno, CA (the "Property) regardless of the outcome of the ongoing litigation;
14. Petitioner is currently residing in the 1991 Travel Trailer Holra located in the rear of the property at 2045 W. San Ramon. Petitioner began living in the trailer before Decedent's death and with her permission, and Decedent intended for Petitioner to receive both the trailer and the property upon her death, according to the all of the amendments of the Trust;
15. The property at 2045 W. San Ramon is currently vacant and has been since Decedent's death;
16. Because Petitioner is entitled to receive the property pursuant to the terms of the third amendment to the Trust, because the Fourth Amendment to the Trust explicitly republishes the provisions of the Trust as amended, because the outcome of the ongoing litigation will not affect Petitioner's entitlement to the Property, and because the Property is currently vacant, Petitioner requests that this Court order Trustee to distribute the Property to him as a preliminary distribution;
17. Petitioner is entitled to occupy the Property because it was specifically bequeathed to him by the Decedent in the amendments to the Trust and Petitioner will suffer imminent and irreparable harm if he is not permitted to occupy the Property because he is currently expecting the birth of his first child and is being forced to reside in a cramped, ill-equipped trailer located on the same parcel of real property as a house he would be entitled to occupy but for the actions of the Trustee;
18. It is unlikely the Trustee will prevail in invalidating two of the four amendments to the Trust because Decedent obtained certificates of independent review in order to ensure that Petitioner would receive the Property, among other assets, upon her death;
19. The residence on the Property is currently unoccupied, additionally, according to the Trustee, the location of the trailer and Petitioner's presence therein has generated fees and other financial penalties due to zoning violations that have been charged against the Trust. The extent of these fees is such that Trustee has previously attempted to impermissibly evict Petitioner from the trailer through a temporary restraining order filed in connection with the pending lawsuit in Department 503. Consequently, failure to allow

Continued on Page 3

Petitioner to occupy the Property will result in waste to the Trust because the Property will be unoccupied, more expensive (if not impossible) to insure, and will cause additional fees to be charged against the Trust as a result of Petitioner's residence in the trailer;

20. The Trustee and the Trust will suffer no harm in the event that Petitioner is entitled to occupy the Property. In fact, the Trustee and the trust estate stand to benefit substantially if Petitioner is entitled to occupy the Property because Trustee will be able to insure the Property at a reduced rate and will be able to rectify the zoning issues associated with the Trailer.

Petitioner requests an Order:

1. Instructing Trustee to transfer Property to Petitioner pursuant to the Jeri L. Shubin 2007 Trust, as amended;
2. Prohibiting Trustee from taking any action that would prevent Petitioner from occupying the residence located on the Property;
3. Awarding Petitioner attorney's fees and costs as allowed by law; and
4. Granting such other and further relief as the Court may deem just and proper.

Trustee Evelyn C. Lauderdale's Opposition to Petition, filed 3/12/12, <u>both admits certain allegations and denies others</u> and states in part:

- Ms. Lauderdale admits Roberto Garcia is a beneficiary of amendments 1-3 to the Trust, but denies he was a close friend of Decedent or that he is a beneficiary of the 2d and 4th amendments;
- Ms. Lauderdale has filed an action in this Court to invalidate the 1st and 3rd amendments, and said petition is in progress in the Court;
- Per the 3rd amendment (which Ms. Lauderdale seeks to invalidate) Roberto Garcia is to receive the residence, and he will only receive the residence should he prevail;
- Ms. Lauderdale admits the residence is unoccupied and that the travel trailer on the property has generated fees due to zoning violations as alleged; Ms. Lauderdale admits she tried to have a temporary restraining order against Petitioner, but denies the attempt was impermissible or that vacancy will create waste.

<u>Ms. Lauderdale prays for an order:</u>

1. Denying Roberto Garcia's request for preliminary distribution;
2. Denying Roberto Garcia's request that the trustee be prohibited from taking action to keep Roberto Garcia from occupying the property;
3. Denying Roberto Garcia's request for attorney fee and costs.

7D Jeri L. Shubin 2007 Trust (Trust) **Case No. 11CEPR01018**

Atty Keeler, William J. (for Roberto Garcia – beneficiary)

Atty Phillips, John W. (for Evelyn Lauderdale – Trustee/Petitioner)

Evelyn C. Lauderdale's First Account and Petition to Settle First Account

DOD: 06/29/11		
Cont. from 042312		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	w/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

EVELYN LAUDERDALE, Trustee, is Petitioner.

Account period: 06/29/11 – 12/31/11

Accounting - $4,830,198.00
Beginning POH - $4,560,779.00
Ending POH - $4,330,307.00

Trustee - Not requested

Attorney - $26,547.75 (for services rendered for Petitioner during the account period, including pursuing several litigation matters regarding the trust, including responding to actions brought against the trustee, pursuing actions for return of trust property and to invalidate two amendments to the trust)

Petitioner prays for an Order:

1. Settling and allowing the account as filed;
2. Ratifying, confirming, and approving all of the acts and transactions of Petitioner as trustee; and
3. Reserving reasonable compensation to Petitioner for ordinary services rendered as trustee to a later date.

