**1 Alison Miller (CONS/P)** **Case No. 0437854**

**Atty Denning, Stephen M. (for Matthew Miller – Brother – Conservator)**

**Petition for Substituted Judgment to Execute a Will [Prob. C. 2580(b)(13)]**

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| Age: 41 | | |
| DOB: 3-20-71 | | |
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| | Aff.Sub.Wit. | |
| ✔ | Verified | |
| | Inventory | |
| | PTC | |
| | Not.Cred. | |
| ✔ | Notice of Hrg | |
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| | Sp.Ntc. | |
| | Pers.Serv. | |
| | Conf. Screen | |
| | Letters | |
| | Duties/Supp | |
| | Objections | |
| | Video Receipt | |
| | CI Report | |
| | 9202 | |
| ✔ | Order | |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| | FTB Notice | |

**MATTHEW MILLER**, Brother and Conservator of the Person, is Petitioner.

**Petitioner states** the purpose of this petition is to avoid intestacy and to provide for distribution of the conservatorship estate and the **Alison Miller Special Needs Trust**. The Conservatee lacks capacity for the proposed action and lacks legal capacity to state a position as to the proposed action. The proposed action is only for the purposes of providing for the ultimate distribution of the conservatorship estate and special needs trust estate on the conservatee's death and will have no adverse effect on the assets available for her care. Petitioner states that the circumstances show the proposed action that Alison Miller, acting as a reasonably prudent person, would take if she had capacity to do so.

**The conservatee's existing estate plan** consists of the special needs trust, which provides that the trust shall terminate on the death of the beneficiary and the trustee shall distribute the undistributed balance of the trust estate as the beneficiary may direct by the exercise of a special power of appointment, etc., subject to federal law requiring notice and reimbursement of state claims (language cited and copy provided). The trust provides that if the Conservatee fails to exercise the special power of appointment, that part must be distributed to her "heirs at law," which would be her father.

**However, based on the following facts, it is reasonable to conclude that the Conservatee would not provide for her father, but would instead provide for her brothers, Andrew Miller and Matthew Miller.**

When Alison was four months old, she became disabled after suffering a reaction to an immunization vaccine. Since that time, she has been profoundly handicapped, both physically and mentally. Shortly thereafter, her father abandoned her and has had no contact with her and provided no support in the subsequent 40+ years. Alison has a half-brother, Jeremy Miller, that she has never met.

Until her death, Alison's mother had been solely responsible for her care, and since her death, Alison's brothers, Andrew and Matthew, have taken responsibility for her care. Since her father and half-brother have not been a part of her life, it is reasonable to conclude that Alison Miller would prefer that the trust estate be given to her brothers.

**Petitioner requests an Order authorizing Matthew Miller, as Conservator of the Person of Alison Miller, to execute the attached will under Probate Code §2580(b)(13), and for such other and further relief as the court deems proper.**

The attached will appoints Petitioner as Executor and devises the estate equally to her two brothers.

**NEEDS/PROBLEMS/ COMMENTS:**

**CONTINUED TO 8-14-12 per request of Attorney Denning's office**

**Note:** The Special Needs Trust established in 1998 was originally created in this conservatorship file and was later assigned a different case number (09CEPR00502). All assets previously held in the conservatorship estate were transferred to the SNT. Upon the petition of Matthew Miller to become Successor Conservator of the Person and Estate; the Court did not find a need for further conservatorship of the estate, and granted conservatorship of the person only.

**1. Notice of Hearing was not served on Alison Miller (Conservatee) pursuant to Probate Code §§ 2581(a) and 1460(a)(2).**

**2. Need new order in compliance with Local Rule 7.6.1.D., E. (Probate orders shall be drawn so that their general effect may be determined without reference to the petition on which they are based. The proposed will should be attached to the order, and the signature line should appear at the end.**

**Note: Alison Miller resides at Melendez Family Home, a care home in Terra Bella, CA., and receives services from CVRC.**

**Reviewed by:** skc

**Reviewed on:** 7-10-12

**Updates:**

**Recommendation:**

**File 1 - Miller**



**Dept. 303, 9:00 a.m. Monday, July 16, 2012**

**2 Heather Schmidt (GUARD/E)** **Case No. 07CEPR00883**

**Atty Roberts, David A. (for Karin Schmidt – Guardian/Petitioner)**

**(1) Third and Final Account and Report of Guardian; (2) Petition for Allowance of Attorneys' Fees and Costs and (3) for Termination of Guardianship [Prob. C. 2620]**

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|---|---|---|
| **Age: 18** | | |
| **DOB: 05/03/94** | | |
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| **Cont. from** | | |
| | **Aff.Sub.Wit.** | |
| ✓ | **Verified** | |
| | **Inventory** | |
| | **PTC** | |
| | **Not.Cred.** | |
| ✓ | **Notice of Hrg** | |
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| | **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** | |

**KARIN SCHMIDT,** mother and Guardian, is Petitioner.

Account period: 04/01/11 – 03/30/12

| | | |
|---|---|---|
| Accounting | - | $37,710.52 |
| Beginning POH | - | $37,618.44 |
| Ending POH | - | $36,915.52 |
| Guardian | - | waives |
| Attorney | - | $312.50 (per itemization for drafting and review of Third and Final Accounting) |
| Costs (filing fees) | - | $395.00 |

Petitioner states that Heather Schmidt is now 18 and requests that the Guardianship of the Estate be terminated.

**Petitioner prays for an Order:**

1. Approving, allowing and settling the third and final account;
2. Authorizing the attorney fees and costs; and
3. Terminating the Guardianship of the Estate of Heather Schmidt; and
4. Releasing Karin Schmidt from her duties as guardian of the estate.

**NEEDS/PROBLEMS/COMMENTS:**

1. The Petition indicates that Heather Schmidt turned 18 on May 3, 2012; however, the account period only goes through 03/30/12. The Court may require more information regarding any activity and the status of the property on hand.

**Note:**

Petitioner requests to be released from her duties as guardian of the estate; however, the guardian may only be released upon the filing of an Ex Parte Petition for Final Discharge and Order.

