

**Second Account Re Special Needs Trust and Petition for Its Settlement; for Approval of Payment of Attorney Fees and Costs; for Approval of Withdrawal of Funds from Blocked Account for Payment of Beneficiary's Debt; for Approval of Petitioners Request to Withdraw as Trustee and for Appointment of New Trustee; for Approval of Petitioners' Attorney of Record to Withdraw [Probate Code 1064; Cal Rules of Court 7.903(c)(6)]**

<b>Age: 63</b>	<p><b>KAREN TEARE</b>, Daughter and Trustee, is Petitioner.</p> <p>Account period: 5-14-09 through 12-28-11</p> <p>Accounting: \$50,989.76 Beginning POH: \$50,096.65 Ending POH: \$45,487.27</p> <p>Trustee: Not addressed</p> <p>Attorney: \$2,500.00</p> <p>Costs: \$770.00</p> <p>Petitioner states that on 11-30-09, the Court approved withdrawal of \$3,500.00 from the blocked account to fund a vacation to Hawaii for the beneficiary. However, the day before the trip, the beneficiary became anxious about flying and subsequently became unstable and too ill to travel. The vacation was cancelled and \$2,615.29 was refunded (cancellation fees were incurred). However, the money was not returned to the blocked account because bills began to accumulate surrounding the beneficiary's illness. Trustee paid two months' rent for the beneficiary, who has been diagnosed bipolar disorder and was not properly medicated at that time. Because of her illness, the beneficiary also went on shopping sprees without regard to finances or the need to buy groceries, pay bills or rent. She had trouble functioning and was eventually evicted from her apartment. The refunded vacation funds were used to subsidize the beneficiary's food, utilities, and other living expenses including moving expenses; however, there are few receipts to account for the money. Of the \$3,500.00, \$549.51 was deposited into the EECU account and used for monthly allotments to the beneficiary.</p> <p>Petitioner states that during the time the beneficiary became ill, she incurred judgments for past due rents and apartment repairs totaling \$2,212.15. Petitioner requests that the Court approve payment of this amount from the blocked account and payment to Steven R. Hrdlicka &amp; Associates, Attorneys at Law, to satisfy the judgment. The beneficiary requests payment from the trust as she is unable to make payments and would like the ability to correct her poor credit status.</p> <p>Petitioner states attorneys for Trustee have rendered valuable services and should be allowed reasonable compensation in the amount of \$2,500.00 for services rendered to the SNT, plus costs of \$770.00 (court filing fees, certified copies, account statements fee. The trustee has agreed to reimburse the costs from the trust.</p> <p>Petitioner also requests that the Court allow her to resign as Trustee and asks the Court consider appointing the Public Guardian in her place and stead. Petitioner states that in the past two years she has been publically and privately harassed by her mother's sister, Deborah Cervantes, stating that she is withholding funds (blocked) and thus is requesting to be relieved and released of further responsibility. Petitioner is unwilling and unable to continue as Trustee. In addition, Coleman &amp; Horowitz, LLP, Attorneys for Trustee, seek this Court's approval to withdraw as attorneys of record in this matter concurrently with the approval of Petitioner's resignation and appointment of a successor trustee.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>SEE PAGE 2</b></p>
<b>DOB: 2-11-49</b>		
<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>		
<input checked="" type="checkbox"/> <b>Aff.Mail</b> w		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		

**SEE PAGE 2**

**Reviewed by:** skc  
**Reviewed on:** 6-5-12  
**Updates:**  
**Recommendation:**  
**File 1A - McCrain**

**Petitioner requests as follows:**

1. That the second account be approved as filed;
2. That the attorney fees and costs be approved and paid from the trust;
3. That the Court authorize payment of the beneficiary's debt and payment in the amount of \$2,212.15 in full satisfaction of the judgment against the beneficiary;
4. That the Court discharge Karen Teare of all duties and responsibilities as trustee and appoint the Fresno County Public Guardian with Petitioner to turn over all accounts within 30 days;
5. That the Court approve the attorneys withdrawal as attorneys of record; and
6. Any other and further relive that the Court considers proper.

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**NEEDS/PROBLEMS/COMMENTS:**

Note: Petitioner request appointment of the Public Guardian and has served notice of this hearing on Public Guardian and County Counsel.

1. The account schedules are not on the mandatory judicial council forms. Special Needs Trusts under continuing court supervision are required to account under the provisions of the probate code similar to a conservatorship accounting. Therefore, need amended schedules on mandatory judicial council forms.
  2. Examiner further notes that it is difficult to review the accounting because the summaries include time frames outside the scope of this accounting and also appear to separate the accounting between blocked account and "checking" or unblocked account.  
Need amended schedules that reflect the status of entire trust in an accounting pursuant to Probate Code §§ 2620, 1060, Cal. Rules of Court 7.903.
  3. Petitioner explains that the unused vacation money (approx. \$3,500.00) was not returned to the blocked account when the vacation was cancelled. Instead it was used to pay various basic living expenses for the beneficiary due to her situation (eviction, moving, groceries, etc.).  
Examiner notes that the use of special needs trust funds for basic living expenses may result in reduction or loss of public benefits.  
Also, it appears to have been the practice since the SNT was established to allow the beneficiary a monthly allowance from the special needs trust funds. Again, Examiner notes again that such use for basic daily living is not typically permissible and may result in a reduction or loss of benefits.  
The Court may require clarification and/or discontinuation of this practice.
  4. Petitioner requests to repay a judgment incurred against the beneficiary in connection with her eviction with SNT funds so that the beneficiary "can correct her poor credit status." The Court may require clarification as to how use of the SNT funds for this purpose qualifies as a special need that would not result in a reduction or loss of benefits.
  5. Examiner notes that the attorney cost request includes a \$60.00 fee for copies of the account statements. The Court may require clarification.
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**Ex Parte Petition for Withdrawal of Funds from Blocked Account**

	<b>KAREN TEARE</b> , Daughter and Trustee, is Petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> Page 1A is Petitioner's accounting for the special needs trusts. The prayer of the accounting includes this request for funds. Therefore, Examiner has not reviewed this petition separately.</p>
	Petitioner filed a Petition for Withdrawal of Funds from Blocked Account on 4-27-12.	
	The Court set the matter for hearing along with the accounting (Page 1A)	
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: skc
		Reviewed on: 6-5-12
		Updates:
		Recommendation:
		File 1B - McCrain



**Atty Sanoian, Joanne, sole practitioner (for Petitioners Sandra F. Edmiston and Sheridan Mae Rodkey, Co-Trustees)**  
**Atty Anderson, Clayton B., of Jacobs Anderson Potter & Chaplin, Chico, CA (for Sheridan Mae Rodkey, Co-Trustee)**  
**Atty Howk, Robert L., of Howk & Downing (for Contestant Peggy Walton, Trust Beneficiary)**  
**Atty Matsumoto, Russell D., of Frame & Matsumoto (formerly for Petitioners Sandra F. Edmiston and Sheridan Mae Rodkey, Co-Trustees)**  
**Atty Smoot, John E., sole practitioner of Willits, CA (formerly for Contestant Peggy Walton)**

**Status Hearing Re: Final Distribution (Prob. C. 1060, 16063, 16460 and 16461)**

<b>DOD: 5/22/2009</b>	<p><b>SANDRA EDMISTON and SHERIDAN RODKEY, as Co-Trustees of the BETTY LAHARGOUE LIVING TRUST filed a <i>Petition of Trustee's for Instructions and Confirmation of Report of Trust Administration, First and Final Accounting, and Proposed Final Distribution of Trust Estate</i> on 08/18/2011.</b></p> <p><b>Objections to Fiduciaries' Account and Request for Surcharge of Fiduciary and other Remedies</b> were filed 09/28/2011 by <b>PEGGY WALTON, Trust Beneficiary.</b></p> <p><b>Status Hearing Statement filed 04/27/2012 by Co-Trustees, Sandra F. Edmiston and Sheridan Rodkey states</b> at the settlement conference on 03/20/2012 attorney Sanoian was directed to deliver back-up material that supports the Trustee's First and Final Account and deliver it to Objector, Peggy Walton's, attorney, Robert Howk. Ms. Sanoian states that she delivered the bulk of the material to Attorney Howk as directed, but was lacking files from Mr. Matsumoto. Upon receiving Attorney Matsumoto's files, Attorney Sanoian delivered the additional back up material to Attorney Howk. Since the settlement conference the following has occurred: (1) two parcels of residential real property has been sold; (2) remaining miscellaneous personal property of the Trust estate was sold, with net sale proceeds of <b>~\$1,900.00</b>; and (3) an additional <b>\$400.00</b> has been received by the estate as a refund of an excess property insurance policy. The remaining trust assets are now available for final distribution.</p> <p><b>Minute Order dated 4/30/2012</b> from the Status Conference states Mr. Howk advises the Court that his client will be withdrawing her objections to the accounting. The Court denies the <i>Petition for Instructions</i> and sets the matter for Status Hearing Re: Final Distribution on 6/11/2012.</p> <p style="text-align: center;"><b>~Please see additional page~</b></p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from</b>		<p><b>Page 3B</b> is the Second and Final Account and Report of Trustees and Petition for Distribution filed by Attorney Sanoian for the Co-Trustees.</p>
<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/S		
<input type="checkbox"/> Objection		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order		
<input type="checkbox"/> Aff. Post		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		<p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 6/7/12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 3A - LaHargoue</b></p>

**Note:** The following *Substitutions of Attorney* were filed in this matter:

- Robert L. Howk substituted in for John Smoot, with Mr. Howk now representing Peggy Walton, filed 12/13/2011;
- Joann Sanoian substituted in for Russell Matsumoto, with Ms. Sanoian now representing Co-Trustees Sandra Edmiston and Sheridan M. Rodkey, filed 1/13/2012.