Objection to First Account and Petition to Settle First Account filed 04/20/12 by Roberto Garcia states:

1. The totals reflected in each of the two tables containing summaries of trust charges and credits are not accurate summations of the amounts detailed in the preceding rows;

Continued on Page 2

NEEDS/PROBLEMS/COMMENTS:

<u>Continued from 04/23/12</u>
As of 05/31/12, no additional documents have been filed

Reviewed by: JF

Reviewed on: 05/31/12

Updates:

Recommendation:

File 7D - Shubin

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

2. Schedule 2 makes reference to a receipt of $150,000.00 in a Chase Checking Account (-4355) that resulted from a transfer from a separate, unidentified joint account. Mr. Garcia alleges that the decedent maintained a number of joint tenancy accounts during her life, including accounts with Mr. Garcia, Ms. Lauderdale, and others. The current ownership of many of those joint accounts is now the subject of litigation in various related matters. One of the issues being litigated in those matters is whether Ms. Lauderdale had previously moved funds out of accounts titled in the name of decedent and Mr. Garcia into accounts titled in the name of decedent and Ms. Lauderdale to prevent Mr. Garcia from receiving those funds upon decedent's death. A transfer of funds out of a joint tenancy account and into a Trust account would serve to deprive Mr. Garcia (or another beneficiary) of substantial assets in the same manner. Funds that ordinarily would be transferred outside of the Trust through right of survivorship would be transferred according to the terms of the Trust. As such, Mr. Garcia objects to the lack of information provided in association with said transfer, including the lack of information regarding which account the $150,000.00 originated from.
3. Schedule 4 of the Account makes reference to a $1,057.00 disbursement to the Jeri Shubin Estate on 08/15/11. Mr. Garcia states that to date, no probate has been opened in the name of the decedent and no personal representative has been appointed to manager her estate. Consequently, Mr. Garcia objects to the $1,057.00 disbursement to the Jeri Shubin Estate as there was no reason to disburse funds to decedent's estate and no person that was lawfully entitled to receive such funds.
4. Mr. Garcia objects to the lack of information provided on Schedule 4 of the Account regarding a number of checks written from Chase Checking Account (-3373) between December 7, 2011 and December 15, 2011, totaling approximately $51,703.34. The only information provided with regard to these disbursements is "Check Issued", in contrast, the approximately 50 preceding disbursement describe the payee and what the disbursement was for.
5. Schedule 4 of the Account also references checks written from a Morgan Stanley Account (-7104) to various individuals on 07/01/11, including Adair Menser, Gary Shubin, Jim Shubin, and Pat Menser that total approximately $53,600.00. An additional check was written from that account to Dorothy Hinds on 08/12/11 for $1,000.00 and a check to the "Jeri Shuclen Trust" on 11/25/11 for $30,000.00. Mr. Garcia objects to the lack of information provided in connection with these checks, most notably related to whether the amounts provided to Gary and Jim Shubin were distributions from the Trust, the reasons for disbursements to Adair and Pat Menser who are not Trust beneficiaries, and the details associated with the $30,000.00 disbursement to the "Jeri Shulcen (sic) Trust".
6. Schedules 4 and 6 of the Account reference an annuity, both as a disbursement and in connection with a loss on sale. As a disbursement, Schedule 4 of the Account reflects that the Annuity was paid or otherwise purchased for $212,936.49. With regard to its loss on sale, Schedule 6 of the Account provides that the Annuity was sold for $212,936.49 but had a cost basis of $218,158.68 and therefore generated a $5,222.19 loss. If the annuity was sold, however, the Account does not indicate what happened to the gross proceeds of that sale. Mr. Garcia objects to the Account as it is unclear from the information provided why the annuity was included as a Trust asset, what the value of the annuity is or was, and if the annuity was sold, what happened to the proceeds of that sale.
7. Schedule 7 of the Account refers to a SignatorOne account (#PE6-052396) with a carrying value of $532,769.00 as property on hand. Mr. Garcia objects to the Account on the ground that is it unclear from this description whether the above-referenced annuity proceeds (either those disbursed from the annuity or those generated from the sale of the annuity) were placed in this account. Per schedule 4, the annuity had previously been associated with the SignatorOne account in question. Without clarification, however, it is unclear if the annuity proceeds are not located in this account.
8. The Account makes references to a $50,000.00 loan to Jim Shubin. Mr. Garcia objects on the ground that the Account does not provide information regarding the terms of this loan, including whether a promissory note was prepared, the interest rate on the loan, whether the loan is secured, whether any interest payments have been made or discussed, etc.

9. Schedule 7 of the Account mentions $9,000.00 worth of "Miscellaneous Property". Mr. Garcia objects to the accounting of this property as the description does not impart any information regarding what property is I the Trust or how the value of $9,000.00 was calculated.
10. The Account makes reference to rental income receipts from the Humboldt and Washington properties but fails to list rents from the Humboldt property for the months of July and August 2011 and rents from the Washington property for the month of July 2011. Further, the Account shows that on October 11, 2011, $1,500.00 of rental income from the Humboldt property was "returned" but provides no information regarding why said funds were "returned".
11. The Account shows a receipt of $21,178.00 into a Chase Checking Account (-4355) from a Symetra account on 07/06/11. Mr. Garcia alleges that the Symetra account contained a total of $25,561.89 at the time of decedent's death. The Account therefore either misidentifies the sum transferred to the Chase checking account or fails to account for the remaining $4,383.89.
12. The Account references a single receipt of $4,384 into Chase Checking Account (-4355) from Fresno Coop Raisin Growers. Mr. Garcia alleges that the Trust is receiving monthly payments in the amount of $4,384 from Fresno Coop Raisin Growers and that the Account fails to report such income.
13. The Account indicates that the Trustee made a $50,000.00 withdrawal form Chase Checking Account (-3373) on 11/23/11 but provides no information regarding the need for such a large sum of cash and gives no indication of what that amount was used for. The Account does indicate, less than a month later, the Trustee wrote a check for the exact same amount ($50,000.00). As discussed above, however, the Account does not provide any information regarding the payee of the $50,000.00 check of the purpose for which the check was written.