The relief requested in the Petition does not match the relief stated in the submitted Order. The Order includes a statement that the property on hand be distributed outright to Heather Schmidt (which is not requested in the Petition); and does not request that Karen Schmidt be released from her duties as Guardian of the Estate (which can only be done upon the filing of Ex Parte Petition for Final Discharge and Order)(see note above).

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| **Reviewed by:** JF | |
| **Reviewed on:** 07/10/12 | |
| **Updates:** | |
| **Recommendation:** | |
| **File 2 - Schmidt** | |

## 3 Thomas Dominic Greco (CONS/PE) Case No. 08CEPR00547

**Atty** **Barrus, John E. (for Beverly A. Edlund – Conservator/Petitioner)**

**(1) Third and Final Account and Report of Conservator; Petition for Its Approval; (2 for Allowance of Attorney's Fees and Costs; (3) for Approval of Delivery of Assets and (4) for Discharge of Conservator (Prob. C. 1860, 2320, 2620, 2631, and 2640)**

**DOD: 02/07/12**

**Cont. from**

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| | Aff.Sub.Wit. | |
| ✓ | Verified | |
| | Inventory | |
| | PTC | |
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| ✓ | Notice of Hrg | |
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| | Objections | |
| | Video Receipt | |
| | CI Report | |
| ✓ | 2620(c) | |
| ✓ | Order | |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| | FTB Notice | |

**BEVERLY A. EDLUND,** Conservator with bond of $30,000.00, is Petitioner.

*Bond is sufficient.*

Account period: **11/11/11 – 04/15/12**

Accounting - **$80,748.07**
Beginning POH - **$75,179.32**
Ending POH - **$72,275.82**

Conservator - **waives**

Attorney - **$2,126.00** (4.55 attorney hours @ $280/hr. and 7.10 paralegal hours @ $120/hr. for completion of matters related to the second account and the preparation and filing of this accounting)

Costs - **$807.66** (for filing fees and overnight delivery costs)

Petitioner states she received authorization to sell the residence, but it has not yet sold. Consequently, there are insufficient cash funds to pay the court-approved attorney's fees of David N. Knudson ($7,200.00) and John E. Barrus ($7,718.75) approved on 08/23/10 and ($7,297.25) approved on 04/17/12, plus the fees and costs requested with this Petition($2,933.66).

Petitioner states that she was appointed as Executor of Conservator's Estate in Case No. 12CEPR00194 and Letters were issued to her on 04/04/12. Because the Conservatorship has no funds with which to pay attorney's fees, they will be addressed in the probate proceeding. The property of the conservatorship has been transferred to Petitioner as Executor of the Estate and a receipt on Distribution of the Executor has been filed.

**Petitioner prays for an Order:**

1) Settling and allowing the third and final account and report of Conservator;
2) Authorizing the attorney's fees and costs;
3) Authorizing the delivery of the assets of the conservatorship estate to Beverly Edlund, Executor of the Estate of Thomas Dominic Grecco; and
4) Upon filing of an Ex Parte Petition for Final Discharge, discharging Petitioner as Conservator of the Estate and discharging Petitioner's bond.

**NEEDS/PROBLEMS/COMMENTS:**

1. Pursuant to Probate Code 2620(B) – The final court accounting of the conservator following the death of the conservatee shall include a court accounting for the period that ended on the date of death and a separate accounting for the period subsequent to the date of death. Therefore, need accounting from 11/11/11 – 02/07/12 and subsequent accounting from 02/08/12 – 04/15/12.

**Reviewed by:** JF

**Reviewed on:** 07/11/12

**Updates:**

**Recommendation:**

**File 3 - Greco**

# 4A Marvin M. Coit (Estate) Case No. 11CEPR00617

**Atty** **Magness, Marcus D. (for Dennis A. Maxwell – Administrator – Petitioner)**

**Petition for Order Directing Transfer of Possession of Mobile Home to the Estate of Marvin M. Coit [Prob. C. 850(a)(2)(D)]**

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| **DOD: 7-1-11** | | |
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| | **Aff.Sub.Wit.** | |
| ✓ | **Verified** | |
| | **Inventory** | |
| | **PTC** | |
| | **Not.Cred.** | |
| ✓ | **Notice of Hrg** | |
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| | **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** | |

**DENNIS A. MAXWELL**, Administrator with Will Annexed, is Petitioner.

Petitioner states at the time of his death, Decedent owned a mobile home situated within one of his ranches, adjacent to his farm office and shop, in which he had allowed **LUCIA KENNEDY** to reside prior to his death. Decedent lived in a different home on a different parcel of property.

Since his death, Ms. Kennedy has continued to reside in the home and has refused to sign a lease to the property and to allow access to the interior to inventory any of Decedent's personal property that may be contained therein.

Marv Coit, Inc., a corporation owned entirely by the estate, operates out of the office and shop adjacent to the mobile home. The utilities of the mobile home are not separately metered and all utilities have been paid by the corporation. Ms. Kennedy has contributed no funds toward the payment of any gas, electricity, water, maintenance, or other costs associated with the mobile home.

Ms. Kennedy is the mother of Decedent's youngest child, Michael, who does not reside there. Michael is currently a student at The Orme School, a private boarding school in Arizona.

Ms. Kennedy purportedly claims a possessory interest in the mobile home. She apparently lived with Decedent at the mobile home on and off before his death, and now claims a right to remain there rent-free.

Petitioner states Ms. Kennedy has no family allowance claim because she was not a spouse. Petitioner has offered to lease the mobile home to her, but this offer was rejected through her attorney. Without a lease, she has no rightful claim to possession.