The significance of the substitution in of Joanne Sanoian for the Co-Trustees centers around the fact that their former attorney, Russell Matsumoto, had filed with the Court on 8/18/2011 a "First Account" contained in his *Petition of Trustee's for Instructions and Confirmation of Report of Trust Administration, First and Final Accounting, and Proposed Final Distribution of Trust Estate*, subsequent to which filing there ensued objections, mediation and settlement, and finally denial of the *Petition of Trustee's for Instructions* on 4/30/2012, with the Court's *Minute Order* of that date setting a status hearing on 6/11/2012 regarding final distribution. A result of the denial of the *Petition of Trustee's for Instructions* was that the Court **did not approve the First Account** that was made part of that petition by Mr. Matsumoto, therefore the request for approval of the Second Account (noted on **Page 3B**) is preceding approval of the First Account. Court may wish to remedy this lack of approval of the First Account by requesting a proposed order from Attorney Sanoian which includes findings regarding the First Account filed 8/18/2011 by Attorney Matsumoto, the Supplement to First Account filed 10/4/2011 by Attorney Matsumoto, and the Second and Final Account filed 5/22/2012 by Attorney Sanoian in **one single order for final distribution of the entire Trust estate**.

**For reference, the First Account and the Supplement to the First Account contain the following information (please refer to Page 3B for the Second and Final Account information):**

**First and Final Account Period: 5/22/2009 – 7/11/2011**

Accounting	-	<b>\$352,581.57</b>
Beginning POH	-	<b>\$197,500.00</b>
Ending POH	-	<b>\$141,605.64</b> (\$46,605.64 is cash)
Co-Trustees	-	<b>Not addressed</b>
Attorney	-	<b>Not specified</b>
Reserve	-	<b>\$30,000.00</b> (for potential repairs of \$20,923.00 to one parcel of real property for pest control per inspection report; payment of insurance for both parcels of real property; and final costs of disbursement and distribution, including any recording fees and taxes, and attorney and accountant fees.)

**First Account: Petitioners pray for an Order** distributing the balance of the Trust estate in the Petitioners' hands as noted above to **PEGGY WALTON aka MARGUERITE P. WALTON** and **SHERIDAN MAE RODKEY** in equal shares.

**First Supplement to First and Final Account Period: 7/12/2011 – 8/11/2011**

Accounting	-	<b>\$141,755.64</b>
Beginning POH	-	<b>\$141,605.64</b>
Ending POH	-	<b>\$137,816.03</b> (\$46,605.64 is cash)
Co-Trustees	-	<b>Not addressed</b>
Attorney	-	<b>Not specified</b>

**Atty Sanoian, Joanne, sole practitioner (for Petitioners Sandra F. Edmiston and Sheridan Mae Rodkey, Co-Trustees)**  
**Atty Anderson, Clayton B., of Jacobs Anderson Potter & Chaplin, Chico, CA (for Sheridan Mae Rodkey, Co-Trustee)**  
**Atty Howk, Robert L., of Howk & Downing (for Contestant Peggy Walton, Trust Beneficiary)**  
**Atty Matsumoto, Russell D., of Frame & Matsumoto (formerly for Petitioners Sandra F. Edmiston and Sheridan Mae Rodkey, Co-Trustees)**  
**Atty Smoot, John E., sole practitioner of Willits, CA (formerly for Contestant Peggy Walton)**

**(1) Second and Final Account and Report of Trustees and (2) Petition for Distribution (Prob. C. 1060, 16063, 16460 and 16461)**

<b>DOD: 5/22/2009</b>		<b>SANDRA EDMISTON and SHERIDAN MAE RODKEY,</b> nieces and Co-Trustees, are Petitioners.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> The Court did not approve the <i>First Account</i> filed 8/18/2011 by Attorney Russell Matsumoto, therefore the request for approval of the Second Account is preceding approval of the First Account. Court may wish to remedy this lack of approval of the First Account by requesting a proposed order from Attorney Sanoian which includes findings regarding Court's consideration and approval of the <i>First Account</i> filed 8/18/2011 by Attorney Matsumoto, the <i>Supplement to First Account</i> filed 10/4/2011 by Attorney Matsumoto, and the Second and Final Account filed 5/22/2012 by Attorney Sanoian in one single order for final distribution of the entire Trust estate.</p> <p>1. Need proposed order.</p> <p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 6/7/12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 3B - LaHargoue</b></p>
		<b>Account period: 8/11/2011 – 5/4/2012</b>	
<b>Cont. from</b>		Accounting - <b>\$153,230.95</b>	
<input type="checkbox"/> <b>Aff.Sub.W</b>		Beginning POH - <b>\$141,605.64</b>	
<input checked="" type="checkbox"/> <b>Verified</b>		Ending POH - <b>\$115,526.78 (all cash)</b>	
<input type="checkbox"/> <b>Inventory</b>		Co-Trustees - <b>\$1,000.00 (each)</b>	
<input type="checkbox"/> <b>PTC</b>		Attorneys (all) - <b>\$18,154.49 (paid)</b>	
<input type="checkbox"/> <b>Not.Cred.</b>		<i>(all expenses incurred during administration of the Trust for defending the Trust, including all counsel fees, were paid from the Trust assets pursuant to Trust terms. Schedule C, Disbursements shows the attorney fees that were paid to Attorneys Matsumoto and Sanoian during this account period;)</i>	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>		Closing reserve - <b>\$3,000.00</b>	
<input checked="" type="checkbox"/> <b>Aff.Mail</b> W /		<b>Petitioner prays for an Order:</b>	
<input type="checkbox"/> <b>Aff.Pub.</b>		1. Approving, allowing and settling the Second Account of the Co-Trustees;	
<input checked="" type="checkbox"/> <b>Sp.Ntc.</b> W /		2. Authorizing payment of Trustee fees of <b>\$1,000.00</b> to each Co-Trustee; and	
<input type="checkbox"/> <b>Pers.Serv.</b>		3. Authorizing Distribution pursuant to the Trust terms, as amended, to:	
<input type="checkbox"/> <b>Conf. Screen</b>		<ul style="list-style-type: none"> <li><b>SHERIDAN MAE RODKEY – 50% of Trust estate</b> [consisting of cash in the sum of <b>\$55,263.39</b>];</li> <li><b>PEGGY WALTON – 50% of Trust estate</b> [consisting of cash in the sum of <b>\$55,263.39</b>].</li> </ul>	
<input type="checkbox"/> <b>Letters</b>			
<input type="checkbox"/> <b>Duties/S</b>			
<input type="checkbox"/> <b>Objection</b>			
<input type="checkbox"/> <b>Video Receipt</b>			
<input type="checkbox"/> <b>CI Report</b>			
<input type="checkbox"/> <b>9202</b>			
<input type="checkbox"/> <b>Order</b> X			
<input type="checkbox"/> <b>Aff. Post</b>			
<input type="checkbox"/> <b>Status Rpt</b>			
<input type="checkbox"/> <b>UCCJEA</b>			
<input type="checkbox"/> <b>Citation</b>			
<input type="checkbox"/> <b>FTB Notice</b>			

**(1) First Account Report of Trustee, (2) Petition for Ratification of Trustee Fees Allowance of Periodic Payment of Trustees Fees and Attorney Fees**

