



ATTENTION

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

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

Thank you for your patience.

1 Edith H. Pomeroy Trust

Case No. 05CEPR00709

Atty ACH, DAVID L. (for David S. Colburn – Trustee/Petitioner)

Tenth Report of Successor Trustee and Petition for Its Settlement on Waiver of Account and to Terminate Trust With Consent of All Beneficiaries [Prob. C. 15403 (a), 15405, 15410(c), 17200(b)(4)-(5), & 17200(b)(13)]

		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED TO 08/08/12</u> Per request of Counsel</p>
Cont. from		
<input type="checkbox"/>	Aff.Sub.Wit.	
<input type="checkbox"/>	Verified	
<input type="checkbox"/>	Inventory	
<input type="checkbox"/>	PTC	
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<input type="checkbox"/>	Video Receipt	
<input type="checkbox"/>	CI Report	
<input type="checkbox"/>	9202	
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<input type="checkbox"/>	Status Rpt	
<input type="checkbox"/>	UCCJEA	
<input type="checkbox"/>	Citation	
<input type="checkbox"/>	FTB Notice	
		Reviewed by: JF
		Reviewed on: 07/02/12
		Updates:
		Recommendation:
		File 1 - Pomeroy

Amended Petition for Authority to Refinance Estate Real Property and for Authority to Begin Distribution from Individual Retirement Accounts to Pay Expenses of Conservatee

Age: 65 DOB: 07/09/47	DOUGLAS H. SHUMAVON , brother/Conservator of the Person and Estate, is Petitioner.	<p>NEEDS/PROBLEMS/ COMMENTS:</p> <p>1. If the Petition is granted with authorization to begin disbursements of \$1,500.00 per month from conservatee's IRA accounts, this will result in an increase in the annual income of the estate by \$18,000.00. Accordingly, Bond should be increased to \$353,250.72 based on the Fourth Accounting. Bond Worksheet included in the file for reference.</p> <p>Note: It appears that the Fifth Account and Report of Conservator is now due. A status hearing regarding filing of the Fifth Account and Report of Conservator will be set as follows:</p> <ul style="list-style-type: none"> Friday, 08/10/2012 at 9:00a.m. in Dept. 303 for the filing of the fifth account. <p>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.</p>
	DOUGLAS H. SHUMAVON , brother, was appointed Conservator of the Person and Estate on June 23, 1997 and Letters were issued on June 24, 1997.	
Cont. from	Petitioner states:	
Aff.Sub.Wit.	1. The Conservatorship Estate includes two (2) parcels of real property as follows:	
✓ Verified	- 508 Midvale, Mill Valley, CA (the "Mill Valley Property")	
Inventory	- 1020 King Street, Santa Rosa, CA (the "Santa Rosa Property").	
PTC	2. The Mill Valley Property is subject to a mortgage in favor of Wells Fargo Bank with an outstanding principal balance as of April 2012 of \$75,246.61. The mortgage bears an interest rate of 5.50% per annum and is payable in monthly payments of \$1,380.88 excluding property taxes and insurance. The annual payments for property taxes and insurance are \$6,774.12 and \$789.60 respectively. The mortgage matures in September 2018. The Mill Valley Property is currently rented and the conservatorship estate presently receives \$2,700.00 per month net of the property management fees.	
Not.Cred.	3. The Santa Rosa Property is a four-plex and is subject to a mortgage in favor of Wells Fargo Bank with an outstanding principal balance as of May 8, 2012 of \$86,189.00. The mortgage bears an interest rate of 5.625% per annum and is payable in monthly payment of \$2,019.17 including property taxes and insurance. The mortgage matures in September 2018. The Santa Rosa Property units are currently rented and the Conservatorship estate presently receives \$3,500.00 per month net of the property management fees.	
✓ 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		

Continued on Page 2

4. Petitioner proposes to refinance the present outstanding principal balance of the Mill Valley Property with Wells Fargo Bank for a 10 year term at an interest rate not to exceed 3.75% per annum. The expected monthly payment after refinancing the Mill Valley mortgage will change to \$1,380.77 including amounts impounded for property taxes and insurance. The result is an increase in cash flow to the Conservatorship Estate of approximately \$7,500.00 per year.
5. Petitioner also proposes to refinance the present outstanding principal balance of the Santa Rosa Property with Wells Fargo Bank for a 10 year term at an interest rate not to exceed 4.25% per annum. The expected monthly payment after refinancing the Santa Rosa mortgage will change to \$1,481.20, including property taxes and insurance. The result is an increase in cash flow to the Conservatorship Estate of approximately \$6,500.00 per year.
6. Petitioner states that the monthly expenses relating to the care and maintenance of the Conservatee has increased due to the continuing deterioration in the Conservatee's condition and exceeds the net monthly income of the Conservatorship Estate resulting in a shortfall of cash to pay the expenses of the Conservatee. Refinancing the Mill Valley and Santa Rosa mortgages will result in additional cash to the Conservatorship Estate to meet expenses and is preferable to selling the properties because both properties are expected to appreciate in value compared with current market conditions and the loans can be repaid from current rental income. Petitioner proposes to execute notes in favor of Wells Fargo Bank to evidence the indebtedness and deeds of trust covering the Mill Valley Property and Santa Rosa Property to secure the notes to Wells Fargo Bank.
7. The Conservatorship Estate also includes two (2) individual retirement accounts for the benefit of the Conservatee (the "Franklin IRA" and "T. Rowe Price IRA"). Monthly distributions of benefits from these accounts have not commenced.
8. The present value of the Franklin IRA is \$12,348.23 (as of March 31, 2012) and the present value of the T. Rowe Price IRA is \$91,500.53 (as of May 17, 2012).
9. The current income of the Conservatorship Estate is insufficient to satisfy the ongoing expenses associated with the Conservatee's care and maintenance. The monthly cost of the Conservatee's care and maintenance has increased to approximately \$6,500.00 per month. In addition, the cost of the Conservatee's medical insurance is approximately \$250.00 per month. This does not include an allowance for incidental expenses associated with the Conservatee's care and maintenance. The net monthly rental income from the Mill Valley and Santa Rosa Properties is approximately \$2,200.00, after deducting the mortgages against the properties, property taxes and insurance. The Conservatee also receives benefits from Social Security of \$1,628.00 per month.
10. The monthly expenses for the Conservatee's care and maintenance exceed the income of the Conservatorship Estate by approximately \$2,450.00 per month. Taking into consideration the anticipated savings to the Conservatorship estate from refinancing the properties as proposed, the monthly expenses of the Conservatee will exceed the monthly income by \$1,200.00 per month.
11. Petitioner also proposes that distributions commence from the Conservatee's IRA accounts of at least \$1,500.00 per month if the Petitioner is authorized to refinance the Mill Valley and Santa Rosa Properties and \$2,500.00 per month if authority to refinance the properties is denied. Another benefit of commencement of distributions from the IRA's is that although distributions will be subject to state and federal taxes, the Conservatee has sufficient deductions to shelter the distributions from income taxation.
12. On 09/28/10, bond was increased to \$333,451.00. An increase in the bond may be required upon the grant of the authority requested in this Petition.