Obejector prays for an Order:

1. Directing the Trustee, Evelyn Lauderdale to file an Amended First Account and Petition to Settle First Account to address the deficiencies set forth;
2. Surcharging the Trustee for any breaches of fiduciary duty arising out of her improper distributions or disbursements of Trust property to non-beneficiaries;
3. Disallowing trustee compensation to Evelyn Lauderdale; and
4. For attorneys fees and costs.

8 Guinevere Elise McLauchlin (GUARD/P) Case No. 12CEPR00217

Atty Wilson, Glenn R. (for Drew and Roberta McLauchlin – Paternal Grandparents – Petitioners)

Atty Neumann, Dallas (for Tia Henshaw – Mother – Objector)

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

Age: 10		
DOB: 1-9-02		
Cont. from 050812		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✓	**Conf. Screen**	
✓	**Letters**	
✓	**Duties/Supp**	
✓	**Objections**	
	Video Receipt	
✓	**CI Report**	
✓	**Clearances**	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

TEMPORARY EXPIRES 6-5-12

DREW and ROBERTA MCLAUCHLIN, Paternal Grandparents, are Petitioners.

Father: **MATTHEW MCLAUCHLIN**
- Consent and Waiver of Notice filed 3-13-12

Mother: **TIA HENSHAW**
- Objections filed 3-7-12, 4-24-12

Maternal Grandfather: Not provided
Maternal Grandmother: Not provided

Petitioners state a family law visitation order from 2005 allowed Petitioners to pick up the child on alternating weekends to take her to visit her father, who was on active duty in the military at that time. Petitioners state they are the child's *de facto* parents because since the parents separated in 2004, the child has spent significant periods of time in their home. Guinevere is presently in the fourth grade, but Petitioners believe her residence has changed approx. eight times, and she has attended approx. 10 different schools. The mother relocated to Susanville (Lassen County) in 2010, and Petitioners believe the child has witnessed her mother purchase drugs. On 3-4-12, pursuant to the terms of the family law order, Petitioners traveled to Susanville for a visit. Upon arrival, Petitioners found the child was left alone to care for her 3 ½ year old brother and contacted police. Neither Petitioners nor police were able to reach the mother. This indicates that if there were an emergency, Guinevere would not have been able to reach her either.

Petitioners state since Guinevere has been in their custody, she informed them that she has been providing childcare for approx. three weeks since her maternal uncle, who formerly resided in the home, relcoated to Arizona. This included cooking on the stove, which could pose a significant danger and possibly be life threatening to both children in case of fire.

SEE PAGES 2-4

NEEDS/PROBLEMS/COMMENTS:

Continued from 5-8-12. Order After Hearing was filed 5-30-12; however, as of 5-31-12, the following issues remain:

Petitioners:

1. **Need Child Information Attachment Form GC-210(CA).**

   Note: This is a mandatory Judicial Council form in guardianship filings that contains information regarding the child, including ICWA, family, and other information.

2. **Need Notice of Hearing (mandatory Judicial Council Form GC-020) pursuant to Probate Code §1211.**

3. **Need proof of personal service of Notice of Hearing with a copy of the Amended Petition at least 15 days prior to the hearing on:**
   - Tia Henshaw (Mother)

4. **Need proof of service of Notice of Hearing with a copy of the Amended Petition at least 15 days prior to the hearing on:**
   - Maternal Grandfather
   - Maternal Grandmother

Objector:

1. **The Supplemental and Reply Declaration and Memorandum of Points and Authorities filed 4-24-12 was served on Petitioners' attorney only. Pursuant to Probate Code §1214 and Cal. Rules of Court 7.51, direct notice is required.**

Reviewed by: skc
Reviewed on: 5-31-12
Updates:
Recommendation:
File 8 - McLauchlin

Petitioners state that they picked up Guinevere and the intervention of Lassen County Child Protective Services is being sought regarding placement of the three year old and it is likely that criminal charges of child endangerment will be filed. While en route from Susanville on 3-4-12, Petitioners received multiple harassing telephone calls from the mother demanding their immediate return. Petitioners reiterated that they were exercising their court-ordered authority.

Petitioners were then contacted by a person who they believe is the mother's step-father, who threatened Amber Alert and kidnapping charges. Fearing that these threats were credible, Petitioners contacted their attorney.

Petitioners state the mother's decision to leave Guinevere alone to care for a three-year-old demonstrates lack of good judgment, lack of strong parenting skills, and has led to the possibility of child endangerment charges in Lassen County.

Petitioners state their son (the father) supports their request for guardianship.

Mother filed an Objection on 3-7-12 prior to the temporary hearing. At the Temporary Hearing on 3-19-12, temporary guardianship was extended and the mother was granted visitation.

Mother filed a a Supplemental and Reply Declaration and a Memorandum of Points and Authorities in Opposition of Appointment of Guardian of Minor on 4-24-12.

Mother states that pursuant to the family law custody order, Guinevere resides primarily with her except when the father is in the Fresno area. During those times, Guinevere was to reside with each of them on an alternating week schedule. At the time the order was made, the father had just completed boot camp and would be entering the Marines. The order also included provisions for Petitioners to take Guinevere to visit the father during the week that would have been his custodial period.

Obviously at the time the order was made, Guinevere was not of school age and was able to travel during the week. However, at this time, it is not possible for her to travel with Petitioners during the week.

Mother states that since the order has been in place, the father has personally set up visitation no more than twice. He has never tried to maintain a relationship with Guinevere. Nonetheless, Mother has continued to work with Petitioners to facilitate his visits.