Age: 9 years DOB: 1/22/2003	<b>COMERICA BANK &amp; TRUST, N.A. (Claudia Schoemann, Trust Officer)</b> , Trustee of the Hailie L. Whitmire Special Needs Trust is Petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>Petition states the conservatee receives monthly payments of \$550.50 for life from Pacific Life Insurance Company. Receipt schedule shows <u>one</u> receipt on 6/9/11 from Pacific Life Insurance Company for \$550.50. Why are there no receipts for the remainder of the account period?</li> <li>Order on Petition Requesting Hiring of a Caregiver filed 11/9/11 allowed the Trustee to pay the beneficiary's mother, Shelly Whitmire \$2,000.00 per month to provide caregiving services to Hailie. Disbursement schedule shows Shelly Whitmire was paid at total of \$13,163.93 from 11/3/11 to 3/29/12 or approximately \$2,632.78 per month. Court may require clarification.</li> <li>Disbursement schedule includes payments of \$8,574.63 to USB Financial Services as an outside investment manager and \$5,965.88 to James Huyck as a "special needs consultant" there is no provision in the Trust instrument that authorizes the Trustee to employ said agents.</li> </ol> <p align="center"><b>Please see additional page</b></p>
	Account period: 4/28/11 – 3/31/12	
<b>Cont. from</b>	Accounting - <b>\$1,076,842.16</b>	
<input type="checkbox"/> Aff.Sub.Wit.	Beginning POH - <b>\$0</b>	
<input checked="" type="checkbox"/> <b>Verified</b>	Ending POH - <b>\$1,006,022.65</b>	
<input type="checkbox"/> <b>Inventory</b>	Trustee - <b>\$5,131.98</b>	
<input type="checkbox"/> <b>PTC</b>	(already received. Trustee was authorized to take periodic fees on a monthly basis, subject to court approval.)	
<input type="checkbox"/> <b>Not.Cred.</b>	Trustee x/o - <b>\$1,400.00</b>	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	Attorney fees - <b>\$15,571.50</b>	
<input checked="" type="checkbox"/> <b>Aff.Mail</b> W/	(69.35 hours @ \$295.00 per hour <b>or in the alternative \$14,981.50</b> if the petition is recommended for approval and no appearance at the hearing ins necessary.)	
<input type="checkbox"/> <b>Aff.Pub.</b>	Costs - <b>\$956.42</b>	
<input type="checkbox"/> <b>Sp.Ntc.</b>	<b>Petitioner prays for an Order:</b>	
<input type="checkbox"/> <b>Pers.Serv.</b>	1. Approving, allowing and settling the first account and report of Trustee;	
<input type="checkbox"/> <b>Conf. Screen</b>	2. Authorizing petitioner to pay Comerica Bank & Trust, out of the Trust estate, periodic trustee's fees, on a monthly basis, during the next account period based on its fee schedule;	
<input type="checkbox"/> <b>Letters</b>	3. Authorize Petitioner to pay themselves \$1,400 in extraordinary fees;	
<input type="checkbox"/> <b>Duties/Supp</b>	4. Authorize payment of attorney fees in the amount of \$15,271.50 or in the alternative, if the petition is recommended for approval, \$14,981.50, for services rendered on behalf of the Trust.	
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input type="checkbox"/> <b>Order</b> X		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
		<b>Reviewed by: KT</b>
		<b>Reviewed on: 6/4/12</b>
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 4 - Whitmire</b>

4. Trustee has received \$5,131.98 in fees as trustee and is requesting an additional \$1,400.00 for 7 hours of extraordinary services @ \$200/hr. In addition the Trustee paid \$8,574.63 to USB Financial Services as an outside investment manager. The Trustee has also paid \$5,965.88 to James Huyck as a "special needs consultant." Total fees paid/requested for this one year accounting are \$21,072.49. Court may inquire what tasks the Trustee performs for the fees that have already been paid.
5. Disbursement schedule includes \$1,741.75 for "gifts." Court may inquire how gifts are a special need.
6. Disbursement schedule includes \$25,730.00 for renovating a bathroom. Petition does not state how this disbursement relates to the beneficiary's "special needs."
7. Costs include \$16.73 for postage. Local Rule 7.17 considers postage to be a cost of doing business and are not reimbursable costs (unless more than ten people are entitled to notice).
8. Need Order

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**Fee Schedule:**

<u>Value of Assets</u>	<u>Annual Trustee Fee</u>
First \$500,000 of Trust Assets	0.68%
Next \$500,000 of Trust Assets	0.56%
Nest \$4,000,000 of Trust Assets	0.45%
Balance of Trust Assets	0.23%

Atty Marblestone, Ronald W., of Branson Brinkop Griffith & Strong, Redwood City (for Petitioner Elizabeth Berlese, Executor)  
 Atty Berlese, Margaret J., of Herzig & Berlese, San Francisco (formerly for Petitioner Elizabeth Berlese, Executor)  
 Atty Jones, Christopher C., sole practitioner, Santa Barbara (formerly for Petitioner Elizabeth Berlese, Executor)

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

<b>DOD: 3/26/2011</b>	<b>ELIZABETH E. BERLESE</b> , daughter and Executor, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	Accounting is waived.	
<b>Cont. from 041712</b>	I & A - <b>\$1,197,866.23</b>	
Aff.Sub.Wit	POH - <b>\$1,237,864.50</b>	
✓ Verified	Executor - <b>waives</b>	
✓ Inventory	Attorney Berlese - <b>waives</b>	
✓ PTC	Attorney Jones - <b>\$1,700.00</b>	
✓ Not.Cred.	(pursuant to Agreement Resolving Claim for Attorney's Fees and Costs signed by Christopher Jones on 5/16/2012 and Elizabeth Berlese on 5/24/2012;)	
✓ Notice of Hrg	Attorney Marblestone - <b>\$4,500.00</b>	
✓ Aff.Mail W/O	(pursuant to written agreement, for 12.85 hours @ \$350.00 per hour, rounded up from \$4,497.50;)	
✓ Sp.Ntc.	Closing Reserve - <b>\$7,500.00</b>	
Aff.Pub	<b>Petitioner states:</b>	
Pers.Serv.	<ul style="list-style-type: none"> <li>The parties have agreed to resolve the claim of the Petitioner's first attorney, Christopher C. Jones, for attorneys' fees by paying him the total sum of <b>\$1,700.00</b>, and Petitioner requests the Court approve the <i>Agreement Resolving Claim for Attorney's Fees and Costs</i> attached as <i>Exhibit B</i>;</li> </ul>	
Conf. Screen	~Please see additional page~	
Letters 060911		
Duties/S		
Objections		
Video Receipt		
CI Report		
✓ 9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
✓ FTB Notice		
		Reviewed by: LEG
		Reviewed on: 6/4/12
		Updates:
		Recommendation:
		File 5 - Berlese

**Petitioner states, continued:**

- Attorney Marblestone has rendered services to the estate on an hourly basis pursuant to written agreement and requests compensation of **\$4,500.00**;
- Petitioner requests permission to maintain a **\$7,500.00** cash reserve to cover closing costs and unanticipated expenses for a six month period, at the end of which Petitioner requests authority to distribute any unused amount to the residuary beneficiaries without further accounting or order of the Court.

**Petitioner prays for an Order:**

4. Closing the administration of this estate;
5. Confirming and approving the *Petition* as supplemented, and approving and confirming all acts and proceedings of the Petitioner as Executor;
6. Authorizing payment to Petitioner's first attorney, Christopher Jones, the amount of **\$1,700.00** as compensation to him for services rendered to Petitioner and the estate;
7. Authorizing payment to Petitioner's attorneys Branson, Brinkop Griffith & Strong the amount of **\$4,500.00** as compensation for services rendered to Petitioner and the estate;
8. Authorizing Petitioner to maintain the **\$7,500.00** cash reserve for six months and to distribute any unused amount to the residuary beneficiaries without further accounting or order of the Court.
9. Distributing the assets in accordance with Decedent's Will as follows:
  - **ELIZABETH A. TERLESKY** – **\$5,000.00 cash**;
  - **ELIZABETH E. BERLESE** – 50% of the residue in the amount of **\$609,582.25** consisting of cash, artwork, investment accounts, bonds, internment spaces, mineral interests, personal property and furniture located in real property, and real property; and
  - **MARGARET J. BERLESE** – 50% of the residue in the amount of **\$609,582.25** consisting of cash, artwork, investment accounts, bonds, internment spaces, mineral interests, personal property and furniture located in real property, and real property.