Continued on Page 3

Petitioner prays for an Order:

1. Authorizing Petitioner to refinance the outstanding principal balance of the mortgage secured by the Mill Valley Property by executing a note and deed of trust in favor of Wells Fargo Bank secured by the Mill Valley Property;
2. Authorizing Petitioner to refinance the outstanding principal balance of the mortgage secured by the Santa Rosa Property by executing a note and deed of trust in favor of Wells Fargo Bank secured by the Santa Rosa Property;
3. Authorizing Petitioner to begin the commencement of distributions from the individual retirement accounts held for the benefit of the Conservatee in the amount of at least \$1,500.00 per month if Petitioner is authorized to refinance the Mill Valley and Santa Rosa properties; or, if authority to refinance the Mill Valley and Santa Rosa properties is not granted, in the amount of at least \$2,500.00.

Atty Moeck, David M. (for Executor Edward L. Fanucchi)

Second and Final Account and Report of Personal Representative and Petition for Its Settlement, (2) for Ordinary and Extraordinary Attorney's Fees, (3) for Allowance of Statutory and Extraordinary Commissions, Costs, Reserve, and (4) for Final Distribution [Prob. C. 11623 and Cal. Rule of Court 7.70]

DOD: 8/4/2006		EDWARD L. FANUCCHI , Executor, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Disbursement schedule includes three separate check printing charges at approximately \$35.00 each. Disbursement schedules for both the first and second account lists approximately 165 separate disbursements. Court may require clarification as to why so many checks were needed. – Declaration of Executor filed on 5/31/12 states three check printing charges were incurred because the initial printing of checks was for 150, requiring the order of a second printing on that account. There was another checking account opened after the sale of the real property requiring another printing of checks for that account.
		Account period: 6/30/2008 – 2/29/2012	
Cont. from 060412		Accounting - \$742,111.52	
	Aff.Sub.Wit.	Beginning POH - \$734,480.96	
✓	Verified	Ending POH - \$183,832.73	
✓	Inventory	Executor - \$5,867.06 (remaining statutory. Executor was allowed \$9,261.35 at the first account)	
✓	PTC		
✓	Not.Cred.		
✓	Notice of Hrg	Executor x/o - \$1,000.00 (for sale of real property) W/	
✓	Aff.Mail	Attorney - \$5,867.06 (remaining statutory. Attorney was allowed \$9,261.35 at the first account)	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.	Attorney x/o - \$1,000.00 (for sale of real property)	
	Conf. Screen		
✓	Letters	Costs - \$1,846.27 (filing fees, probate referee, certified copies, FedEx) 11/6/06	
	Duties/Supp		
	Objections		
	Video Receipt	Closing reserve - \$10,000.00	
	CI Report		
✓	9202	Distribution, pursuant to Decedent's Will, is to:	
✓	Order	Duillio Giovacchini- \$29,515.47	
	Aff. Posting	Italo Balbo - \$55,542.70	
	Status Rpt	Carlo Balbo - \$55,542.70	
	UCCJEA	Rudy and Ramona Diaz - \$17,351.47	
	Citation		
	FTB Notice	N/A	
			Reviewed by: KT
			Reviewed on: 7/2/12
			Updates:
			Recommendation:
			File 3 - Giovacchini

1. **The first account included payments for expenses related to the decedent's Italian Estate. Minute order dated 10/2/2008 approving the first account stated "Attorney Fanucchi or Attorney Yengoyan not to pay Italian parties without a notice motion by the Court." Disbursement schedule includes a disbursement of \$735.00 to "Italian surveyor." Costs include \$41.87 FedEx certified copies to Italy and \$47.94 Wire Transfer Fees to Italy. Court may require clarification.** – Declaration of Executor filed on 5/31/12 states the Italian surveyor was needed in order to complete the sale of real property in Italy. There was no harm to any beneficiary, and he forgot that there had been an order of October 2, 2008. The Federal Express and wire transfer costs are simply normal costs in connection with the sale of reality in Italy.