In June 2010, Mother was offered a job in Susanville with the California Correctional Center as a psychiatric technician. Upon being offered this job, Mother immediately made Petitioners aware that it was necessary to move with Guinevere to Susanville. She attempted to notify the father, but was not able to make contact with him directly. Mother believes Petitioners made him aware.

Mother states that the family law order is clear in its provision that Petitioners were to facilitate visits between Guinevere and the father. **This provision is NOT a visitation right for Petitioners.**

In January 2012 Mother discovered that Petitioners were not taking Guinevere to visit the father as represented to her, but instead were using the time to visit with her themselves. In fact, Guinevere stated that she only visited with her father on one occasion for two days in 2011. Petitioners admitted that the father does not visit, and further that during the 2011 visit, the father became upset and attacked Petitioner Drew McLauchlin (strangling and hitting him) in Guinevere's presence.

Mother describes additional times when she allowed Guinevere to go with Petitioners to visit her father, but it turns out they like about visiting him except for once. Therefore, the time Petitioners state they have spent with Guinevere was under false pretenses.

Mother asks the Court take into consideration that all of the time spent with Petitioners was during her breaks from school as most grandparents would spend time with their grandchild, not during her normal, day-to-day routine and school year.

In their petition, Petitioners go so far as to allege that she has purchased drugs and Guinevere witnessed this. This statement is absolutely untrue. Mother states she has gone to tobacco shops to purchase novelty tobacco for her brother as a gift, but Guinevere has never been taken into the shops. To be clear, Mother states she did not purchase illegal drugs nor does she use illegal drugs.

Petitioners allege that Mother left Guinevere alone with her brother for three weeks. In actuality, Mother utilized friends to watch her children while she is at work. On 3-4-12, the childcare provider cancelled at the last minute. Mother had to leave for work, so she left Guinevere with the child. She called every couple of hours to check on her and provided her with food to eat. She never instructed her to cook for herself or her brother on the stove.

Petitioners allege that the officer described that her home was in "disarray." First off, this is hearsay and inadmissible. However, Mother states she feels compelled to respond that the statement does not state, and she was not informed, that the officer ever entered the residence.

Petitioners further note that they were unable to reach her by phone. Mother notes that they refer to her as "Tia Toledo" which they know is not her current name, but they also provided the law enforcement officer with the wrong phone number. Petitioners have the ability to contact her at work, as they have done previously, but stated that they did not know where she worked.

Petitioners allege that her son was placed in protective care by CPS. This is not true. Law enforcement informed her that no criminal charges were being brought as no law had been broken, and there is nothing in the incident report which even insinuates this.

Petitioners allege that Mother called to harass them when they left with Guinevere. It is true that she called, but not once did she speak with them or leave a voicemail message.

Petitioners admit that they essentially orchestrated this entire event under the guise to law enforcement that they had the right to pick up Guinevere pursuant to the custody order. In actuality, Petitioners had already retained an attorney for the purpose of gaining guardianship. Petitioners abused the provisions in the custody order to gain custody and bolster their chances of having their petition granted.

Mother states the declaration of Jill Hoffman is a poor attempt to twist her words and take her statements out of context in order to attack her character as a person and as a mother. On 3-10-12, Mother was staying at a hotel in Fresno due to this guardianship matter. During her stay, she met a woman she believes was Jill Hoffman. In her declaration, Ms. Hoffman states she did not ask any questions and just allowed Mother to volunteer information. This is entirely untrue. In fact, the conversation was fueled by her questions, so Mother explained her reasons for being in town and her discontent with Petitioners' actions in removing the child from her home under false pretenses. Mother explains that Paragraph 23 of Ms. Hoffman's declaration is completely fabricated. She told her she was so against drugs that she didn't speak to her own brother for a period of time, but he has now been clean for three years. Ms. Hoffman blatantly asked her if she used illegal drugs, and also asked about "cleaners" that could alter a hair follicle test.

Mother requests that the Petition be denied. It is clear that Petitioners have abused the custody order to gain access to her child under false pretenses, and guardianship is not warranted. She is a good mother and provider to her children, maintains stable employment and does not use drugs as alleged.

Memorandum of Points and Authorities states:

- **Probate Code §1514 provides that the court is governed by Family Clode §3020 *et seq*. and Family Code §3040 *et seq*. in appointing a guardian of the person. The legislature has made it clear that the first preference is that custody should be granted to both parents or to either parent.**
  Here, Ms. Henshaw has been the parent that takes Guinevere to medical appointments, nursed her when sick, attended all school functions, helped with schoolwork, cooked meals, bathed her and provided with proper nurturing a child requires. In addition, she maintains full time employment. Ms. Henshaw has been Guinevere's primary parent since birth and the code **clearly** gives her preference in custody.

- **By removing the child from her mother, Petitioners will only cause detriment to the child as defined by Family Code §3041.**
  3041(a):"Before making an order granting custody to a person or persons other than a parent, over the objection of a parent, the court shall make a finding that granting custody to a parent would be detrimental to the child and that granting custody to the nonparent is required to serve the best interest of the child."
  3041(c): "As used in this section, "detriment to the child" includes the harm of removal from a stable placement of a child with a person who has assumed, on a day-to-day basis, the role of his or her parent, fulfilling both the child's physical needs and the child's psychological needs for care and affection, and who as assumed that role for a substantial period of time."

  By removing her from her parent, the child will suffer detriment as defined by Family Code §3041(c).

- **Petitioners have failed to show that removing Guinevere from Ms. Henshaw and moving her approx. 400 miles away is in her best interest.**

Court Investigator Jennifer Young filed a report on 5-2-12.