<b>DOD: 12/15/11</b>	<b>LEWANNA PARKER</b> , surviving spouse, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	No other proceedings.	
	Decedent died intestate.	
<b>Cont. from</b>	<p>Petitioner states that she and the decedent were married on August 31, 1996 and remained married until the decedent's death. In May of 2003, Petitioner and the decedent purchased their home from Centex Homes, whom the decedent worked for at the time. For purposes of financing, only the decedent was named on the mortgage and Petitioner signed a grant deed transferring her interest in the property to the decedent as his sole and separate property. Petitioner states that it was always the understanding of both decedent and Petitioner that the home was community property and that the grant deed was executed by Petitioner solely for financing purposes. The funds for the down payment and all mortgage payments, homeowner's insurance, property taxes, and maintenance on the residence was paid with community property. Decedent's illness that led to his death progressed rapidly and as such, decedent and petitioner were not able to add Petitioners name to the title, although they discussed doing so.</p> <p>Petitioner requests court confirmation that ½ interest in real property located at 2867 San Gabriel, Clovis, CA passes to her and ½ interest belongs to her.</p>	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>		
<input type="checkbox"/> <b>Inventory</b>		
<input type="checkbox"/> <b>PTC</b>		
<input type="checkbox"/> <b>Not.Cred.</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>		
<input checked="" type="checkbox"/> <b>Aff.Mail</b>		w/
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input type="checkbox"/> <b>Conf. Screen</b>		
<input type="checkbox"/> <b>Letters</b>		
<input type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
		<b>Reviewed by:</b> JF
		<b>Reviewed on:</b> 06/05/12
		<b>Updates:</b>
		<b>Recommendation:</b> SUBMITTED
		<b>File 7 - Parker</b>

<b>DOD: 03/24/11</b>	<p><b>KENNETH GEORGESON</b>, surviving spouse, is Petitioner.</p> <p>No other proceedings.</p> <p>Decedent died intestate.</p> <p>Petitioner states that he and the decedent were married on April 24, 1977 and remained married until the decedent's death in 2011. During their marriage, they operated a dairy facility (dba Georgeson Dairy) that was allocated a Pooling Certificate #05070 by the CA Dept. of Food &amp; Agriculture. The Pooling Certificate #05070 was taken as community property. Petitioner now wishes to sell the Pooling Certificate #05070 and must show that it is now his sole property.</p> <p>There are no creditors for the business, dba Georgeson Dairy, or on the Pooling Certificate #05070.</p> <p>Petitioner requests Court confirmation that his ½ interest in the dairy, dba Georgeson Dairy and the Pooling Certificate #05070 belongs to him and that the decedent's ½ interest passes to him.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need <b>Notice of Hearing</b>.</li> <li>2. Need proof of service by mail of <b>Notice of Hearing</b> pursuant to Probate Code § 13655(a)(2) for: <ul style="list-style-type: none"> <li>- Dustin Georgeson (son)</li> <li>- Dana Georgeson (daughter)</li> </ul> </li> </ol>
<b>Cont. from</b>		
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>		
<input type="checkbox"/> <b>Inventory</b>		
<input type="checkbox"/> <b>PTC</b>		
<input type="checkbox"/> <b>Not.Cred.</b>		
<input type="checkbox"/> <b>Notice of Hrg</b> <input checked="" type="checkbox"/>		
<input type="checkbox"/> <b>Aff.Mail</b> <input checked="" type="checkbox"/>		
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input type="checkbox"/> <b>Conf. Screen</b>		
<input type="checkbox"/> <b>Letters</b>		
<input type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 06/05/12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 8 - Georgeson</b></p>		

**9A James W. Little (Estate)**

Case No. 08CEPR00870

Atty Keeler, William (of Garvey Schubert Barer, for Norma G. Little – Petitioner)

Atty Milnes, Michael A (for Christopher Brian Little – Executor/Respondent)

Status Hearing Re: Exoneration of Bond and Dismissal

DOD: 7/4/08		<p><b><u>This Status Hearing was set by the Court on 1/11/12, on the Petition to Remove Executor (see Page 1A).</u></b></p> <p><b>Minute Order 1/11/12 states: Ms. Berger-Hoang and James Clark are appearing via conference call as well as Ken Peace. Ms. Burnside informs the Court that a settlement was submitted to the court in Arizona.</b></p> <p><b><u>Need Proof of Exoneration of bond and Dismissal, or Status Report.</u></b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b><u>CONTINUED FROM 3/7/12, 3/21/12, 4/23/12</u></b></p> <p><b>Note:</b> Page 9B is a status regarding accounting pursuant to a Petition to Remove Executor, for an Accounting, for Appointment of Successor Personal Representative, for Surcharge, and to Enforce Settlement Agreement.</p> <p>1. Need proof of exoneration of bond and dismissal, or status report.</p>
Cont. from 3/7/12, 3/21/12, 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	X		
UCCJEA			
Citation			
FTB Notice			
Reviewed by: NRN / skc			
Reviewed on: 6-4-12			
Updates:			
Recommendation:			
File 9A – Little			

**9B James W. Little (Estate)**

**Case No. 08CEPR00870**

**Atty Keeler, William (of Garvey Schubert Barer, for Norma G. Little – Petitioner)**

**Atty Milnes, Michael A (for Christopher Brian Little – Executor/Respondent)**

**Status Hearing Re: Accounting**

<b>DOD: 7-4-08</b>		<p><b>NORMA G. LITTLE</b>, Surviving Spouse, filed Petition to Remove Executor, for an Accounting, for Appointment of Successor Personal Representative, for Surcharge, and to Enforce Settlement Agreement.</p> <p><b>On 4-23-12, the Court accepted the resignation of CHRISTOPHER BRIAN LITTLE</b></p> <p><b>On 4-23-12 (the 14<sup>th</sup> hearing on the matter), the Court set this status hearing regarding the accounting.</b></p> <p><b>Minute Order 4-23-12 states:</b> Mr. Clark and Mr. Piece are appearing via conference call. Also present and appearing via conference call is John Immordino. Parties stipulate to approving the transfer of the Reedley property and the vehicles Ms. Little was to get under the Arizona agreement. The Court accepts the resignation of Christopher Little as executor. Resignation to be effective following the transfer of the property and the vehicles which is to be completed by 4/30/12. The Court directs counsel to file the accounting by 5/21/12. The Court sets the matter for Status Hearing regarding the accounting on 6/11/12.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Christopher Brian Little filed a First and Final Account on 6-8-12 that is set for hearing on 7-19-12.</b></p> <p><b>Note:</b> Also on 4-23-12, a Petition for Court Approval of Further Settlement Agreement, for Order Instructing Personal Representative to Distribute and to Remove or Terminate Personal Representative in Accordance with Settlement Agreement was taken <u>off calendar</u>.</p> <p>Examiner Notes for the 4-23-12 noted that CHRISTOPHER BRIAN LITTLE was removed as Executor in the AZ estate, but still needed to file a petition for final distribution in this CA estate based on the settlement agreement, if approved.</p> <ol style="list-style-type: none"> <li><b>Need accounting and/or petition for final distribution from CHRISTOPHER BRIAN LITTLE.</b></li> </ol> <p><i>Note: Mr. Little filed Inventory and Appraisal Partial No. 2 reflecting an additional \$204,765.00 on 4-23-12, but nothing has been filed since and no accounting or petition for final distribution has been filed.</i></p> <ol style="list-style-type: none"> <li><b>Attorney David Knudson has requested Special Notice in this case, but does not appear to have been served regarding the last hearing or this status hearing.</b></li> </ol>
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>			
<b>Aff.Mail</b>			
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>			
<b>Conf. Screen</b>			
<b>Letters</b>			
<b>Duties/Supp</b>			
<b>Objections</b>			
<b>Video Receipt</b>			
<b>CI Report</b>			
<b>9202</b>			
<b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>	X		
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
<b>Reviewed by:</b> skc			
<b>Reviewed on:</b> 6-4-12			
<b>Updates:</b>			
<b>Recommendation:</b>			
<b>File 9B - Little</b>			