DOD: 01/29/08		<p>SHERRI VAUGHT, Administrator, is Petitioner.</p> <p>Supplemental Petition for Settlement of First and Final Accounting and Final Distribution filed 04/02/12 states:</p> <ol style="list-style-type: none"> The requirements of Revenue & Taxation Code § 480 have been satisfied by filing of a change of ownership statement with the County recorder or assessor. Notice is not required under PrC § 9202 (a) because the decedent did not receive Medi-Cal benefits, and 9202 (b) because no beneficiary is incarcerated. Petitioner sold the real property of the estate on 01/31/11 for a sale price of \$91,750.00. Notice of Proposed Action was given to decedent's heirs and consent was obtained from Victoria Rapp on 01/26/11. No objections to the sale were received. The sale resulted in net proceeds to the estate of \$8,777.17. Petitioner presents an amended Summary of Account as follows: <p>Account period: 04/06/09 – 03/01/12</p> <table> <tr> <td>Accounting</td> <td>-</td> <td>\$166,000.00</td> </tr> <tr> <td>Beginning POH</td> <td>-</td> <td>\$166,000.00</td> </tr> <tr> <td>Ending POH</td> <td>-</td> <td>\$11,777.17</td> </tr> </table> <p>Administrator - waives</p> <p>Attorney - waives</p> <p>Distribution, pursuant to intestate succession, is to:</p> <table> <tr> <td>Sherri Vaught</td> <td>-</td> <td>\$5,888.58</td> </tr> <tr> <td>Victoria Rapp</td> <td>-</td> <td>\$5,888.58</td> </tr> </table>	Accounting	-	\$166,000.00	Beginning POH	-	\$166,000.00	Ending POH	-	\$11,777.17	Sherri Vaught	-	\$5,888.58	Victoria Rapp	-	\$5,888.58	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 05/21/12</u> Minute Order from 05/21/12 states: No appearances. The Court sets the matter for an Order to Show Cause Re: Sanctions and Failure to Appear on 07/09/12. The Court orders Daniel Bruce to be personally present with the administrator on 07/09/12.</p> <p>As of 06/29/12, the following notes remain:</p> <ol style="list-style-type: none"> The accounting is incomplete pursuant to Probate Code § 1061. The Accounting does not list receipts, distributions or other information required pursuant to Probate Code § 1061. Need revised accounting to include the relevant schedules (receipts/disbursements, etc.) or waiver of accounting from Victoria Rapp. Neither the Petition nor the Supplemental Petition state whether notice was given to The Franchise Tax Board as required per Probate Code § 9202 (c).
Accounting	-		\$166,000.00															
Beginning POH	-		\$166,000.00															
Ending POH	-		\$11,777.17															
Sherri Vaught	-		\$5,888.58															
Victoria Rapp	-		\$5,888.58															
Cont. from 112811, 020612, 040212, 052112																		
<input type="checkbox"/>	Aff.Sub.Wit.																	
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<input type="checkbox"/>	Video Receipt																	
<input type="checkbox"/>	CI Report																	
<input checked="" type="checkbox"/>	9202																	
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Order to Show Cause Re: Sanctions and Failure to Appear

DOD: 01/29/08	<p>SHERRI VAUGHT, Administrator, filed a Petition for Settlement of First and Final Account and Final Distribution on 09/19/11.</p> <p>The matter has been continued 6 times since 11/01/11.</p> <p>Petitioner filed a Supplemental Petition for Settlement of First and Final Accounting and Final Distribution on 04/02/12.</p> <p>Minute Order from hearing on 05/21/12 set this matter for an Order to Show Cause and states: No appearances. The Court sets the matter for an Order to Show Cause re: Sanctions and Failure to Appear on 07/09/12. The Court orders Daniel Bruce to be personally present with the administrator on 07/09/12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>	
Cont. from			
Aff.Sub.Wit.			
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Notice of Hrg			
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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: 06/29/12</p>
	<p>Updates:</p>		
	<p>Recommendation:</p>		
	<p>File 5B - Vaught</p>		

Atty Keeler, Jr., William J., of Garvey Schubert & Barer, Portland, Or (for Petitioner Dennis L. Thomas, Successor Co-Trustee)
 Atty Ivy, Scott J., of Lang Richert & Patch (for Respondent Janette Courtney, Executor)
 Atty Neilson, Bruce A. (by Association, for Respondent Janette Courtney, Executor)

Petition to Determine Validity of Trust Instruments; to Determine Title to Property; to Recover Trust Property; to Compel Trustee to Account and Report; Financial Elder Abuse (Prob. C. 17200, 850; W & I C 15657.5)