**Petitioner requests an order under Probate Code §850 directing Ms. Kennedy to immediately turn over possession of the mobile home to Petitioner as Administrator.**

**NEEDS/PROBLEMS/COMMENTS:**

**<u>Note</u>: Lucia Kennedy, represented by Attorney David Knudson, was appointed Guardian Ad Litem on 9-29-11 for Michael Coit (Decedent's minor son with Ms. Kennedy).**

**<u>Note</u>: The Orme School of Arizona filed a Creditor's Claim on 1-6-12 for $34,664.00. The Administrator filed an allowance of that claim on 3-2-12.**

**<u>Note</u>: Ms. Kennedy filed a Creditor's Claim on 4-9-11 for an amount "to be determined" including approx. 180 acres of real property in Firebaugh, which is developed to almonds and pistachio orchards, the value of the increase in real properties and other investments during their relationship together, for assets sufficient to provide support to herself and their son as promised by Decedent, for damages arising from the breach of Decedent's promises to provide and/or transfer property to her at his death, upon which she relied, and for attorney fees incurred in filing the claim. In the attachment, Ms. Kennedy describes her life together with Decedent since 1996. The attachment also contains reference to various trusts. The Administrator filed a Rejection of Creditor's Claim for "any amount" on 4-30-12.**

**Reviewed by:** skc

**Reviewed on:** 7-10-12

**Updates:**

**Recommendation:**

**File 4A - Coit**

**4B** **Marvin M. Coit (Estate)** **Case No. 11CEPR00617**

**Atty** **Magness, Marcus D. (for Dennis A. Maxwell – Administrator – Petitioner)**

**Petition (1) Instructions to Determine Controlling Testamentary Document(s); (2) to Determine Heirship; (3) for Approval to Pay Attorney's Fees for Extraordinary Services; and (4) for Instructions Regarding School Tuition in Light of Possible Will Contest (Prob. C. 9611, 10811 & 11700 et seq)**

**DOD: 7-1-11**

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|---|---|---|
| | Aff.Sub.Wit. | |
| ✓ | Verified | |
| | Inventory | |
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| | Not.Cred. | |
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| | 9202 | |
| ✓ | Order | |
| | Aff. Posting | |
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| | Citation | |
| | FTB Notice | |

**DENNIS A. MAXWELL**, Administrator with Will Annexed, is Petitioner.

**Petitioner states** Decedent is survived by five (5) children by four (4) different women:

- Decedent was married to Roberta E. Coit, who died in 1964. They had one daughter together, **Kelly Coit**.
- Next, Decedent married Tonja A. Coit. They had one daughter together, **Amy Coit**, before divorcing in 1975.
- In the 1980s, Decedent was engaged to **Dayna Valadao**, and they had two sons together: **Mark Coit** and **Mitchell Coit**.
- In 1996, Decedent had one son, **Michael Coit**, with a woman named **Lucia Kennedy**.

At the time of his death, Decedent owned in excess of 1,000 acres of land, approx. 700 of which are planted with almonds and pistachios, and was also the sole shareholder (holding title in the name of the 1981 Trust), director and officer of **Marv Coit, Inc.**, a corporation that provides custom farming services to Decedent's farmland.

**Petitioner is aware of four (4) separate estate documents *executed* by Decedent:**

- **1981 Trust** – The Marvin M. Coit 1981 Revocable Living Trust Agreement
- **1981 Will** – Pour-over to 1981 Trust
- **1986 Codicil** – First Codicil to Will of Marvin M. Coit dated 1986
- **2005 Trust** – Marvin M. Coit Family Trust First Amended Declaration and Agreement of Trust executed in 2005

**Petitioner has also located the following *unsigned* document:**

- **1998 Trust** – The Marvin M. Coit Family Trust Declaration and Agreement of Trust that contains a "June ___, 1998" date.

**Decedent also had an irrevocable life insurance trust (the "ILIT")created in 1998.**

***SEE ADDITIONAL PAGES***

**NEEDS/PROBLEMS/ COMMENTS:**

**See additional pages.**

**Note: Statement of Interest filed 7-12-12 by Marva Critch (Represented by Attorney Gary Bagdasarian) states she is also a child of Decedent and entitled to notice and a share of the estate. Birth certificate attached.**

**Reviewed by:** skc

**Reviewed on:** 7-11-12

**Updates:**

**Recommendation:**

**File 4B - Coit**

**Petitioner states** that while Decedent created at least one trust during his lifetime, the only asset transferred into such trust(s) was 100% of the issued and outstanding stock of Marv Coit, Inc. His remaining assets were not assigned into the trust and remained in Decedent's name.

**With this petition, Petitioner seeks instruction from the Court concerning a number of issues that derive from ambiguities in Decedent's estate planning documents; from questions concerning the expenditure of estate funds to pay for one of Decedent's son's private boarding school and the impact that a claim filed against the estate by or on behalf of such son may have on such payments; and Petitioner seeks authority to pay extraordinary attorneys fees to defend the estate against a lawsuit filed against Decedent before his death. The easiest issue will be addressed first:**

**Petition for allowance of extraordinary compensation to attorneys for Administrator:**

Petitioner states prior to Decedent's death, he was sued by **Lucy Knoeffler** in 10CECG04227. Decedent was, and is, represented by Patrick Gorman, Esq., of Wild, Carter & Tipton. The case is now active and a trial date is fast approaching. Petitioner requests an order from this Court authorizing payment of legal fees incurred in that action.

On 2-1-12, Petitioner served notice on Ms. Knoeffler of her need to timely file a creditor's claim in this estate. The time to file a claim expired on 4-1-12.

On or about 3-28-12, Ms. Knoeffler filed what appears to have been a claim in 10CECG04227, but she did not file a claim in this probate proceeding.

Counsel wrote to her advising her that she had failed to timely file a claim on 4-13-12. No further communication has been received from Ms. Knoeffler.

Petitioner has received an invoice from Wild, Carter & Tipton for fees incurred for services rendered in April 2012, including attendance at mandatory settlement conference and work on a motion for judgment on the pleadings that will be filed as a result of Ms. Knoeffler's failure to timely file a claim. Probate code §10811 provides that extraordinary compensation may be paid for extraordinary services by the attorney for the personal representative in an amount the court determines just and reasonable. There is no question that defending the Administrator and Estate in litigation commenced prior to Decedent's death are legal services extraordinary in nature.