**Status Re: Accounting**

<b>DOD: 6-5-09</b>		<b>ROCKY BUCCI</b> was appointed Administrator with full IAEA and without bond on 7/28/09.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Continued from 4-30-12. The Minute Order from 4-30-12 states:</u> Mr. Bucci advises the Court that the house has a principle of \$67,778.87. Matter continued to 6-11-12. The Court orders Joanne Sanoian and Rocky Bucci to be present on 6-11-12. A copy of the minute order was mailed to Joanne Sanoian on 5-4-12.</p> <p><u>Note:</u> The Administrator was previously represented by Attorney JoAnn Sanoian; however, pursuant to Substitution of Attorney filed 3-7-12, the Administrator is now self-represented. Attorney Sanoian has filed a Request for Special Notice in this proceeding.</p> <p><u>As of 6-6-12, nothing further has been filed. The following issue remains:</u></p> <p>1. Need first account or petition for final distribution pursuant to Probate Code §12200.</p> <p><u>Note:</u> According to the prior status report, the Administrator does not want to sell the property until the market improves. The Court may require information regarding the current status of the assets including the real property, cash and vehicles. For instance, is the real property occupied or vacant? Is rent being collected? How does this benefit the estate?</p>
		I & A filed 8/5/2009 reflects a total estate value of \$64,650.00, consisting of real property (house and mobile home), miscellaneous household furniture, and two vehicles.	
		The first account or petition for final distribution was due 7/28/2010.	
		The Court set a status hearing for the filing of the first account or petition for final distribution on 3/5/12.	
<b>Cont. from 043012</b>		<b>Status Report filed on 3/2/12 states</b> the primary asset of the estate is a house and mobile home in Sanger, which both appraised at \$67,800. There is a mortgage on the property with an outstanding balance of approximately \$70,000. Rocky Bucci has been maintaining the property and making all the mortgage payments.	
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>			
<b>Aff.Mail</b>			
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>			
<b>Conf. Screen</b>			
<b>Letters</b>			
<b>Duties/Supp</b>			
<b>Objections</b>			
<b>Video Receipt</b>			
<b>CI Report</b>			
<b>9202</b>			
<b>Order</b>		Rocky Bucci and his two brothers, Dino Bucci and Anthony Bucci are the three heirs of the estate. Rocky Bucci had hoped to purchase the property from the estate, or reach an agreement with his brothers whereby he would receive distribution of the real property of the estate.	
<b>Aff. Posting</b>		Efforts to reach an agreement with the other heirs failed. Rocky Bucci has advised his attorney that he wants to wait until the real estate market improved to market the property for sale. He does not want to sell the real property.	
<b>Status Rpt</b>	X		
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
		<b>Reviewed by:</b> KT / skc	
		<b>Reviewed on:</b> 4-20-12	
		<b>Updates:</b>	
		<b>Recommendation:</b>	
		<b>File 10 - Bucci</b>	

11 Cruzita Delgado, Desiree Delgado and Fatima Delgado (GUARD/P)

Case No. 09CEPR00561

Atty Gonzalez, Carmen (pro per – maternal grandmother/Guardian)

Atty Delgado, Blanca Stella (pro per – mother/Petitioner)

Petition for Termination of Guardianship

Desiree, 14 DOB: 08/29/97	BLANCA STELLA DELGADO, mother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
Fatima, 12 DOB: 10/12/99		
Cont. from	CARMEN GONZALEZ, maternal grandmother, was appointed as guardian of the person and Letters were issued on 01/06/10.	Cruzita Delgado is no longer a minor. This Petition pertains to Desiree Delgado and Fatima Delgado only.
Aff.Sub.Wit.		
✓ Verified	Father: HILDEBERTO DELGADO	<ol style="list-style-type: none"> <li>1. Need <b>Notice of Hearing</b>.</li> <li>2. Need proof of service by mail at least 15 days before the hearing of <b>Notice of Hearing</b> or Consent to Termination and Waiver of Service and Notice of Hearing or Declaration of Due Diligence for: <ul style="list-style-type: none"> <li>- Carmen Gonzalez (maternal grandmother/guardian)</li> <li>- Hildeberto Delgado (father)</li> <li>- Josephine Delgado (paternal grandmother)</li> <li>- Cruzita Delgado (sister)</li> </ul> </li> <li>3. Need Order.</li> </ol>
Inventory	Paternal grandfather: ROGELIO DELGADO, deceased	
PTC	Paternal grandmother: JOSEFINE DELGADO, resides in Mexico	
Not.Cred.	Maternal grandfather: MANUEL GONZALEZ, deceased	
Notice of Hrg X	Siblings: CRUZITA DELGADO (18)	
Aff.Mail X	Petitioner states that she is now able to care for her children. She is a substance abuse counselor at WestCare of California. She is also a student at Fresno City College and involved in her church.	
Aff.Pub.	Petitioner states that the guardian gave Desiree to her father, Hildeberto Delgado, who only had 6 hours of visitation each month with her prior to 03/30/12. Petitioner states that the guardian doesn't agree with the children living with her because she doesn't understand that Petitioner is a good person and mother. Petitioner states that she knows she has made mistakes in her life, but has a stable life now.	
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		
	Court Investigator Jennifer Daniel filed a report on 05/31/12.	Reviewed by: JF
		Reviewed on: 06/05/12
		Updates:
		Recommendation:
		File 11 - Delgado

**12A Destiny Cedano, Alexis Cedano, Victor Cedano, Gabriel Cedano, Noah Cedano, Jayden Cedano, Victoria Cedano, Reyna Cedano and Jonah Cedano (GUARD/P) Case No. 11CEPR00795**

Atty Vasquez, Vickie (pro per Petitioner/Guardian/paternal aunt)  
 Atty Cedano, Jennifer (pro per Mother)

**Petition for Termination of Guardianship**

Age: 13 years DOB: 2/9/1999	<b>VICKIE VASQUEZ</b> , paternal cousin, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>This Petition is as to ALEXIS only.</u>  Mother, Jennifer Cedano has filed a petition to terminate the guardianships of her 9 children (with several different guardians). That hearing is set for 6/28/12.  See pages 12B and 12C for Petitions to Terminate the Guardianship of Jayden Cedano.  1. Need Notice of Hearing.  2. Need proof of service of the Notice of Hearing on: a. Jesus Cedano – paternal grandfather b. Judy Coronado – maternal grandmother. c. Alexis Cedano - minor
	<b>VICKIE VASQUEZ</b> , paternal aunt, was appointed guardian on 2/16/12	
Cont. from	Father: <b>VICTOR CEDANO</b> - deceased	
<input type="checkbox"/> Aff.Sub.Wit.	Mother: <b>JENNIFER CEDANO</b> - consents and waives notice.	
<input checked="" type="checkbox"/> Verified	Paternal grandfather: Jesus Cedano Paternal grandmother: Jenny Hernandez – deceased.	
<input type="checkbox"/> Inventory	Maternal grandfather: Pete Gutierrez – deceased.	
<input type="checkbox"/> PTC	Maternal grandmother: Judy Coronado	
<input type="checkbox"/> Not.Cred.	<b>Petitioner states</b> Alexis is out of control and she cannot handle her any longer. She has her son and her little brother to think about.	
<input type="checkbox"/> Notice of Hrg	<b>Court Investigator Dina Calvillo's Report</b> filed on 6/1/12.	
<input checked="" type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: KT
		Reviewed on: 6/6/12
		Updates:
		Recommendation:
		File 12A - Cedano

**12B Destiny Cedano, Alexis Cedano, Victor Cedano, Gabriel Cedano, Noah Cedano, Jayden Cedano, Victoria Cedano, Reyna Cedano and Jonah Cedano (GUARD/P) Case No. 11CEPR00795**

Atty Lopez, Michelle Hernandez (pro per Petitioner/Guardian/paternal cousin)  
 Atty Cedano, Jennifer (pro per Mother)

**Petition for Termination of Guardianship (Jayden Cedano)**

Age: 5 years DOB: 9/13/2006	MICHELLE HERNANDEZ LOPEZ, paternal cousin, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>This Petition is as to JAYDEN only.</u>  Mother, Jennifer Cedano has filed a petition to terminate the guardianships of her 9 children (with several different guardians). That hearing is set for 6/28/12.  3. Need Notice of Hearing.  4. Need proof of service of the Notice of Hearing on: d. Jesus Cedano – paternal grandfather e. Judy Coronado – maternal grandmother.
	MICHELLE HERNANDEZ LOPEZ, paternal cousin, was appointed guardian on 2/6/12.	
Cont. from	Father: VICTOR CEDANO - deceased	
Aff.Sub.Wit.	Mother: JENNIFER CEDANO- consents and waives notice	
✓ Verified	Paternal grandfather: Jesus Cedano	
Inventory	Paternal grandmother: Jenny Hernandez – deceased.	
PTC	Maternal grandfather: Pete Gutierrez – deceased.	
Not.Cred.	Maternal grandmother: Judy Coronado	
Notice of Hrg	<b>Petitioner states</b> she cannot control Jayden, he hits, bites and throws things when he does not get his own way. He leaves the school grounds and the principal has to chase him to bring him back. He soils himself at night and during the day. He does not cooperate with his counselors and hides under a chair. He belongs with his mother. She says he was never like that with her.	
Aff.Mail	<b>Court Investigator Jennifer Young's Report 6/5/12.</b>	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 6/6/12
		Updates:
		Recommendation:
		File 12B - Cedano