Ernest DOD: 2003	<p>DENNIS L. THOMAS, son, Beneficiary, and Successor Co-Trustee, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> Ernest and Loretta Drummond were married and had no children together, but had seven children total from prior marriages: <ul style="list-style-type: none"> Ernest's children: SANDRA THOMPSON, JOANN DAWSON and [ERNEST] MICHAEL DRUMMOND, JR; Loretta's children: STEVEN THOMAS, DAVID THOMAS, DENNIS L. THOMAS (Petitioner), and JANETTE BURCH COURTNEY; Ernest and Loretta founded a successful hearing aid company called the DRUMMOND COMPANY (Drummond Co.); On 4/23/1992, Ernest and Loretta created the ERNEST L. DRUMMOND FAMILY TRUST ("Ernest Trust") (copy attached as Exhibit A); Schedule A to the Ernest Trust identifies and places into the Trust 2 parcels of real property, 2 bank accounts, 2 vehicles, 2 life insurance policies, an IRA, and 100% of the 30,000 shares of the Drummond Co. as property of the Ernest Trust; many of those assets remained in joint tenancy between Ernest and Loretta until Ernest's death, including the Drummond Co. shares; On 4/30/2003, Ernest and Loretta amended the Ernest Trust (copy of First Amendment attached as Exhibit B), in which both Ernest and Loretta agreed to make specific trust distributions of a 40-acre ranch and a liquor store in Mariposa to STEVEN THOMAS, son, and to provide all of Loretta's and Ernest's shares in the Drummond Co. to Dennis Thomas (Petitioner) free of trust upon the death of the survivor of Loretta and Ernest; <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 4/30/2012. Minute Order states Mr. Ivy requests a continuance.</p> <p>Note: Attorneys for Respondent Janette Courtney filed on 5/22/2012 a Notice of Association of Counsel indicating that Attorney Bruce A. Neilson is associated in as counsel for Janette Courtney.</p> <p>Note for background: Order Granting Ex Parte Application for Temporary Restraining Order signed on 11/29/2011 orders Janette Courtney, Executor [appointed with full IAEA without bond on 9/15/2011], is restrained from transferring, selling, encumbering, leasing or granting any other interest in the real property located in Visalia to Tad Edwards or his assignee, or otherwise committing the acts described in the Notice of Proposed Action dated 10/25/2011 absent the supervision and order of this Court.</p> <p>1. Need proposed order.</p>	
Loretta DOD: 6/9/2011			
Cont. from 020712, 043012			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail	W/		
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Conf. Screen			
Letters	091511		
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order		X	
Aff. Post			
Status Rpt			
UCCJEA			
Citation			
FTB Notice		<p>Reviewed by: LEG</p> <p>Reviewed on: 6/29/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 6A - Drummond</p>	

Petitioner states, continued:

- Upon Ernest's death in 2003, the **Ernest Trust** was divided into 2 sub-trusts, the Marital Trust ("**Survivor's Trust**") and Family Trust ("**Decedent's Trust**"); pursuant to the terms of the **Ernest Trust**, 50% of the shares of the Drummond Co. were held in Decedent's **Trust** after Ernest's death;
- Pursuant to the **Ernest Trust**, Petitioner is currently the acting Trustee of both the Survivor's **Trust** and Decedent's **Trust**, with the principal place of administration of both trusts being in Fresno County;
- On 8/11/2005, Loretta created the **LORETTA M. DRUMMOND "S TRUST"** ("**S Trust**") (*copy attached as Exhibit C*); *Schedule A* to the **S Trust** identifies 27,000 shares of the Drummond Co. as property of the **S Trust**, and the terms of this trust permit the subsequent addition of property to the trust;
- At the time of the **S Trust** creation, Loretta and Janette (Respondent) knew and/or through the exercise of reasonable care should have known that up to ½ of the 27,000 shares of the Drummond Co. stock were assets of the irrevocable **Decedent's Trust**;
- On 3/1/2007, Loretta amended the distribution scheme of the **S Trust** to provide for equal shares of the trust estate to be distributed to all seven of the Drummond children (*copy of First Amendment to the S Trust attached as Exhibit D*); [*Examiner's Note: While ¶ 11 of the Petition states the amendment to the S Trust provided for equal shares of the trust estate to be distributed to "all seven" children, it appears from the copy of the First Amendment to the S Trust that distribution of the trust property was to be made to Janette Burch, David A. Thomas, Joann E. Dawson and Sandra L. Thompson only.*]
- Pursuant to the **S Trust**, Janette Burch Courtney is the acting trustee of the **S Trust**, and the principal place of its administration is **Cincinnati, OH**;
- During Ernest's life, Petitioner worked at the Drummond Co. and while doing so acquired a **10% interest** in the company from Ernest and Loretta with the understanding and promise that he would inherit control of the Drummond Co. upon Ernest's death; Petitioner believed he would receive the additional shares of the Drummond Co. necessary for control from a trust established by Ernest;
- Upon Ernest's death, Petitioner was informed by Janette that Ernest had never established the trust he expected and she stated Ernest had attempted to establish a trust but that the trust did not actually exist because it had never been funded;
- Despite repeated requests to both Loretta and Ernest, Petitioner was unable to obtain a copy of the **Ernest Trust** from Janette until after Loretta's death;
- Although Petitioner believed that Ernest and Loretta had intended to leave the Drummond Co. to him upon Ernest's death, Janette indicated that because the shares in the Drummond Co. were held in joint tenancy between Ernest and Loretta, Loretta had become the owner of **90%** of the shares of the Drummond Co. through right of survivorship and was free to place those share into the **S Trust**;
- Janette, as Trustee of the **S Trust**, called a meeting of the shareholders of the Drummond Co. and by voting the shares of the Drummond Co. held in the **S Trust** and by acting as a majority shareholder, Janette removed Petitioner as an officer of the Drummond Co. and installed herself as president of the company;
- Petitioner subsequently left the employ of the Drummond Co., and after his departure, Janette offered to buy Petitioner's **10%** interest in the Drummond Co., demanding that Petitioner waive any interest in the Drummond Co. under both Ernest's and Loretta's estate plans, claiming that such waiver was necessary because there was a possibility she would sell the company and potential buyers might offer a lower price if they believed a conflicting claim to the company existed; in order to ensure Petitioner accepted her offer, Janette also raised a number of potential claims that the Drummond Co. could have against Petitioner and his wife, **MELANIE THOMAS**, at the time related to their tenures as employees of the Drummond Co.;