**Declaration of Patrick J. Gorman requests $1,179.00 as just and reasonable compensation. Petitioner requests Court approval to pay this invoice and for instructions concerning a mechanism for monthly approval of invoices for such continued service to avoid doubling the cost of such legal services vis-à-vis Court filing fees.**

***SEE ADDITIONAL PAGES***

**Petition for Instructions to Determine Controlling Testamentary Document(s):**

Petitioner states the 1981 Will and the 1986 Codicil contain language revoking prior wills/codicils; however, neither the 1981 Trust, 1998 Trust, nor 2005 Trust contain revocation language.

**Decedent's testamentary instructions designate beneficiaries as follows:**

- **1981 Trust** divides into as many equal shares as there are children, which shares are to be held in trust until the children reach age 30. (That would mean 20% each for Kelly, Amy, Mark, Mitchell, and Michael, with Kelly and Amy receiving their shares outright due to their ages, and the rest held in trust until age 30.)

- **1981 Will** gives all Decedent's tangible property to his children in equal parts, with the residue pouring over to the trustee of the 1981 Trust, as it is amended through the date of Decedent's death.

- **1986 Codicil** amends the 1981 Will by adding two gifts for Decedent's then-fiancé, Dayna Valadao – specifically a home in Hollister and $150,000.00 cash.

- **1998 Trust *[not executed]*** gives Ms. Valadao $250,000.00 with the residue to be distributed to Amy, Mark and Mitchell. Kelly and Michael were left nothing under this instrument.

- **2005 Trust** Section 4.2 provides that the beneficiaries are 25% each to Amy, Mark, Mitchell and Michael. Kelly is left nothing under this instrument.

  Pursuant to Section 8.2, each of the named beneficiaries is to receive ½ of their respective share if or when they attain the age of 30 and the balance if or when they attain the age of 35. Under this 2005 Trust, only Amy would receive her distribution immediately. Mark, Mitchell and Michael are all under 30.

- **ILIT** – Amy is the trustee of the ILIT and the beneficiaries are Amy, Mark and Mitchell. Neither Kelly nor Michael is a beneficiary under that document.

***Examiner's Note:*** *Kelly and Amy are over 35, Mark and Mitchell are between 18 and 30, and Michael is a minor. Lucia Kennedy was appointed as Guardian ad Litem for Michael in this estate on 9-29-11.*

**Petitioner states** Probate Code §21102(a) provides that the intention of the transferor as expressed in the instrument controls the legal effect of the dispositions made in the instrument. When interpreting, the court must be guided by certain principles. Questions of interpretation must lay with the document itself. Petitioner references Probate Code §§ 21120, 21121, 21122, and *Ike v. Doolittle* (1998) 61 Cal.App.4th 51, 73-74 (only where the foregoing rules of interpretation file will the Court look to extrinsic evidence to resolve ambiguities).

***SEE ADDITIONAL PAGES***

**Petition for Instructions to Determine Controlling Testamentary Document(s) (Continued):**

**Petitioner states** it is clear that Decedent's testamentary intent evolved over the years between this various documents. In 1981, all children were treated equally. In 1986, he added gifts for Ms. Valadao (Mark and Mitchell's mother). In 1998, he decided not to leave Kelly or Michael anything, but continued to recognize and increased the gift to Ms. Valadao. By 2005, however, he deleted the gift to Ms. Valadao from his trust and added Michael as a beneficiary. Based on documents discovered to date, it is not clear whether the 1998 instrument was ever executed, or whether it was intended to amend the 1981 Trust or create a new trust that supersedes it. The 2005 Trust is clearly intended as an amendment, *but of which trust?*

The only will that appears to have been executed was the 1981 Will, as amended by the 1986 Codicil.

Both the 1981 Will and the 1981 Trust were executed 10-1-81. Thus it is clear that Decedent intended that his probate estate pass to the 1981 Trust, as it was amended before his death. If the 1998 Trust instrument and/or the 2005 Trust instrument created a trust that *supersedes* the 1981 Trust, then that trust would receive no assets and the Decedent's testamentary intent will be thwarted. If the 1998 Trust instrument and/or the 2005 Trust instrument *amend* the 1981 Trust, then the Decedent's testamentary intent will be carried out.

**Steven J. Roth**, an experienced estate planning attorney and CPA, was the attorney retained by Decedent to amend his estate plan in 1998. According to **Fred Sprinz**, Decedent's financial advisor and insurance agent, Mr. Roth was supposed to prepare a document to amend the 1981 Trust. Mr. Roth prepared the ILIT and the 1998 Trust instrument and met with Decedent on 6-9-1998. At the meeting, the ILIT was executed, but the 1998 Trust was not. *See declarations*.

***Examiner's Note:*** *Mr. Roth's declaration indicates he was not aware of the 1981 Trust when he prepared the 1998 Trust, and it is his understanding that the 2005 Trust amended the 1998 Trust. However, Mr. Sprinz' declaration indicates it was his understanding that Mr. Roth was to prepare documents amending Decedent's prior estate plan, which would be the 1981 Trust.*

Regarding Michael (born in 1996): Petitioner states Decedent was unsure if Michael was his son, as evidenced by the 1998 Trust instrument, which did not leave Michael anything. This led to paternity testing in 1999.

Petitioner states the most plausible inference from these facts is that because of the doubts harbored by Decedent about whether Michael was his son, he did not execute the 1998 Trust instrument, as that would have left Michael nothing. Under the 1981 Trust, by contrast, if Michael did turn out to be his son, he would receive a full share.

Petitioner states it is basic estate planning practice that upon creation of an inter vivos trust, the attorney will create a will that causes any property not transferred during the testator's lifetime to the trust after death. However, where there is already a will that pours into that trust, there is no need to draft a new will. Decedent retained Mr. Roth to amend his existing trust. To carry out those instructions, Mr. Roth prepared both the 1998 Trust instrument and the 2005 Trust instrument. He did not draft a new will. Hence, either the 1998 Trust instrument and the 2005 Trust instrument were intended to amend the 1981 Trust instrument or Mr. Roth made a fundamentally estate planning mistake.