9 **Larry Hiroshi Sakata (Estate)** **Case No. 12CEPR00365**

Atty **Dayton, Richard C. (of San Jose for Jeanne S. Tsukuda – Sister- Petitioner)**

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

DOD: 03/30/2012		
Cont. from		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	W
	Aff.Mail	
	Aff.Pub.	X
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

JEANNE S. TSUKUDA, sister and sole beneficiary, is Petitioner and requests appointment as Administrator without bond.

Petitioner was appointed Special Administrator on 04/24/2012 to access safe deposit box and bank statements. Letters of Special Administrator expire 06/05/2012.

Full IAEA- ?

Decedent died intestate.

Residence: Clovis
Publication: None

Estimated Value of the Estate:

Personal Property	- $500,000.00
Real Property	- $0
Total:	**- $500,000.00**

Probate Referee: Rick Smith

NEEDS/PROBLEMS/COMMENTS:

1. Need Affidavit of Publication.
2. #6 of the Petition is not answered.
3. Need name and date of death of decedents parents per Local Rule 7.1.1 D.

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

- **Friday, November 2, 2012 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Friday, August 2, 2013 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

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

Reviewed by: KT/LV
Reviewed on: 05/29/2012
Updates:
Recommendation:
File 9 - Sakata

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

10 Sarah Stewart (CONS/P) **Case No. 12CEPR00367**

Atty John M. and Maria E. Stewart (Pro Per – Parents – Petitioners)

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

Age: 35		
DOB: 9-30-76		
	Aff.Sub.Wit.	
✔	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✔	**Notice of Hrg**	
✔	**Aff.Mail**	W
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✔	**Conf. Screen**	
✔	**Letters**	
✔	**Duties/Supp**	
	Objections	
✔	**Video Receipt**	
✔	**CI Report**	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	X
	FTB Notice	

JOHN M. and MARIA E. STEWART, Parents, are Petitioners and request appointment as Co-Conservators of the Person.

Voting rights affected

A Capacity Declaration was filed 5-30-12.
(Examiner notes that the Petition does not request medical consent powers per Probate Code §2355.)

Petitioners state Sarah was diagnosed with developmental delay and lacks comprehension skills and has poor communication skills. Sarah lacks judgment in safety skills and is never left alone. Petitioners assist with daily meals, make sure she has money for lunch and a change of clothes (in case of accident) before she leaves for her program with Community Integrated Work Program, and someone is always home when she returns from the program. They monitor her diet and medication and assist with bathroom needs. The only other relative is Sarah's brother. He loves in his own home, but is available to help supervise when needed.

Court Investigator Dina Calvillo filed a report on 5-24-12.

NEEDS/PROBLEMS/COMMENTS:

Court Investigator advised rights on 5-10-12.

Voting rights affected
- **Need minute order**

1. Need Citation.

2. Need proof of personal service of Citation with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1824 on the Proposed Conservatee:
   - Sarah Stewart

3. The Proposed Conservatee is a client of Central Valley Regional Center (CVRC) since she was six years old.

   Therefore, need proof of service of Notice of Hearing at least 30 days prior to the hearing per Probate Code §1822(e).

4. Petitioners did not check Box 1.g. to request medical consent powers; however, #9 is checked and a Capacity Declaration was filed. Need clarification. Are petitioners requesting medical consent powers per Probate Code §2355? The Court may require clarification and further notice to the Proposed Conservatee.

Reviewed by: skc

Reviewed on: 5-31-12

Updates:

Recommendation:

File 10 - Stewart

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

11 William Sisk (CONS/E) **Case No. 0560585**

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

Probate Status Hearing Re: Filing of the Next Account

			NEEDS/PROBLEMS/COMMENTS:
			OFF CALENDAR
			Order settling Eighth Account Current and Report of Conservator was filed 04/12/12
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		**Reviewed by:** JF
	Status Rpt		**Reviewed on:** 05/31/12
	UCCJEA		**Updates:**
	Citation		**Recommendation:**
	FTB Notice		**File 11 - Sisk**

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

12 Jesse Torres (GUARD/P) **Case No. 07CEPR00142**

Atty Ochoa, Espiridion Torres (Non-Relative – Petitioner – Pro Per)

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

Age: 17		
DOB:12/02/1994		
Cont. from		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	x
✓	**Conf. Screen**	
	Letters	x
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
✓	**CI Report**	
	9202	
	Order	x
	Aff. Posting	
	Status Rpt	
	UCCJEA	x
	Citation	
	FTB Notice	

No Temporary. No Temporary requested.

PANCHO TORRES aka **ESPIRIDION TORRES OCHOA**, non-relative, is Petitioner.

Guardians: **DAVID CABRERA** and **DELLA CABRERA**

Father: Not Listed
Mother: Not Listed

Paternal grandfather: Not Listed
Paternal grandmother: Not Listed

Maternal grandfather: Not Listed
Maternal grandmother: Not Listed

Petitioner alleges: that there is a current guardianship in Sacramento County. Petitioner states that the current guardians are terminating their guardianship for Jesse so that he may return to live with the Petitioner as he has expressed a desire to. Petitioner states that he has raised the child since infancy till he was 12 years old.

Court Investigator Jennifer Young's report filed 05/29/2012.

NEEDS/PROBLEMS/COMMENTS:

1. Current Guardianship in Sacramento County, case #34-2007-00504489, it appears that this Court does not have jurisdiction. Petitioner may need to seek a Successor Guardianship in Sacramento County.

2. Need Notice of Hearing

3. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:

   - David Cabrera (Guardian)
   - Della Cabrera (Guardian)
   - Jesse Torres (Minor)

4. Section #2 of the Petition does not list the following persons: Father, Mother, Paternal grandfather/grandmother, Maternal grandfather/grandmother.