~Please see additional page~

Petitioner states, continued:

- A *Settlement Agreement Regarding Disputed Legal Matters* (attached as Exhibit E) was entered into by Petitioner, his wife, Janette, Loretta, the Drummond Co. and **SAUNDRA SOUSA**, Loretta's sister and the person who had actually been operating the Drummond Co. during Janette's tenure as president; the *Settlement Agreement* pertained to the various claims held or potentially held by the parties;
- Petitioner believes that as part of the settlement contemplated by that agreement, Petitioner and Janette also executed a stock purchase agreement that transferred Petitioner's **10%** interest in the Drummond Co. to Janette as Trustee of the **S Trust**; in the stock purchase agreement, Janette warranted that "Buyer has full power and right to enter into this Agreement and to purchase Seller's interest in the company;" Loretta signed the agreement as the owner of the Drummond Co. (copy of stock purchase agreement attached as Exhibit F);
- In June 2011, Petitioner was finally able to obtain copies of the **Ernest Trust** and its *First Amendment*; Petitioner was unaware until that time that the claims set forth in the *Petition* existed or were legally supported;
- After reviewing the **Ernest Trust** and its *First Amendment*, Petitioner first learned that upon the death of Ernest, Petitioner should have become a vested remainder beneficiary in a majority of the shares of the Drummond Co. despite Janette's statements and Loretta's actions to the contrary;
- Petitioner will file contemporaneously with this petition a complaint for damages and rescission in Fresno County Superior Court on the basis of these same facts. [Note: Civil case filed 12/29/2011 in Case #11CECG04320; first amended complaint filed 1/25/2012.]

Petition requests the Court determine the validity of the Ernest Trust on the following additional bases:

- Petitioner believes Ernest and Loretta executed the **Ernest Trust** and its *First Amendment* so as to ensure that all of their shares in the Drummond Co. distributed to Petitioner upon the death of the survivor of the two;
- Petitioner further believes that despite the fact that the shares were held in joint tenancy between Ernest and Loretta until Ernest's death, the declaration contained in the **Ernest Trust** that Ernest and Loretta "hereby transfer and deliver to the Trustees and their successors the property listed in Schedule A" was sufficient to fund the **Ernest Trust** pursuant to Heggstad because **100%** of the Trustors' shares of the Drummond Co. were listed in *Schedule A*;
- Petitioner asserts that the **Ernest Trust** and the *First Amendment* thereto are valid, binding, and enforceable trust instruments.

Petition requests the Court determine the [in]validity of the S Trust on the following additional bases:

- Petitioner believes the **S Trust** was executed in August 2005, after Ernest's death;
- **Improper funding:** Petitioner believes that due to the operation of the **Ernest Trust** and its *First Amendment*, Loretta did not have possession of or legal title to the 27,000 shares listed in *Schedule A* of the **S Trust**;
 - Petitioner believes that due to the operation of the **Ernest Trust** and its *First Amendment*, 100% of the shares of the Drummond Co. were set aside to be distributed to Petitioner free of trust upon the death of Loretta;
 - Ernest had often told Petitioner and his siblings, including Janette, that Petitioner would receive control of the Drummond Co. upon his death;
 - Because Loretta did not have possession of or legal title to the 27,000 shares listed in *Schedule A* to the **S Trust**, the **S Trust** and/or Janette as Trustee of the **S Trust** never acquired possession of or legal title to any of the Drummond Co. shares owned by the **Ernest Trust**; because the **S Trust** was never funded with shares in the Drummond Co., the **S Trust** is invalid insofar as it purports to control the distribution of any shares in the Drummond Co.;

~Please see additional page~

- **Undue Influence:** Petitioner believes that the entirety of the **S Trust** is invalid because Loretta executed the **S Trust** as a result of undue influence on the part of Janette;
 - Petitioner believes that Janette and Loretta were in a confidential relationship because they were mother and daughter, because Janette principally handled her mother's affairs, and because Janette had a durable power of attorney over Loretta at that time;
 - Petitioner believes that Loretta was susceptible to undue influence because she suffered from acute alcoholism and was frequently intoxicated or suffering from the effects of alcohol withdrawal;
 - Petitioner believes Janette was active in the procuring of the **S Trust** because Janette was principally in charge of Loretta's affairs, and because, due to Loretta's intoxication or other illness, Loretta could not have driven herself to an attorney's office, secured her own transportation, or otherwise interacted with an attorney without Janette's assistance;
 - Petitioner believes Janette unduly benefitted under the terms of the **S Trust** because the **S Trust** allowed for Janette to vote Petitioner off of the board of the Drummond Co. and to install herself as president of the company, reaping the benefits of that position; in addition, had the **S Trust** never been executed, the shares of the Drummond Co. would have been distributed to Petitioner pursuant to the intent of both Loretta and Ernest.

Petition for Relief under Probate Code § 850 Against Janette Burch Courtney as Trustee of the S Trust:

- Petitioner believes that Janette is in possession of either shares of the Drummond Co., proceeds from the sale of shares of the Drummond Co., or some combination thereof;
- Petitioner believes that those shares or the proceeds from the sale thereof are properly the property of the **Ernest Trust** and/or Petitioner acting as Trustee of the **Ernest Trust**;
- Petitioner seeks an order of the Court that Janette Burch Courtney transfer to Petitioner or otherwise hold in constructive trust for Petitioner any shares of the Drummond Co. and/or any funds derived from the sale of any and all funds and assets Janette has wrongfully removed from the Drummond Co.