**12C Destiny Cedano, Alexis Cedano, Victor Cedano, Gabriel Cedano, Noah Cedano, Jayden Cedano, Victoria Cedano, Reyna Cedano and Jonah Cedano (GUARD/P) Case No. 11CEPR00795**

Atty Lopez, Michelle Hernandez  
 Atty Cedano, Jennifer (pro per Petitioner/mother)

**Petition for Termination of Guardianship (Jayden Romeo Cedano)**

Age: 6 years DOB: 9/13/2006	JENNIFER CEDANO, mother, is petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>This Petition is as to JAYDEN only.</u></p> <p><b>Mother, Jennifer Cedano has filed a petition to terminate the guardianships of her 9 children (with several different guardians). That hearing is set for 6/28/12.</b></p> <p>5. Need proof of service of the Notice of Hearing on:                  f. Jesus Cedano – paternal grandfather                  g. Judy Coronado – maternal grandmother.</p>
	MICHELLE HERNANDEZ LOPEZ, paternal cousin, was appointed guardian on 2/6/12.	
	Father: VICTOR CEDANO - deceased	
Cont. from	Paternal grandfather: Jesus Cedano	
Aff.Sub.Wit.	Paternal grandmother: Jenny Hernandez – deceased.	
Verified	Maternal grandfather: Pete Gutierrez – deceased.	
Inventory	Maternal grandmother: Judy Coronado	
PTC	<b>Petitioner states</b> she is Jayden's mother and she knows he wants to be with her. Mom wants him back. She states she has a safe environment for him.	
Not.Cred.	<b>Court Investigator Jennifer Young's Report 6/5/12.</b>	
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 on:
		Updates:
		Recommendation:
		File 12C - Cedano

Age: 7 DOB: 01/16/05	<p><b>MAVIS REINHARDT</b> and <b>ALAN REINHARDT</b>, maternal grandmother and step-grandfather, were appointed as Guardian of the Person and Estate on 02/09/12 and Letters were issued on 02/16/12.</p> <p>Order to deposit money into blocked account was filed 02/09/12.</p> <p><b>Minute Order dated 02/09/12</b> set this matter for status regarding filing of the Inventory &amp; Appraisal.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>A Status Hearing regarding Receipt of Funds in Blocked Account was heard on 03/26/12 and continued to 05/14/12. The 05/14/12 hearing was continued to 06/25/12. <b><u>As of 06/05/12, no Receipt for Funds in Blocked Account has been filed.</u></b></p> <ol style="list-style-type: none"> <li>1. Need Inventory &amp; Appraisal.</li> <li>2. Need Receipt of Funds in Blocked Account.</li> </ol>	
Cont. from			
Aff.Sub.Wit.			
Verified			
Inventory <input checked="" type="checkbox"/>			
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: 06/05/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 13 - Trask</p>

**14 Xazavier Williams & Maria Darshay Williams-Richardson (GUARD/P)**

**Case No. 12CEPR00320**

**Atty Whittle, Genice J. (Pro Per-Petitioner-Paternal Grandmother)**

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

<b>Xazavier Age:12</b> <b>DOB: 7/29/1999</b>		<b>TEMPORARY EXPIRES 06/11/2012</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. 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 <ul style="list-style-type: none"> <li>• Jasmine Williams (Mother)</li> <li>• Xazavier Williams (Minor)</li> <li>• Maria Darshay Williams (Minor)</li> </ul> 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: <ul style="list-style-type: none"> <li>• Paternal Grandfather (Not Listed)</li> <li>• Maternal Grandmother (Not Listed)</li> </ul>
<b>Maria Age: 16</b> <b>DOB: 07/31/1995</b>		<b>GENICE WHITTLE</b> , Paternal Grandmother, is Petitioner.		
		Father: <b>DARRELL K. RICHARDSON</b> , personally served 05/22/2012.		
<b>Cont. from</b>		Mother: <b>JASMINE WILLIAMS</b>		
	<b>Aff.Sub.Wit.</b>			
✓	<b>Verified</b>	Paternal grandfather: Not Listed Paternal grandmother: Genice Whittle		
	<b>Inventory</b>			
	<b>PTC</b>			
	<b>Not.Cred.</b>	Maternal grandfather: George Williams, served 05/18/2012. Maternal grandmother: Not Listed		
✓	<b>Notice of Hrg</b>	W		
✓	<b>Aff.Mail</b>	<b>Petitioner alleges:</b> both parents are addicted to drugs.		
	<b>Aff.Pub.</b>			
	<b>Sp.Ntc.</b>			
	<b>Pers.Serv.</b>	<b>Court Investigator Dina Calvillo's report filed 06/05/2012.</b>		
✓	<b>Conf. Screen</b>			
✓	<b>Letters</b>			
✓	<b>Duties/Supp</b>			
	<b>Objections</b>			
	<b>Video Receipt</b>			
✓	<b>CI Report</b>			
	<b>9202</b>			
✓	<b>Order</b>			
	<b>Aff. Posting</b>			
	<b>Status Rpt</b>			
✓	<b>UCCJEA</b>			
	<b>Citation</b>			
	<b>FTB Notice</b>			
<b>Reviewed by: KT/LV</b>				
<b>Reviewed on: 06/06/2012</b>				
<b>Updates:</b>				
<b>Recommendation:</b>				
<b>File 14 – Williams &amp; Williams-Richardson</b>				

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

Age: 11 DOB: 06/05/2011		<b>TEMPORARY EXPIRES 06/11/2012</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. 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: <ul style="list-style-type: none"> <li>• Darrell K. Richardson (Father)</li> </ul> 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: <ul style="list-style-type: none"> <li>• Paternal grandfather (Not Listed)</li> <li>• Maternal grandfather (Not Listed)</li> <li>• Cindy Maio (Maternal grandmother)</li> </ul>
		<b>GENICE WHITTLE</b> , Paternal Grandmother, is Petitioner.		
		Father: <b>DARRELL K. RICHARDSON</b>		
		Mother: <b>MISTY P. MAIO</b> , personally served on 05/23/2012.		
<b>Cont. from</b>		Paternal grandfather: Not Listed		
	<b>Aff.Sub.Wit.</b>	Paternal grandmother: Genice Whittle		
✓	<b>Verified</b>	Maternal grandfather: Not Listed		
	<b>Inventory</b>	Maternal grandmother: Cindy Maio		
	<b>PTC</b>	<b>Petitioner alleges:</b> both parents are using illegal drugs.		
	<b>Not.Cred.</b>	<b>Criminal Investigator Dina Calvillo's report filed 06/05/2012.</b>		
✓	<b>Notice of Hrg</b>	W		
	<b>Aff.Mail</b>	X		
	<b>Aff.Pub.</b>			
	<b>Sp.Ntc.</b>			
✓	<b>Pers.Serv.</b>			
	<b>Conf. Screen</b>			
✓	<b>Letters</b>			
✓	<b>Duties/Supp</b>			
	<b>Objections</b>			
	<b>Video Receipt</b>			
✓	<b>CI Report</b>			
	<b>9202</b>			
✓	<b>Order</b>			
	<b>Aff. Posting</b>			
	<b>Status Rpt</b>			
✓	<b>UCCJEA</b>			
	<b>Citation</b>			
	<b>FTB Notice</b>			
<b>Reviewed by:</b> KT/LV				
<b>Reviewed on:</b> 06/06/2012				
<b>Updates:</b>				
<b>Recommendation:</b>				
<b>File 15 - Richardson</b>				

Age: 6 DOB: 03/26/2006		<p><b>NO TEMPORARY. TEMPORARY REQUESTED.</b></p> <p><b>GENERAL HEARING 08/09/2012</b></p> <p><b>GENARA GARCIA-GARCIA</b>, Paternal Grandmother, is Petitioner.</p> <p>Father: <b>MARTIN PACHECO GARCIA</b>, consents and waives notice.</p> <p>Mother: <b>LESLIE LANE</b></p> <p>Paternal grandfather: Eulogio Pacheco Lujan, Deceased Paternal grandmother: Genara Garcia-Garcia</p> <p>Maternal grandfather: Timothy Lane Maternal grandmother: Tracy Lane</p> <p><b>Petitioner alleges:</b> CPS placed the child with the great grandfather due to mother abusing drugs. Great grandfather passed away three months ago and the child has been with the Petitioner since then. Mother is still using drugs.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need Notice of Hearing</li> <li>2. Need proof of personal service five (5) 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: <ul style="list-style-type: none"> <li>• Leslie Lane (Mother)</li> </ul> </li> <li>3. ICWA form is incomplete as to whether the child has Indian Ancestry.</li> </ol>
<b>Cont. from</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input type="checkbox"/>	<b>Notice of Hrg</b> <input checked="" type="checkbox"/>		
<input type="checkbox"/>	<b>Aff.Mail</b> <input checked="" type="checkbox"/>		
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b> <input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/>	<b>Conf. Screen</b>		
<input checked="" type="checkbox"/>	<b>Letters</b>		
<input checked="" type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input checked="" type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
		<b>Reviewed by:</b> KT/LV	
		<b>Reviewed on:</b> 06/06/2012	
		<b>Updates:</b>	
		<b>Recommendation:</b>	
		<b>File 16 - Lane</b>	