Reviewed by: KT/LV
Reviewed on: 05/29/2012
Updates:
Recommendation:
File 12 - Torres

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

Needs/ Problems/Comments continued

5. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due Diligence for:

   - Paternal Grandparents (Not Listed)
   - Maternal Grandparents (Not Listed)

6. Need UCCJEA

13 **Stacy J Zurita, Leobardo G Zurita, and Gabino Lucas Zurita Barrera (GUARD/P)** **Case No. 10CEPR00315**

Atty **Barrera, Maria (Pro Per – Maternal Grandmother – Petitioner)**
Atty **Barrera, Javier (Pro Per – Maternal Grandfather – Petitioner)**

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

Age: 1
DOB: 5-20-10

Cont. from 042412

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

NO TEMPORARY REQUESTED

MARIA BARRERA and JAVIER BARRERA, Maternal grandparents, are Petitioners.

Father: **FABIAN GONZALEZ**

Mother: **MARIA BARRERA**
- Present in Court on 4-24-12 and consented on the record.

Paternal Grandfather: Jose Gonzalez
Paternal Grandmother: Elida Castillo

Petitioner states her daughter doesn't have a job or a house where she could be with the baby or support him.

According to the UCCJEA, Gabino has always lived with Petitioners.

Court Investigator Julie Negrete filed a report on 4-17-12. The report recommends that the petition be GRANTED.

***Note to Judge**: The Court Investigator filed a Supplemental Report because Gerardo Zurita, the father of this minor's siblings Stacy and Leobardo Zurita, contacted her. He was not required to be noticed regarding this minor's guardianship because he is not Gabino's father; however, he stated he and the mother were together during her pregnancy (he was named on the birth certificate, even though Fabian Gonzalez was later determined to be the father), and he would like to be a father to him. He did not know about the other guardianship until it was too late. He plans to attend this hearing and to file for termination of the guardianship of Gabino's siblings.*

Examiner notes that this information does not affect this hearing regarding Gabino.

NEEDS/PROBLEMS/COMMENTS:

Note: This petition is for Gabino only.

Note: Maria Barrera was previously appointed Guardian of minors Stacy (11) and Leobardo (9) on 8-30-10.

Minute Order 4-24-12: Ms. Barrera (Mother) is sworn and interprets for Ms. Barrera (Grandmother). Court states on the record that Fabian Gonzalez's last name is spelled with a "z". Mother of children is in favor of Guardianship. Court informs Ms. Barrera that father needs to be served. Continued to 6/5/12.

As of 5-31-12, nothing further has been filed. The following issues remain:

1. **Need Notice of Hearing.**
2. **Need proof of personal service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1511 or consent and waiver of notice or declaration of due diligence on:**
   - Fabian Gonzalez (Father)
3. **Need proof of service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1511 or consent and waiver of notice or declaration of due diligence on:**
   - Jose Gonzalez (Paternal Grandfather)
   - Elida Castillo (Paternal Grandmother)

Reviewed by: skc
Reviewed on: 5-31-12
Updates:
Recommendation:
File 13 - Zurita

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

14 Lucia Bella Capra (GUARD/P) Case No. 10CEPR00411

Atty Walters, Jennifer (for Jessica Navarro – mother/Petitioner)
Atty Rusca, Rose Marie (for Rene Alvarado – father/Objector)
Atty Alvarado, Vanessa (pro per – paternal aunt/guardian)
Atty Pinegar, Paul (pro per – paternal uncle/guardian)

Petition for Termination of Guardianship

Age: 2
DOB: 07/12/09

Cont. from

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

JESSICA NAVARRO, mother, is Petitioner.

VANESSA ALVARADO and **PAUL PINEGAR,** paternal aunt and uncle, were appointed as Co-Guardians on 03/28/11.

Father: **RENE ALVARADO**

Paternal grandfather: RENE ALVARADO
Paternal grandmother: MARGARET GONZALES

Maternal grandfather: EDWARD NAVARRO
Maternal grandmother: DANA ESTRADA

Petitioner states that the guardianship is no longer necessary and it would be in "Bella's" best interest to be returned to her care full-time. Petitioner states that at the time the guardianship was established she was overwhelmed with the prospect of being a young mother with two small children (she also has a son who is now 6, that has remained in her care) and consented to the guardianship at that time. During the course of the guardianship, she has maintained significant contact with Bella, having visitation often. Petitioner now realizes that it is in Bella's best interest for the guardianship be terminated. Petitioner states that upon learning of her intention to terminate the guardianship, the guardians have not allowed her to visit as often.

Court Investigator Charlotte Bien filed a report on 05/24/12.

Father's objection to Termination of Guardianship filed 05/24/12 states that Bella has lived with his sister and her family since she was 4 weeks old and is bonded with them and that their home is the only home Bella knows. Mr. Alvarado further states that Bella is a happy, well-adjusted child and that while he too, would like to raise her 100% of the time, he and Petitioner couldn't care for her when she was born, and they have allowed her to bond with the guardians, and it would not be fair to Bella to drastically change her home. He states that this isn't about the Petitioner or him, but about Bella's best interest.

NEEDS/PROBLEMS/ COMMENTS:

Note: All relatives were served by mail on 05/07/12.