Petition to Compel Trustee to Account and Report Against Janette Burch Courtney as Trustee of the S Trust:

- Petitioner alleges there is sufficient basis to compel Janette to render a complete account and report of her administration of the **S Trust** for the period of 8/11/2005 to the present, including the activities of the Drummond Co.;
- Petitioner requests the Court order Janette to include in her account and report her administration of any shares in the Drummond Co.

Petition for Financial Elder Abuse Against Janette Burch Courtney, individually and as Trustee of the S Trust:

- At all times relevant to this action, Loretta was aged 65 or older;
- Loretta created the **S Trust** with Janette's assistance and at Janette's direction; absent Janette's conduct, Loretta would not have so acted;
- Petitioner alleges that through Janette's assistance and by Janette's direction, 27,000 shares in the Drummond Co. were effectively put at Janette's disposal; Janette knew or should have known that her assistance in taking, secreting, misappropriating, obtaining, and/or retention of Loretta's property was likely to be harmful to Loretta, and that, by depriving Loretta of her shares, her conduct did in fact cause Loretta harm;
- Petitioner alleges that Janette's conduct constituted financial abuse under Welfare & Institutions Code § 15657.5 as defined in Welfare & Institutions Code § 15610.30.

~Please see additional page~

Petitioner prays for an Order from the Court finding that:

1. The **Ernest Trust** is a valid and enforceable declaration of trust;
2. The *First Amendment* to the **Ernest Trust** is a valid and enforceable amendment to the **Ernest Trust**;
3. Any provision of the **S Trust** that relates to or that purports to control the distribution of any shares of the Drummond Co. is invalid;
4. The entirety of the **S Trust** is invalid due to undue influence;
5. That Janette Burch Courtney, as Trustee of the **S Trust**, holds any shares of the Drummond Co. or any proceeds from the sale thereof in constructive trust for the benefit of Petitioner Dennis L. Thomas;
6. That Janette Burch Courtney, as Trustee of the **S Trust**, is ordered to immediately transfer any shares of the Drummond Co. or any proceeds from the sale thereof to Petitioner Dennis L. Thomas;
7. That Janette Burch Courtney, as Trustee of the **S Trust**, is ordered to file and serve a complete account and report of her administration of the **S Trust** for the period of 8/11/2005 to the present and return all funds and assets taken from the Trust and/or the Drummond Co.;
8. That Petitioner is awarded general damages in an amount according to proof;
9. That Petitioner is awarded special damages in an amount according to proof;
10. That Petitioner is awarded punitive damages in an amount sufficient to punish and deter similar conduct; and
11. That Petitioner is awarded costs and reasonable attorneys' fees.

Response to Petition to Determine Validity of Trust Instruments; to Determine Title to Property; to Recover Trust Property; to Compel Trustee to Account and Report; for Financial Elder Abuse; and Request for Abatement per Probate Code § 854 filed on 1/30/2012 by Contestant Janette Courtney, in her individual capacity, and in her capacity as Executor, and as Trustee of the Loretta M. Drummond "S" Trust, states:

- The *Petition* asserts various and serious allegations against her, most of which, if not all, are based upon allegations asserted on "information and belief" that are not sufficient evidence to support the relief granted in the *Petition*;
- Moreover, the *Petition* admits that Petitioner has also filed a civil action in Fresno County Superior Court (Case No. 11CECG04320) "on the basis of these same facts" as alleged in the *Petition*;
- Contestant cites the following: Pursuant to Probate Code § 854, the Probate Court, "upon request of any party to the civil action **shall abate the petition** until the conclusion of the civil action." Pursuant to Probate Code § 856.5, the Court "may not grant a petition under this chapter if the court determines the matter should be determined by a civil action." Pursuant to Probate Code § 852, any interested party may request a continuance to conduct discovery proceedings, or for other preparation for the hearing.
- The nature and complexity of the allegations set forth in the *Petition*, and the fact that almost all of the allegations are based upon "information and belief" not sufficient to support the granting of the *Petition* in any event, make it clear that these factual issues will be the subject of [extensive] and time-consuming discovery in the pending civil action;
- **Accordingly, Contestant requests that the Court deny the *Petition* pursuant to Probate Code § 856.5;**

~Please see additional page~

Janette Courtney's Response to Petition to Determine Validity of Trust, continued:

- Given that the *Petition* admits Petitioner is seeking relief “on the basis of the same facts” as those alleged in the pending civil action, **Contestant requests that this Court abate this action and this *Petition* until the conclusion of the civil action pursuant to Probate Code § 854;**
- If the Court declines to abate or deny the *Petition* as requested above, **Contestant requests that the Court continue the hearing on the *Petition* for a minimum of 180 days pursuant to Probate Code § 852 to allow Contestant to conduct sufficient discovery to defend against the numerous and very serious claims that are currently all asserted simply upon “information and [belief].”**

Contestant requests:

1. The Court deny the *Petition* pursuant to Probate Code § 856.[5] on the grounds that the matter should be determined in the currently pending civil action;
2. Alternatively, and only if the Court declines to dismiss the *Petition* pursuant to Probate Code § 856.5, the Court issue an order pursuant to Probate Code § 854 abating the *Petition* until the conclusion of the civil court action;
3. Alternatively, and only if the Court declines to dismiss and/or stay the *Petition* pursuant to Probate Code §§ 856.[5] and 854 as prayed, the hearing on the *Petition* be **continued for a minimum of 180 days** [pursuant to Probate Code § 852] to allow Contestant to conduct discovery and otherwise prepare for the hearing.