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

Age: 7 years DOB: 1/2/2005		<u>GENERAL HEARING 7/30/2012</u>		<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Fee waiver was denied. Filing fees totaling \$265.00 are now due.  2. General petition does not include the Child Information Attachment as required. (This attachment includes a place to lists the names and addresses of the relatives, whether or not the child is of Indian ancestry, and other important information.)	
		<b>WENDY DEL CARMEN TABORA</b> , sister, is petitioner.  Father: <b>RUBEN GONZALEZ</b> – consents and waives notice.  Mother: <b>ENRIQUETA BAQUEDANO</b> – consents and waives notice.  Paternal grandparents: Not listed Maternal grandparents: Not listed  <b>Petitioner states</b> the mother has immigration issues. Mother's permit to stay in the United States expired in March 2012.			
Cont. from					
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
	Notice of Hrg	N/A			
	Aff.Mail				
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.				
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
					Reviewed by: KT
					Reviewed on: 6/7/12
				Updates:	
				Recommendation:	
				File 17 - Gonzalez	

**Atty Keeler, William J. (for Petitioner/Trustee Stewart D. Randall, Jr.)**  
**Atty Hall, Christopher (for Objector Nancy Randall Boone)**

**Petition to Approve Non Pro Rata Distribution in Partial Termination of Trust  
 [Prob. C. 16246 & 17200(b)(4)]**

		<p><b>STEWART D. RANDALL, JR.</b>, Trustee of the Randall Living Trust, is petitioner.</p> <p><b>Petitioner states:</b></p> <p>The Randall Living Trust was created on 7/19/89 by Stewart D. Randall and Carolin A. Randall and was amended on 11/27/89.</p> <p>Stewart A. Randall died on 12/29/2009.</p> <p>Carolin A. Randall died on 9/25/2010.</p> <p>The Trust is now revocable.</p> <p><b>Petitioner states</b> the Trust provided that for the creation of an Exemption Trust, and a Marital Trust and a Survivor's Trust upon the death of the first settlor to die. Because the settlors died within months of each other the separate trusts were not funded.</p> <p>Pursuant to the Trust, terms upon the death of the survivor of the Settlor, the residue of the Trust is to be divided into three equal shares for the Settlor's three children: Stewart D. Randall, Jr., Paula Randall Stark and Nancy Randall Boone and distributed to them free of trust.</p> <p>The Trust currently has liquid assets in excess of a million dollars and owns a parcel of real property in Santa Cruz. The Trustee sought and received appraisals of the Santa Cruz real property. On 12/29/2009 the property appraised at \$800,000.00; on 9/25/2010 at \$1,250,000.00 and on 11/4/2011 at \$1,175,000.00. The Trustee believes the increase in the value of the real property is the result of repairs and renovations to the property paid for by the Trust and not as a result of market factors.</p> <p style="text-align: center;"><b>Please see additional page</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>This matter will be heard at 1:30 p.m.</b></p> <p><b>Continued from 5/2/12.</b> Minute order states matter is set for settlement conference on 6/11/12 at 1:30 p.m. The Court directs that the petition currently set for 6/11/12 also be set for 1:30 p.m. (Please see page 1B)</p> <p><b>For Objector:</b></p> <ol style="list-style-type: none"> <li>1. Objections are not verified. Probate Code §1021.</li> </ol>
<b>Cont. from</b>			
	<b>Aff.Sub.Wit.</b>		
✓	<b>Verified</b>		
	<b>Inventory</b>		
	<b>PTC</b>		
	<b>Not.Cred.</b>		
✓	<b>Notice of Hrg</b>		
✓	<b>Aff.Mail</b>	W/	
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
	<b>Letters</b>		
	<b>Duties/Supp</b>		
✓	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
	<b>9202</b>		
✓	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		
			<p><b>Reviewed by: KT</b></p> <p><b>Reviewed on: 6/7/12</b></p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 4 - Randall</b></p>

The Trustee believes that distribution of the real property to the three beneficiaries of undivided interest will reduce the value of the property, any lead to an action for partition and sale by one or more of the beneficiaries and can present difficulties to the beneficiaries because of their respective approaches to the use and maintenance of the real property, Petitioner seeks authority to make a non pro rata distribution of the Trust assets so that the real property, at its latest appraised value is distributed to himself as a beneficiary and Paula Randall Stark and that distribution of an equivalent value of the liquid assets be made to Nancy Randall Boone. This authority is explicitly granted in the Trust instrument at Article Fourteen, Section 14.18, as well as by Probate Code §16246.

Trust funds in the approximate amount of \$321,062.55 were expended on repairs and refurbishing, as well as ongoing maintenance, utilities and property taxes for the real property. The Trustee believes that the real property increased in value by more than those expenditures therefore there is no disproportionate benefit to Petitioner and Paula Randall Stark. Moreover, by allocating liquid assets to Nancy Randall Boone equivalent to the *undiscounted* value of the real property there is an additional benefit to Ms. Boone under the proposed distribution.

**Wherefore, Petitioner requests** an order from this Court approving the proposed non pro rata distribution of the Santa Cruz real property to Petitioner and Paula Randal Stark in undivided interests and authority to distribute liquid assets with equivalent value to Nancy Randall Boone and for such other relief as the Court deems just and proper.

**Response and Objections to Petition to Approve Non Pro Rata Distribution in Partial Distribution of Trust filed by Nancy Randall Boone on 4/26/12. Objector states** by way of his instant petition, Petitioner and Trustee Stewart Randall, Jr. (Petitioner) seeks to deprive objector and beneficiary Nancy Randall Boone of her interest in desirable beach property located in Santa Cruz ("the Santa Cruz Property"), resulting in multiple breaches of his fiduciary duty. Tellingly, Petitioner does not specify any facts that would justify a non pro rata distribution, but only offers conclusory allegations to mask the clear conflicts and breaches that would result or be affirmed through the granting of the Petition. Specifically, Petitioner's conflict arises in that he seeks to retain ownership interest in the Santa Cruz property for himself and Paula, while attempting to effectively buy-out Nancy's share based on an undervalued appraisal that does not account for market factors. Even if a non pro rata distribution is available under the terms of the Trust, Petitioner cannot exercise such distribution as doing so would result in or affirm multiple breaches of his fiduciary duties. Accordingly, the Petition must be denied.

Petitioner's attempt to keep the Santa Cruz property for himself and Paula constitutes a breach of several of Petitioner's fiduciary duties.

***Please see additional page***

**Dept. 303, 9:00 a.m. Monday June 11, 2012**

1. **Petitioner's breach of the duty of loyalty.** Probate Code §16002(a) codifies a trustee's duty of loyalty and that a trustee has a duty to administer the trust solely in the interest of the beneficiaries. Here, Petitioner wishes to distribute ownership to himself and Paula while attempting to effectively buy-out Nancy's share based on an undervalued appraisal amount that does not account for market factors.
2. **Petitioner's breach of his duty to avoid self-dealing and attempt to usurp the financial opportunity of a beneficiary.** Probate Code §16004(a) provides that a trustee has a duty not to use or deal with trust property for the trustee's own profit or for any other purpose unconnected with the trust, nor to take part in any transaction in which the trustee has an interest averse to the beneficiary. Petitioner's contention that the increase in price to the Santa Cruz property derived from the repairs and refurbishing in excess of \$300,000.00 only demonstrates that he wishes to have his cake and eat it too. Specifically, Petitioner seeks to enjoy both the value of the repairs and refurbishing done while keeping for himself and Paula the increased value of the Santa Cruz property that was a result of market factors, through his continued insistence that market factors in a beach town did not contribute to an increase in property value. This is simply not true.
3. **Petitioner's breach of his duty of impartiality.** Here, Petitioner has already violated his duty to act impartially toward Nancy. Specifically, Nancy had made multiple requests to use the Santa Cruz property for Easter. Petitioner denied Nancy's request, expressly stating that "No one will be using the Santa Cruz house until the distribution is worked out." However, Nancy subsequently discovered that Paula was permitted to use the Santa Cruz property over the Easter holiday. Thus, it is apparent that Petitioner's representation that no one would be permitted to use the Santa Cruz Property during the Easter holiday was false.
4. **Petitioner's breach of his duty of disclosure.** Petitioner owes a duty to provide the fullest disclosure of all material facts. Petitioner breached that duty when he lied to Nancy that no one would be allowed to use the Santa Cruz property over Easter, only to allow Paula to use the property during that time. As to the repairs and refurbishing on the property, petitioner also conveyed to Nancy that trust funds would only be used for new fixtures, carpet, and new paint. Contrary to that representation, Petitioner went on to use in excess of \$300,000.00 to obtain hardwood floors, radiant heat, new hot water heater, to take down one-half of a wall, to redo the entire kitchen, obtain new appliances, purchase new furniture, dishes and wallpaper. Nancy was not informed that Petitioner would use trust funds in this matter, and therefore, did not provide full disclosure with respect to the repairs and refurbishing, constituting a breach of his duty to disclose such facts.