***SEE ADDITIONAL PAGES***

**Petition for Instructions to Determine Controlling Testamentary Document(s) (Continued):**

By 2005, Decedent was satisfied that he was Michael's father and had developed a relationship with him; however, he still did not want Kelly to receive any share of his estate. Therefore, he directed that Mr. Roth revise the draft 1998 Trust instrument resulting in the 2005 Trust instrument, which was then executed. *See Sprinz declaration*.

**Because the 1998 Trust was not signed, the 2005 Trust can only amend the 1981 Trust. Hence, the 1981 Will causes the probate estate to pour into the 1981 Trust, as amended by the 2005 Trust instrument.** Mr. Roth's only mistake was failing to cross-reference the prior instrument in the latter – a mere scrivener's error.

**1986 Codicil:** The 1986 Codicil provides a specific bequest of real property and a pecuniary bequest for Decedent's then-fiancé Dayna Valadao. It appears that although they never married, they were still close when he prepared the 1998 Trust instrument that was never signed, because it gave her a larger gift despite the fact that he had fathered a child with Ms. Kennedy two years earlier.

Petitioner notes that at the time of his death, Decedent no longer owned the real property that was devised to Ms. Valadao in the 1986 Codicil; therefore, Petitioner requests a finding that it is adeemed pursuant to Probate Code §21102.

**Petition to Determine Heirship pursuant to Probate Code §11700:**

Given the various testamentary documents at issue, Petitioner requests that in addition to instructions regarding which testamentary documents control, that the Court issue an order determining the persons entitled to distribution of Decedent's estate.

***Examiner's Note:*** *If this request regarding heirship is meant to determine the persons who will take under the various trust documents then such petition must be brought under a separate trust case pursuant to Probate Code §17000, etc., as noticing and other requirements are different. Trust matters are separate from estate matters, even if the issues overlap.*

***SEE ADDITIONAL PAGES***

**Petition for Instructions Regarding School Tuition:**

**Petitioner states** that prior to Decedent's death, Decedent executed an "Enrollment Agreement" for the Orme School 2011-2012 academic year for Michael's tuition, room, and board, and paid a deposit. A Creditor's claim was timely filed for the balance, allowed, and paid. Tuition totaled $40,835.00 for 2011-2012.

Michael is currently in his Freshman year, and Petitioner anticipates Michael will ask to attend The Orme School through graduation. Decedent did not execute any agreement to send Michael to The Orme School through graduation. Indeed, Decedent had told Petitioner that he was going to demand that Michael's mother pay ½ of this cost.

If the Court determines that the probate estate will pass to the 1981 Trust, without amendment, then Michael's share of such trust will be 20% of the residue of the probate estate, which would pass to a separate trust for Michael's benefit and the trustee will have the discretion to use it for his education, taking into consideration all other resources known by the trustee to be available to the child, per the 1981 Trust.

If the Court determines that the probate estate will pass to the 1981 Trust *as amended* by the 2005 Trust, then Michael's share will be 25% in trust; however, per the 2005 Trust, no principal or income from that trust can be distributed until Michael turns 30.

Petitioner anticipates that Ms. Kennedy will enroll Michael for the 2012-2013 school year and then demand that the probate estate pay 100% of the tuition. Rather than wait until this occurs, placing Michael in a precarious position that could result in dismissal for nonpayment, Petitioner requests instructions as follows:

a) Should any estate assets be used to pay Michael's future tuition at The Orme School if Ms. Kennedy's Creditor's Claim is found to not constitute a contest of Decedent's Will (see below)?

b) If so, what percentage should be paid by Ms. Kennedy?

c) If so, should the share paid by the probate estate be charged as an advance against Michael's share of the residue of the estate, or must his brothers and sisters shares also bear the cost of paying for this rather extravagant private boarding school?

***SEE ADDITIONAL PAGES***

**Petition for Instructions Regarding Will Contest:**

Ms. Kennedy filed a Creditor's Claim in this action in which she demands that she be distributed, free of trust, approx. 180 acres of land planted to pistachios (valued in the Inventory and Appraisal at $2,185,000); an undetermined sum of money equal to the "value of the increase in the decedent's real properties and other investments attributable to her efforts and support;" for assets sufficient to provide support for herself and her son Michael; for damages for alleged breach of oral contract by Decedent; and for attorney fees and costs. The claim has been denied.

Petitioner states that presumably, Ms. Kennedy expects these assets would be distributed to her and Michael free of any estate tax burdens. Ms. Kennedy has appeared in this matter in her capacity as the Guardian of Michael's Estate *[Examiner's Note: Ms. Kennedy is Michael's Guardian ad Litem – there is no case or order appointing her as guardian of his estate.]* and has made the demands in the Claim on both her and Michael's behalf.

Pursuant to Probate Code §21310(a), a "contest" is "a pleading filed with the court by a beneficiary that would result in a penalty under a no contest clause, if the no contest clause is enforced." A "direct contest" is one that alleges that a probate instrument is invalid for various reasons. A no contest clause in a probate instrument "shall be strictly construed." (§21312).

Petitioner states a creditor's claim can be a "contest" that triggers a no contest clause. *Colburn v. Northern Trust Co.* (2007) 151 Cal.App.4th 439, 447.

The 1981 Will and 1981 Trust contain no contest clauses that are broad and encompass more than standard direct contests to the instrument, defining a "contest" as including filings that seek to alter/impair/set aside the provisions of the instruments.

Ms. Kennedy's Creditor's Claim seeks to have a substantial portion of the estate diverted to her and Michael. Indeed, the land she demands represents approx. 16.5% of the value of the estate. This is directly contrary to the language of the isntruments, which provide nothing for Lucia.

If Lucia filed the Creditor's Claim in her capacity as an individual, then she was acting on Michael's behalf when she seeks additional funds for Michael, which, under the 1981 Will and 1981 Trust, would constitute a contest by Michael, and Michael would be entitled to take nothing under either instrument.