8 Thomas Lee Kraft aka Thomas L. Kraft aka Thomas Kraft (Spousal)

Case No. 12CEPR00481

Atty Niebel, Alan D. (of Merced for Elisa Kraft – Petitioner)

Spousal or Domestic Partner Property Petition (Prob. C. 13650)

DOD: 03/01/12	ELISA KRAFT , surviving spouse, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	No other proceedings.	
Cont. from	Decedent died intestate.	
<input type="checkbox"/> Aff.Sub.Wit.	Petitioner states that she is the surviving spouse of the decedent. Petitioner attaches a copy of a marriage certificate showing that she and the decedent were married on 03/06/76. Petitioner states that during their marriage, the decedent became employed as a pharmacist with the County of Fresno. At that time the decedent elected to participate in the County's Deferred Compensation Plan and made contributions to the plan with his earnings throughout the marriage. After the decedent's death, Petitioner learned that the decedent named his father, Harold Kraft, as the beneficiary to his Plan account. Harold Kraft died on 02/02/1992.	
<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	The Petitioner contends that: 1) all monies used to fund the Plan account were community property, 2) the Petitioner did not consent to the decedent having named his father as the designated beneficiary to his Plan account, and 3) the Petitioner did not waive her right to receive any property that would pass to her from the decedent by intestate succession.	
<input checked="" type="checkbox"/> Order	Petitioner seeks an order from the Court confirming Petitioner's ½ community property ownership interest in the Plan account and determining that the decedent's ½ community property interest passes.	
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: JF
		Reviewed on: 07/02/12
		Updates:
		Recommendation:
		File 8 - Kraft

9 Dolores Fajardo Navarro (Det Succ)

Case No. 12CEPR00491

Atty Dornay, Val J. (for Elena Cuevas, Emelda Lowe, Ignacio Navarro, Jr., Jessie Mary Medina, Alice Navarro, Salvador Navarro – Petitioners)

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

DOD: 02/19/12	ELENA CUEVAS, EMELDA LOWE, IGNACIO NAVARRO, JR., JESSIE MARY MEDINA, ALICE NAVARRO, and SALVADOR NAVARRO, daughters and sons, are Petitioners.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. The Petition is marked at item 5 that the decedent died intestate; however, item 15 of the Petition is marked that the names and addresses of all persons named as Executors in decedent's Will are listed in Attachment 15, and Attachment 15 names Elena Cuevas, Emelda Lowe, and Ignacio Navarro, Jr. Need clarification.</p>
Cont. from		
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified	40 days since DOD.	
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC	No other proceedings.	
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	I & A - \$70,000.00	
<input checked="" type="checkbox"/> Aff.Mail	w/o Decedent died intestate.	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.	Petitioners request court	
<input type="checkbox"/> Pers.Serv.	determination that decedent's	
<input type="checkbox"/> Conf. Screen	100% interest in real property	
<input type="checkbox"/> Letters	located at 1705 N. Vagedes, Fresno	
<input type="checkbox"/> Duties/Supp	pass to them pursuant to intestate	
<input type="checkbox"/> Objections	succession.	
<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: JF
		Reviewed on: 07/02/12
		Updates:
		Recommendation:
		File 9 - Navarro

15 Lily Uhrich & Stone Uhrich (GUARD/P)

Case No. 10CEPR00398

Atty Kesterson, Kenneth Kern (pro per – maternal great-grandfather/Guardian)

Atty Kesterson, Carolyn Ann (pro per – maternal great-grandmother/Guardian)

Atty Lirette, Nathan (pro per – father)