**For the foregoing reasons, Nancy Randall Boone respectfully requests that this Court deny the Petition Approve Non Pro Rata Distribution in Partial Termination of Trust by Stewart Randall, Jr. in its entirety.**

**1B Randall Living Trust dated 7-19-1989**

Case No. 12CEPR00234

Atty Keeler, William J. (for Trustee Stewart D. Randall, Jr.)

Atty Hall, Christopher (for Petitioner Nancy Randall Boone)

**Petition to Remove Trustee and Appoint Successor Trustee; Instruct Successor Trustee to Sell Property; and Compel Redress of Breach of Trust.**

		<b>NANCY RANDALL BOONE</b> , beneficiary of the Randall Living Trust, is petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>This matter will be heard at 1:30 p.m.</b></p> <ol style="list-style-type: none"> <li>Need proof of service of the Notice of Hearing on:             <ol style="list-style-type: none"> <li>Randall Stewart, Jr., Trustee. Pursuant to Probate Code §17203(a)(1).</li> </ol> </li> <li>Need Order</li> </ol>
		<b>Petitioner states:</b>	
Cont. from		The Randall Living Trust was created on 7/19/89 by Stewart D. Randall and Carolin A. Randall and was amended on 11/27/89.	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	W/	
<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	X	
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

**Petitioner states:**

The Randall Living Trust was created on 7/19/89 by Stewart D. Randall and Carolin A. Randall and was amended on 11/27/89.

Stewart A. Randall died on 12/29/2009.

Carolin A. Randall died on 9/25/2010.

**STEWART RANDALL, JR.** (respondent) became the sole Trustee following the death of the settlors.

The Trust is now irrevocable.

**Petitioner states** pursuant to the Trust, terms upon the death of the survivor of the Settllors, the residue of the Trust is to be divided into three equal shares for the Settllors' three children: Stewart D. Randall, Jr., Paula Randall Stark and Nancy Randall Boone and distributed to them free of trust.

Based upon the accounting for the period of 12/29/2009 through 3/31/2011 provided by Respondent, Petitioner believes that as of the death of the last settlor on or about 9/25/2010, the Trust owned two parcels of real property, consisting of the Decedent's residence located at 2541 W. Sierra, Fresno (Sierra Residence); certain real property located in Santa Cruz (Santa Cruz property); miscellaneous personal property and liquid assets and securities. Currently the trust has liquid assets in excess of a million dollars and owns the Santa Cruz property, having sold the Sierra Residence on or about 1/12/2012.

**Please see additional page**

**Reviewed by: KT**

**Reviewed on: 6/6/12**

**Updates:**

**Recommendation:**

**File 1B - Randall**

**1B (additional page 1 of 2) Randall Living Trust dated 7-19-1989 Case No. 12CEPR00234**

Petitioner alleges:

1. On 3/12/12 Petitioner sent Respondent an email to confirm that her family would be using the Santa Cruz property over the 2012 Easter Holiday based on her request made prior to then. Respondent replied to Petitioner stating that: "No one will be using the Santa Cruz house until the distribution is worked out." Despite this representation by Respondent that no one would use the Santa Cruz property, Petitioner presents a still from a video clip that shows Paula's car parked in the Santa Cruz property driveway over the Easter holiday. Thus, it is apparent that Petitioner's representations that no one would use the Santa Cruz property during the 2012 Easter holiday was false.
2. Respondent attempts to distribute the ownership of the Santa Cruz property to himself and Paula, while trying to distribute a lower cash equivalent to Petitioner based on an undervalued appraisal. In his Non-Pro Rata Distribution Petition, Respondent, in conclusory fashion, alleges three things: (1) his belief that distribution to the three beneficiaries would reduce the value of the property; (2) his belief that such distribution could lead to an action of partition and sale by one or more beneficiaries; and (3) his belief that such distribution could present difficulties to the beneficiaries because of their respective approaches to the use and maintenance of the Santa Cruz property.

Nevertheless, in attempting to buy out Petitioner's share by way of his proposed non pro rata distribution, Respondent wished to distribute to Petitioner a cash equivalent, representative of her share to the ownership interests he sought to keep to himself and Paula. Respondent obtained an appraisal in 2009 at which time the Santa Cruz property was appraised at \$800,000. Respondent thereafter informed Petitioner that he would use Trust funds to include new fixtures, carpet and new paint. Petitioner was agreeable to these limited repairs and refurbishing; however without informing Petitioner, Respondent subsequently went on to use in excess of \$300,000 of Trust funds to obtain hardwood floors, radiant heat, new hot water heater and to take down one-half wall and redo the entire kitchen, obtain new appliances, purchase new furniture, dishes and wall paper.

Respondent subsequently obtained an appraisal in September 2010 that valued the Santa Cruz property at \$1,250,000. Respondent obtained yet another appraisal in November 2011 at which time the property was valued at \$1,175,000. Respondent contended that the price fluctuation was due entirely to the repairs and refurbishing made, and had nothing to do with market forces. However, this contention is directly at odds with an appraisal obtained by Petitioner, which establishes the value of the Santa Cruz property at \$1,400,000 based on "comparables" in the area (Exhibit E).

**1B (additional page 2 of 2) Randall Living Trust dated 7-19-1989 Case No. 12CEPR00234**

3. Respondent has not allowed Petitioner to use the Santa Cruz property since August 2010. Respondent has sought to buy-out Petitioner's interest in the Santa Cruz property through a cash distribution based on an undervalued appraisal. Respondent further went on to make repairs and refurbished the Santa Cruz property in excess of \$300,000.
4. In 2004 Petitioner received a give of silverware (valued at \$2,000.) from her father (i.e. Settlor Steward Randall) during his lifetime. Almost 7 years later, Respondent falsely represents to Petitioner that she could be liable and subject to a 45% federal tax penalty per his estate tax attorney, unless Petitioner accounted to him for the silverware. As an alternative, Respondent offered that Petitioner split the silverware with Paula, which Respondent said would reduce the amount of money that would be subtracted from Petitioner inheritance under the Trust. Given the fact that federal audits are generally limited to 3 years and that a gift made 7 years from the time Respondent made demand on Petitioner for an appraisal on the silverware, makes evident his antagonism towards Petitioner in favor of Paula and is designed to exert pressure on Petitioner in violation of his fiduciary duty to act in the utmost good faith for her benefit.

**Respondent therefore prays for an Order:**

1. That Respondent and Trustee, Stewart Randall, Jr. be removed as Trustee of the Trust;
2. That a successor be appointed in accordance with Probate Code 15660 and pursuant to the Terms of the Trust;
3. That the Santa Cruz property be ordered for sale with the proceeds of the sale to be equally distributed to the three beneficiaries under the Trust;
4. That upon separate and further evidentiary petition, that Respondent and Trustee Stewart Randall, Jr. be compelled to redress his several breaches of trust by requiring payment of the following:
  - a. The fair market rental value of the Santa Cruz property for the period in which Petitioner and beneficiary Nancy Randall Boone wrongfully denied use of the property;
  - b. For one-third of the total amount expended by Respondent and Trustee Stewart Randall, Jr. in repairing and refurbishing the Santa Cruz property; and
  - c. For her attorney's fees and costs in connection with having to vindicate her rights in this action as a consequence of Respondent Stewart Randall, Jr.'s deliberate breaches of his several fiduciary duties, which constitute fraud against her.