In either case, counsel who represents Ms. Kennedy in her capacity as Guaridna ad Litem of Michael in this action believes there is not conflict of interest in filing this claim, as he is the one who represents Ms. Kennedy in connection with the Creditor's Claim. This can only be true if the claim was filed on Michael's behalf.

In order to determine whether any share of the probate estate can be used to pay Michael's tuition, the Court must first determine whether the Creditor's Claim is a direct or indirect contest by Michael of the 1981 Will and the 1981 Trust, as amended, if applicable.

***Petitioner also filed two Requests for Judicial Notice*** *regarding Ms. Kennedy's appointment as GAL and Creditor's Claim with reference to Evidence Code §§ 451, 452, and 453.*

***Summons was served on Attorney David Knudson for Ms. Kennedy*** *with reference to this matter.*

*Examiner's note: Rejection of Creditor's Claim was filed on 4-30-12.*

***SEE ADDITIONAL PAGES***

***Petitioner seeks an Order:***

1. Allowing Petitioner to pay extraordinary compensation to his attorneys in connection with the defense of the Decedent and this estate in the Knoeffler litigation;
2. Determining which of the testamentary instruments control(s), and instructing Petitioner accordingly;
3. Determining and declaring the rights of all persons to Decedent's Estate, and all interests in the Estate, and determining to whom distribution of the Estate should be made;
4. Determining whether Ms. Kennedy's/Michael's creditor's claim violates the no contest provisions of the Decedent's operative estate planning documents; and
5. Instructing Petitioner concerning payment for Michael's potential continuation at The Orme School beyond this academic year.

***The Proposed Order finds that:***

- *The Wild, Carter & Tipton invoice, along with future defense fees relating to that action, should be paid from the estate.*
- *The 1981 Will, as amended by the 1986 Codicil, is valid and constitutes Decedent's last will and testament.*
- *The 1981 Trust is a valid trust agreement.*
- *The 1998 Trust was never executed and is therefore not a valid testamentary instrument.*
- *The 2005 Trust is a valid testamentary document and serves as an amendment to the 1981 Trust.*
- *The 2005 Trust is the controlling document to the extent its provisions are consistent with the provisions of the 1981 Trust. To the extend its provisions are not inconsistent, the 1981 Trust is controlling.*
- *The 2005 Trust does not contain a no-contest clause, and as such the no contest clause in the 1981 Trust is controlling.*
- *Pursuant to the 1986 Codicil, Dana Valadao is entitled to receive certain real property and $150,000.00. However, because the Decedent no longer owned that real property at his death, that gift is adeemed.*
- *Lucia Kennedy is the court-appointed Guardian ad Litem of Michael Coit. She filed a creditor's claim in that capacity on Michael's behalf.*

  *The claim seeks to divert Decedent's assets to Ms. Kennedy and Michael COit in a manner inconsistent with the controlling testamentary instruments and constitutes indirect contest by Michael Coit. As a result, according to the applicable no contest language in the controlling testamentary documents, Michael Coit is entitled to inherit nothing from Decedent.*

  *Because Michael Coit is entitled to inherit nothing, no portion of his future boarding school tuition should be paid from Decedent's estate.*

***SEE ADDITIONAL PAGES***

***The Proposed Order orders that:***

- *Petitioner shall pay Wild, Carter & Tipton and all future invoices shall be submitted to this Court on an ex parte basis without notice or need for a hearing, and shall be paid from the estate.*
- *The creditor's claim filed by Lucia Kennedy constitutes an indirect contest by Michael Coit and he is entitled to inherit nothing.*
- *Dayna Valadao is entitled to receive $150,000.00.*
- *Kelly Coit, Amy Coit, Mark Coit and Mitchell Coit are each entitled to one fourth (1/4) of Decedent's tangible personal property and the remainder shall then pour over in to the 1981 Trust*
- *Amy Coit, Mark Coit and Mitchell Coit are each entitled to one third (1/3) of Decedent's Trust Estate, subject to age-based distribution procedure set forth in trust documents.*

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**NEEDS/PROBLEMS/COMMENTS:**

1. **The *original* 1981 Will was never *deposited* with the Court. Only the original 1986 Codicil has been deposited.**

   **For the 10-20-11 hearing on appointment, Examiner Notes noted that the original 1981 Will was not provided pursuant to Probate Code §8200, and noted that the petitioner had not petitioned for probate of a lost will pursuant to Probate Code §6124.**

   **However, Examiner notes that the Amended Petition filed 9-7-11, although it *referenced* the 1981 Will and 1986 Codicil and *requested appointment with will annexed*, did not request that they be *admitted to probate*.**

   **On10-20-11, the Court granted the Petition and signed an Order Appointing Petitioner as "Administrator with Will Annexed;" however, the order does not admit the 1981 Will and 1986 Codicil to probate.**

   ***At this time*, if the Court is now requested to *admit* the 1981 will to probate, the Court will readdress the issue of deposit of the original will pursuant to Probate Code §8201 (*order to produce*), *or alternatively*, require further information to make any findings necessary for probate of a lost will pursuant to Probate Code §§ 6124 (*destruction with intent to revoke*) and/or 8225 (admission of will to probate).**

2. **The Court cannot make findings and orders with regard to Decedent's various *trust* instruments. *This includes findings of validity and heirship under those documents*. In this estate matter, the Court is limited to determination of the controlling testamentary document(s) for the *estate*.**

   **Therefore, the Court may be able to admit the 1981 Will and 1986 Codicil to probate subject to #1 above; however, any determinations with regard to trusts *must be addressed separately under applicable code*.**

   **For Example: If the Court determines that *in this estate* the1981 Will and 1986 Codicil are the controlling testamentary documents, *and admits them to probate subject to #1 above*, the parties would then file a separate petition in a separate trust matter, to determine the status of the 1981 Trust, since it is the beneficiary under the 1981 Will – whether it was amended or superseded by 1998 Trust or 2005 Trust, etc.**

3. **Statement of Interest filed 7-12-12 by Marva Critch (Represented by Attorney Gary Bagdasarian) states she is also a child of Decedent and entitled to notice and a share of the estate. Birth certificate attached. The Court may require continuance for notice.**