Further Status Conference

<p>Lily, 6 DOB: 12/22/05</p>	<p>KENNETH KESTERSON and CAROLYN KESTERSON, maternal great-grandparents, were appointed guardians on 7/12/10.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
<p>Stone, 2 DOB: 8/15/09</p>	<p>Mother: MIKAELA MENNUCCI Father: NATHAN LIRETTE</p>	<p>CONTINUED FROM 01/31/12 Minute Order from 01/31/12 states: Mikaela Mennucci, mother, is working during today's hearing. With all due respect, the Court states this case is guided by the Court's timeline, not the therapist's timeline; this Court has jurisdiction and will establish the guidelines. It is ordered that there is to be AT LEAST one more meeting/session between the parties. Visits are to remain in full force and effect as stated previously. The Court asks Mr. Lirette to allow Ms. Griffith to release information to the Court (i.e. until the Court has information from Ms. Griffith, the Court is not inclined to change any orders). No party is to speak ill of any other party or make reference to this proceeding. The Court suggests the guardians seek Medi-Cal or Fresno County mental healthcare options as available for the services of Ms. Griffith. Ms. Griffith states for the record she does not have any conflict with providing services. Lily can remain in counseling as dictated by Ms. Griffith. The Court commends Mr. Lirette for the steps he has taken toward progress, e.g. completing the domestic violence course and working toward substance abuse course completion.</p>
<p>Cont. from 112911, 013112</p>	<p>Paternal grandfather: UNKNOWN Paternal grandmother: ELEANOR LIRETTE Maternal grandfather: LAWRENCE MENNUCCI Maternal grandmother: NATALIE KJAR</p>	<p>Reviewed by: JF</p>
<p>Aff.Sub.Wit.</p>	<p>Father, Nathan Lirette, filed a Petition for Visitation on 10/10/10.</p>	<p>Reviewed on: 06/29/12</p>
<p>Verified</p>	<p>Minute order from hearing on 12/06/10 granted visitation to the father, to be agreed upon between the parties and continued the matter to 01/03/11.</p>	<p>Updates:</p>
<p>Inventory</p>	<p>Minute order from hearing in 01/03/11 ordered supervised visitation to father, Nathan Lirette, and set the matter for a status hearing on 04/06/11.</p>	<p>Recommendation:</p>
<p>PTC</p>	<p>Minute Order from 04/06/11 hearing extended the father's Visitation and indicates that the court will address the father's request for overnight visitation at the next hearing. Status hearing set for 06/28/11.</p>	<p>File 15 - Uhrich</p>
<p>Not.Cred.</p>	<p>Minute order from 06/28/11 hearing discussed Lily's ongoing therapy with Dr. Griffith and Lily's night terrors. The Court ordered Lily to have a full evaluation and to obtain a doctor's opinion regarding any potential detriment with regards to overnight visits. Visitation to remain as previously ordered and the matter was continued to 08/23/11.</p>	<p>Continued on Page 2</p>
<p>Notice of Hrg</p>	<p>Confidential report of Lois K. Griffith, therapist filed 08/17/11.</p>	
<p>Aff.Mail</p>	<p>Minute Order from Hearing on 08/23/11 states: Also present in the courtroom are: Natalie Kjar and Eleanor Lirette. The Court modifies the visitation order to reflect that father, Nathan Lirette, will have weekend visitation every other weekend from Friday at 2:30 pm to Saturday at 7:30 pm. Father will pick up Lily after school and pick up Stone. The Court further orders that on the weekends the father does not have visitation, he will have a Tuesday visit from 2:30pm to 7:30pm. The Court orders that all parties enroll in and participate in therapy as suggested by Dr. Griffith as set forth in her report. Father and mother are to participate in 12 bi-weekly sessions. The minute ordered also set this status hearing on 11/29/11.</p>	
<p>Aff.Pub.</p>		
<p>Sp.Ntc.</p>		
<p>Pers.Serv.</p>		
<p>Conf. Screen</p>		
<p>Letters</p>		
<p>Duties/Supp</p>		
<p>Objections</p>		
<p>Video Receipt</p>		
<p>CI Report</p>		
<p>9202</p>		
<p>Order</p>		
<p>Aff. Posting</p>		
<p>Status Rpt</p>		
<p>UCCJEA</p>		
<p>Citation</p>		
<p>FTB Notice</p>		

Declaration of Kenneth & Carolyn Kesterson filed 01/24/12 states that they would like the current visitation schedule with the children's father, Nathan Lirette, to continue as currently ordered through the school year. The Kestersons state that they will be amenable to daytime visitation during the summer, but request that the overnight visits remain at 1 night as they feel Nathan is too young for two overnights away from home. The Kestersons further report at the children's mother, Mikaela Mennucci has started working and is paying child support, they report that Nathan Lirette is also working, but he has not paid child support. With regard to the Court ordered therapy, the Kestersons state that the two sessions they had with Dr. Griffin did not go well and they believed the father, Nathan Lirette, wanted no further meetings. They state they were shocked to learn that Mr. Lirette had continued seeing Dr. Griffin and recently Dr. Griffin asked them about a combined session with Mr. Lirette and Lily. They state that they have not heard back about this combined session. The Kestersons report that the children are doing well and that Lily was placed in the 1st grade; Stone seems to be adjusting to the visitation with his father, but it has been a slow process.

Court Investigator Dina Calvillo filed a Supplemental Report on 1-27-12.

Court Investigator Dina Calvillo filed a Supplemental Report on 06/21/12.

18 Harlee DeCambra & Gerald DeCambra (GUARD/P)

Case No. 12CEPR00249

Atty Moore, Marylou (for Petitioner/maternal grandmother Marylou Moore)

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

Harlee age: 5 years DOB: 10/20/2006	<p>TEMPORARY EXPIRES 7/9/12.</p> <p>MARYLOU MOORE, maternal grandmother, is petitioner.</p> <p>Father: ALAN DECAMBRA – personally served on 3/23/12 and on 5/21/12.</p> <p>Mother: HEATHER VAN PATTEN – Personally served on 5/21/12.</p> <p>Paternal grandfather: Robert DeCambra – served on 4/19/12</p> <p>Paternal grandmother: Pam DeCambra – served on 4/19/12</p> <p>Maternal grandfather: Ricky Moore – served on 4/19/12.</p> <p>Petitioner states there is domestic abuse, drug use and mom abandoning the children. Mom broke the restraining order to choose her boyfriend over her kids.</p> <p>Court Investigator Julie Negrete's Report filed on 5/11/12.</p> <p>Court Investigator Julie Negrete's Supplemental Report filed on 6/20/12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 5/21/12. Minute order states the Court orders the Court Investigator Julie Negrete to contact the mother Heather Van Patten regarding allegations of drug use and domestic violence.</p>	
Gerald age: 2 years DOB: 2/27/2010			
Cont. from 052112			
<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/O
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.			
<input checked="" type="checkbox"/> Pers.Serv.			W/O
<input checked="" type="checkbox"/> Conf. Screen			
<input checked="" type="checkbox"/> Letters			
<input checked="" type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input checked="" type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input checked="" type="checkbox"/> Order			
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input checked="" type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
		<p>Reviewed by: KT</p> <p>Reviewed on: 7/2/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 18 - DeCambra</p>	