1. Need Order.

Reviewed by: JF
Reviewed on: 05/31/12
Updates:
Recommendation:
File 14 - Capra

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

15 Esther Perez (Estate) **Case No. 10CEPR00695**

Atty Perez, Conrad (pro per – son/Executor)

Probate Status Hearing Re: Filing of the First Account and/or Final Distribution

DOD: 05/19/10	**CONRAD PEREZ,** son, was appointed Executor without bond and letters were issued on 11/09/10. **Minute order dated 11/09/10** set this matter for status on 01/10/12. Inventory & Appraisal was filed on 03/08/11.	**NEEDS/PROBLEMS/COMMENTS:** **OFF CALENDAR** Petition for Final Distribution on Waiver of Accounting filed 05/25/12 and set for hearing on 07/02/12
Cont. from 011012, 052812		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		**Reviewed by:** JF
Status Rpt		**Reviewed on:** 05/31/12
UCCJEA		**Updates:**
Citation		**Recommendation:**
FTB Notice		**File 15 - Perez**

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

16 Samuel Velasquez, Fernando Velasquez, and Luis Velasquez, Minors (GUARD/P)

Case No. 12CEPR00293

Atty Dominguez, Guadalupe S. (Pro Per- Petitioner- Maternal Aunt)
Atty Dominguez, Samuel (Pro Per - Petitioner-Maternal Uncle)
Mother Velasquez, Venessa Rene (Objects-Pro Per)

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

Samuel Age:5 DOB: 05/05/07

Fernando Age:3 DOB: 11/24/2008

Luis Age: 2 DOB: 05/07/2010

Cont. from

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

No Temporary. Temporary denied on 04/10/2012.

GUADALUPE S. DOMINQUEZ, Maternal Aunt, and **SAMUEL DOMINQUEZ**, Maternal Uncle, are Petitioners.

Father, **JAIME VELASQUEZ**

Mother, **VENESSA RENE VELASQUEZ**

Paternal grandfather: Unknown
Paternal grandmother: Unknown

Maternal grandfather: Albert Ledesma
Maternal grandmother: Cindy Martinez, deceased.

Petitioners allege: children have a long established relationship with them. Mother and Father abuse drugs and alcohol on a daily basis. Complaints and charges have been filed against the Father for vandalism and domestic violence. Children have witnessed abuse towards the Mother. Mother was evicted from her apartment. Mother and Father sell their WIC coupons and food stamps for drugs. Children are malnourished, they had no clothes or shoes that fit. Mother and live in boyfriend drive while under the influence of drugs and alcohol with the minor children.

Objection of Mother filed 05/10/2012 she states that she is the provider, she cares and loves the children and cannot be without them. She states that the Aunt and Uncle are not good for the children and that they want money for them.

NEEDS/PROBLEMS/COMMENTS:

1. Need proof of personal service fifteen (15) days prior to the hearing of Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent to waiver of notice or declaration of due diligence for:
   - Jaime Velasquez (Father) - served by mail on 04/02/2012 Probate code 1511 requires personal service.
   - Venessa Rene Velasquez (Mother) – served by mail on 04/02/2012 Probate code 1511 requires personal service.
2. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:
   - Paternal Grandparents (Unknown)
   - Maternal Grandfather: Albert Ledesma

Reviewed by: KT/LV
Reviewed on: 05/30/2012
Updates:
Recommendation:
File 16 - Velasquez

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

Court Investigator Jennifer Daniel's report filed 05/21/2012.

17 Antonio Santana Rendon (GUARD/P) **Case No. 12CEPR00307**

Atty Rendon, Maria (Paternal Grandmother-Petitioner – Pro Per)

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

Age: 4 **DOB: 09/10/2007**			No Temporary. No Temporary Requested.	**NEEDS/PROBLEMS/COMMENTS:**
			MARIA RENDON, Paternal Grandmother, is Petitioner.	
Cont. from			Father, **LUIS FERNANDO RENDON,** consents and waives notice.	
	Aff.Sub.Wit.			
✓	**Verified**		Mother, **FELICIA MARIE THOMAS,** consents and waives notice.	
	Inventory			
	PTC		Paternal grandfather: Jesus Zaragoza Paternal grandmother: Maria Rendon, Petitioner.	
	Not.Cred.			
✓	**Notice of Hrg**	w/o	Maternal grandfather: Jessie Thomas, Declaration of Due Diligence filed on 04/12/2012. Maternal grandmother: Hazel Nieto, consents and waives notice.	
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
✓	**Conf. Screen**		**Petitioner alleges:** child has resided with the Petitioner since birth and has provided for the emotional needs of the child. Guardianship is requested in order to enroll the child into school. Mother and Father consent to the guardianship.	
✓	**Letters**			
✓	**Duties/Supp**			
	Objections			
	Video Receipt			
✓	**CI Report**		**Court Investigator Charlotte Bien's Report filed 05/09/2012.**	
	9202			
✓	**Order**			
	Aff. Posting			**Reviewed by:** KT/LV
	Status Rpt			**Reviewed on:** 05/30/2012
✓	**UCCJEA**			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 17 - Rendon**

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

18 Zachary Lane McDermott (GUARD/P) **Case No. 12CEPR00316**

Atty Kiser, Karen Sue (Pro Per – Petitioner – Non Relative)

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

Age: 16		
DOB: 03/18/96		
Cont. from		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	x
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	x
✓	**Conf. Screen**	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
✓	**CI Report**	
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

TEMPORARY EXPIRES 06/05/2012

GENERAL HEARING 06/05/2012

KAREN SUE KISER, none relative, is Petitioner.

Father: **JOHN DAVID MCDERMOTT**

Mother: **CAROLYN ROSE LYLE**

Paternal grandfather: Unknown
Paternal grandmother: Unknown

Maternal grandfather: Unknown
Maternal grandmother: Unknown

Petitioner alleges: mother and father are both consumed with drug addiction. Mother is involved in prostitution. Child was left by the parents on the streets to fend for himself. Child had some medical needs that needed to be tended to.