**5 Angelina Sapien Lozano (CONS/PE)** **Case No. 11CEPR00840**

**Atty Sanoian, Joanne (Petitioner/attorney for Conservator Katina Sapien Lozano Pauley)**

**Atty Barrus, John E. (for Conservatee)**

**(1) Amended Petition for Attorney Fees and (2) Reimbursement of Costs Advanced (Prob. C. 2640, 2642)**

| | | |
|---|---|---|
| **Age: 79 years** | | |
| **DOB: 8/2/1932** | | |
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| | | |
| **Cont. from 060412** | | |
| | **Aff.Sub.Wit.** | |
| ✓ | **Verified** | |
| | **Inventory** | |
| | **PTC** | |
| | **Not.Cred.** | |
| ✓ | **Notice of Hrg** | |
| ✓ | **Aff.Mail** | W/ |
| | **Aff.Pub.** | |
| | **Sp.Ntc.** | |
| | **Pers.Serv.** | |
| | **Conf. Screen** | |
| | **Letters** | |
| | **Duties/Supp** | |
| | **Objections** | |
| | **Video Receipt** | |
| | **CI Report** | |
| | **9202** | |
| | **Order** | X |
| | **Aff. Posting** | |
| | **Status Rpt** | |
| | **UCCJEA** | |
| | **Citation** | |
| | **FTB Notice** | |

**JOANNE SANOIAN,** attorney for conservator, **Katrina Sapien Lozano Pauley**, is petitioner.

**KATRINA SAPIEN LOZANO PAULEY** was appointed conservator of the person and estate on 10/26/11 with bond set at $60,000.00

Inventory and appraisal filed on 2/8/12 showing the estate valued at $37,268.63.

Petitioner requests fees in connection with the representation of the Conservator for her petition to be appointed as conservator of the person and estate.

Petitioner **asks that she be paid** from the conservatorship estate and/or the Angelina S. Lozano Living Trust for **38.8 attorney hours @ $200.00 per hour, 42.05 paralegal hours @ @125.00 per hour and 3.55 legal assistant hours @ $40.00 per hour for a total of $10,316.83.**

Petitioner further requests **that she be reimbursed costs in the sum of $470.00** for the probate referee and filing fee.

Services are itemized by date and include review of documents, visits with client, and court appearances.

**NEEDS/PROBLEMS/COMMENTS:**

1. Order does not include the reimbursement of costs.

**Reviewed by: KT**

**Reviewed on: 7/11/12**

**Updates:**

**Recommendation:**

**File 5A - Lozano**



**Dept. 303, 9:00 a.m. Monday, July 16, 2012**

## 6 Willie Brown (Estate) Case No. 11CEPR00887

**Atty** **Mele, James J., of Mele Law Office (for Petitioner Helen Lowe Davis)**

**(1) First and Final Account and (2) Petition for Settlement of First and Final Account and (3) Final Distribution and for (4)Allowance of Compensation for Ordinary Services for Petitioner and Petitioner's Attorney (Prob. C. 10900, 10951, 11640, 10800, 10810)**

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|---|---|---|---|
| **DOD: 8/1/2011** | | | |
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| **Cont. from** | | | |
| | **Aff.Sub.Wit.** | | |
| ✓ | **Verified** | | |
| ✓ | **Inventory** | | |
| ✓ | **PTC** | | |
| ✓ | **Not.Cred.** | | |
| ✓ | **Notice of Hrg** | | |
| ✓ | **Aff.Mail** | W/O | |
| | **Aff.Pub.** | | |
| | **Sp.Ntc.** | | |
| | **Pers.Serv.** | | |
| | **Conf. Screen** | | |
| | **Letters** | 110911 | |
| | **Duties/Supp** | | |
| | **Objections** | | |
| | **Video Receipt** | | |
| | **CI Report** | | |
| ✓ | **9202** | | |
| ✓ | **Order** | | |
| | **Aff. Posting** | | |
| | **Status Rpt** | | |
| | **UCCJEA** | | |
| | **Citation** | | |
| ✓ | **FTB Notice** | | |

**HELEN LOWE DAVIS**, sister and Administrator, is Petitioner.

Account period: 11/9/2011 – 6/9/2012

| | | |
|---|---|---|
| Accounting | - | **$55,305.70** |
| Beginning POH | - | **$54,271.60** |
| Ending POH | - | **$28,110.88** |
| Administrator (statutory) | - | **$2,132.23** |
| Attorney (statutory) | - | **$2,132.23** |

**Distribution pursuant to intestate succession is to:**

HELEN LOWE DAVIS – **$5,961.60 cash;**
EARLINE WINN – **$5,961.60 cash;**
THOMAS LOWE – **$5,961.61 cash**;
LONNIE JACKSON – **$5,961.61 cash.**

**NEEDS/PROBLEMS/COMMENTS:**

**Reviewed by:** LEG
**Reviewed on:** 7/10/12
**Updates:**
**Recommendation: SUBMITTED**
**File 6 - Brown**

**7** **Byrum C. & Wanda H. Bingham Trust (Trust)** **Case No. 11CEPR00918**

**Atty** **Boyett, Deborah K. (Petitioner)**

**Petition for Compensation of Guardian Ad Litem and Reimbursement of Costs [Prob. C. 1003(c)]**

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

**DEBORAH K. BOYETT**, Petitioner, was Court-appointed as guardian ad litem for Wanda H. Bingham on 2-23-12 and continues to serve in that role.

Petitioner requests fees in connection with her services as guardian ad litem including review and analysis of petition and responsive documents, trust and sub-trust documents, legal research regarding fees, correspondence, telephone conferences with various counsel, and preparation and appearance at hearings, etc., totaling 30.80 hours, which also includes one hour preparing this petition.

Petitioner requests payment from the trust of $7,238.00 for 30.80 hours @ $235.00/hr, plus reimbursement for $395.00 for filing this petition, for a total of $7,633.00.