DSS Social Worker Jennifer Cooper's report filed 05/29/2012.

NEEDS/PROBLEMS/COMMENTS:

1. Need Notice of Hearing

2. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:
   - John David McDermott (Father)
   - Carolyn Rose Lyle (Mother)
   - Zachary Lane McDermott (Minor)

3. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:
   - Paternal Grandparents (unknown)
   - Maternal Grandparents (unknown)

Reviewed by:

Reviewed on:

Updates:

Recommendation:

File 18 - McDermott

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

19 Cora Lee Tucker (Estate) Case No. 06CEPR00240

Atty Tucker, Eugene (Pro Per – Co-Executor)
Atty Tucker, James (Pro Per – Co-Executor)
Atty Amey, Dorothy (Pro Per – Co-Executor)

Status Re: Filing of the First Account or Petition for Final Distribution

DOD: 12-13-04

Prior hearings: 7-25-11, 10-3-11, 11-7-11, 2-6-12

	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	

EUGENE TUCKER, JAMES TUCKER, and DOROTHY AMEY were appointed Co-Executors with Full IAEA and bond of $150,000.00 on 9-5-06. Bond was filed and Letter issued on 9-29-06.

Decedent's will dated 1-22-02 devises her residence, or the proceeds from the sale of the residence, to "all of my surviving heirs."

Final Inventory and Appraisal filed 8-11-08 reflects real property at 1004 E. Samson in Fresno valued at $95,000.00 (at 12-13-04).

A petition for final distribution was heard on 2-9-09, 2-24-09, 3-17-09, and 4-21-09. The matter was continued due to various defects and ultimately denied on 4-21-09.

The minute order from 3-17-09 states Attorney William Hess appeared and was informed that the creditor's claims, attorney's fee and costs must be paid before the estate will distribute.

Nothing further was filed, and the petition was denied at the next hearing on 4-21-09.

On 6-3-11, the court set a status hearing on 7-25-11 for failure to file an amended petition for final distribution.

On 6-24-11, Attorney Sandra Smith filed a Notification of Disqualification to Act as Attorney.

On 7-25-11, the Court advised the parties that another petition needs to be prepared and set the matter for status on 10-3-11. However, on 10-3-11, there were no appearances and the Court set this Order to Show Cause and ordered the Co-Executors to be personally present. The minute order was mailed to each of the Co-Executors on 10-7-11.

On 11-7-11 (OSC), the Court provided Examiner notes to Petitioners and is allowing enough time to gather documents necessary to file accounting.

In January 2012, the parties reviewed the file and met with the Examiner regarding the case.

James Tucker filed a Declaration on 2-3-12.

At the hearing on 2-6-12 (Continued OSC) the Court set this status hearing for filing of the Petition for Final Distribution.

As of 5-31-12, nothing further has been filed.

SEE PAGE 2

NEEDS/PROBLEMS/COMMENTS:

Note: Co-Executors were formerly represented by Attorney Sandra Smith, who is no longer eligible to practice law.

Minute Order 11-7-11: Examiner notes handed in open court. The court is allowing enough time to gather all documents necessary to file accounting. The petitioner may contact Examiner Sarah Campbell for help with filing documents. Continued to 2-6-12 at 9am in Dept 303.

Note: The parties reviewed the file and met with the Examiner in January 2012 and filed a Status Report on 2-3-12; however, nothing further has been filed.

1. **Need petition for final distribution.**

Note: The only asset of the estate is a house on Samson (South Fig/North Ave). The will devises the house to "all of my surviving heirs." Decedent had 14 children, one of whom predeceased the Decedent. The petition proposed to distribute the property to the 13 living children (adults), and *after distribution*, the heirs would refinance the property to pay the two outstanding creditor's claims (totaling $2,235.93) and costs of administration, etc.)

However, claims and expenses of administration must be paid prior to distribution.

Reviewed by: skc

Reviewed on: 5-31-12

Updates:

Recommendation:

File 19 - Tucker

19 Cora Lee Tucker (Estate) Case No. 06CEPR00240

James Tucker's Declaration filed 2-3-12 provided status of the estate:

- It was agreed upon by all siblings that Louis Tucker, sibling, would continue to reside in the property to serve as a security guard to keep persons from vandalizing the property.
- All property taxes are current and are being paid by Louis Tucker and his spouse, Cynthia Tucker.
- The parties will request discharge the Fresno County creditor's claim and will confirm the status of the other claims (CNA Surety and Probate Referee Steven Diebert)
- The parties contacted Attorney Bill Hess who confirmed that he is not owed any payment from the estate.
- There are currently 12 living children of the decedent.
- The parties respectfully request that they not be removed at this time and that they be granted time to seek new representation and/or close the estate.

Dept. 303, 9:00 a.m. Tuesday, June 5, 2012

20 Wanda H. Bingham (CONS/PE) Case No. 11CEPR00949

Atty Roberts, David A. (for David J. St. Louis – Conservator)

Status Re: Filing of Receipt from blocked account

			DAVID J. ST. LOUIS was appointed Conservator of the Estate on 4-24-12 without bond, funds to be placed in blocked account. Letters issued on 4-25-12.
Cont. from 052212, 052912			
	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		

NEEDS/PROBLEMS/COMMENTS:

OFF CALENDAR

Acknowledgment and Receipt of Depository filed 5-22-12 is not on the mandatory Judicial Council form; however, Examiner notes that the Acknowledgment contains the required information and is signed by a Wells Fargo Bank, N.A. Vice President.

Reviewed by: skc

Reviewed on: 5-31-12

Updates:

Recommendation:

File 20 - Bingham