**NEEDS/PROBLEMS/COMMENTS:**

**Reviewed by:** skc

**Reviewed on:** 7-11-12

**Updates:**

**Recommendation:**

**File 7 - Bingham**



**Dept. 303, 9:00 a.m. Monday, July 16, 2012**

## 8 Harold E. Peterson (Estate) Case No. 11CEPR01015

**Atty** **Rube, Melvin K., sole practitioner (for Petitioner Harold L. Peterson)**

**(1) First and Final Account and Report of Executor and (2) Petition for Its Settlement and for (3) Final Distribution (Prob. C. 11002, 10800, 10810, 11640)**

| DOD: 10/6/1999 | | |
|---|---|---|
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| | | |
| Cont. from | | |
| | Aff.Sub.Wit | |
| ✓ | Verified | |
| ✓ | Inventory | |
| | PTC | |
| ✓ | Not.Cred. | |
| ✓ | Notice of Hrg | |
| ✓ | Aff.Mail | W/ |
| | Aff.Pub. | |
| | Sp.Ntc. | |
| | Pers.Serv. | |
| | Conf. Screen | |
| | Letters | 011112 |
| | Duties/Supp | |
| | Objections | |
| | Video Receipt | |
| | CI Report | |
| ✓ | 9202 | |
| | Order | X |
| | Aff. Posting | |
| | Status Rpt | |
| | UCCJEA | |
| | Citation | |
| ✓ | FTB Notice | |

**HAROLD L. PETERSON**, son and Executor, is Petitioner.

Account period: 1/9/2012 – 4/30/2012

| | | |
|---|---|---|
| Accounting | - | **$0.00** |
| Beginning POH | - | **$0.00** |
| Ending POH | - | **$0.00** |
| Executor | - | **$0.00** |
| Attorney | - | **$0.00** |

**Petitioner states**:

- Pursuant to Decedent's Will, Decedent's estate, which consists entirely of Decedent's right, title and interest in *the Note Secured by Deed of Trust* dated 1/9/1974 *(copy attached as Exhibit 1)* and *the Deed of Trust and Assignment of Rents* dated 1/9/1974 (*copy attached as Exhibit 2),* is to be distributed to **JOHN E. PETERSON,** Successor Trustee of the **HAROLD E. PETERSON AND ALICE T. PETERSON FAMILY TRUST** *(copy attached as Exhibit 3)* for final distribution to John E. Peterson and Harold L. Peterson, the only children of Decedent and the only beneficiaries of the Trust;
- In order to effectuate distribution of the Trust assets, John E. Peterson and Harold L. Peterson entered into a *Mutual Settlement and Release Agreement* whereby John assigned to Harold any and all right, title and interest that John had as beneficiary of the Trust, in the Note, and in the Deed *(copy of settlement attached as Exhibit 4)*;
- Pursuant to the Will and the *Mutual Settlement and Release Agreement*, the Court should allow Petitioner to distribute the estate as follows:
  - **HAROLD L. PETERSON** – **100% interest** in the *Note Secured by Deed of Trust,* and the *Deed of Trust and Assignment of Rents.*
  - **JOHN E. PETERSON** – **100% interest** in any later discovered property.

**NEEDS/PROBLEMS/COMMENTS:**

1. Need proposed order.

**Reviewed by:** LEG

**Reviewed on:** 7/10/12

**Updates:**

**Recommendation:**

**File 8 - Peterson**

**9** **Judy Ann Georgeson (Spousal)** **Case No. 12CEPR00404**

**Atty** **Calhoun, Ronald L (for Petitioner – Kenneth Georgeson)**

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

| | | |
|---|---|---|
| **DOD: 03/24/2012** | | |
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| | | |
| **Cont. from** | | |
| | **Aff.Sub.Wit.** | |
| ✓ | **Verified** | |
| | **Inventory** | |
| | **PTC** | |
| | **Not.Cred.** | |
| ✓ | **Notice of Hrg** | |
| ✓ | **Aff.Mail** | W |
| | **Aff.Pub.** | |
| | **Sp.Ntc.** | |
| | **Pers.Serv.** | |
| | **Conf. Screen** | |
| | **Letters** | |
| | **Duties/Supp** | |
| | **Objections** | |
| | **Video Receipt** | |
| | **CI Report** | |
| | **9202** | |
| ✓ | **Order** | |
| | **Aff. Posting** | |
| | **Status Rpt** | |
| | **UCCJEA** | |
| | **Citation** | |
| | **FTB Notice** | |

**KENNETH GEORGESON,** surviving spouse is petitioner.

No other proceedings

Decedent died intestate.

Petitioner states: the petitioner and the decedent were married on April 24, 1977. During the parties marriage, they operated a diary facility, dba Georgeson Dairy. The dairy facility was allocated a Pooling Certificate #05070 by the California Department of Food and Agriculture. The Polling Certificate #05070 was taken as community property.

There are no creditors for the business, dba Georgeson Dairy, or on the Pooling Certificate #05070

All of the property in the petition was acquired during the marriage and paid for using funds earned during the marriage.

Petitioner requests Court confirmation that ½ of the business, dba Georgeson Dairy, and ½ of the California Department of Food and Agriculture Pooling certificate #05070 passed to Kenneth Georgeson on the death of Judy Ann Georgeson, aka Judy Georgeson and that the remaining ½ of the business, dba Georgeson Dairy, and the California Department of Food and Agriculture Pooling Certificate #05070 is confirmed as belonging to Kenneth Georgeson.

**NEEDS/PROBLEMS/COMMENTS:**

**Reviewed by:** KT / LV

**Reviewed on:** 07/09/2012

**Updates:**

**Recommendation:**

**File 9 - Georgeson**



**Dept. 303, 9:00 a.m. Monday, July 16, 2012**

**10 Josephine Diaz (CONS/P)** **Case No. 12CEPR00428**

**Atty Matlak, Steven M. (for Petitioner Janie Jimenez)**

**Petition for Appointment of Limited Probate Conservator of the Person (Prob. C. 1820, 1821)**

| | | |
|---|---|---|
| **Age: 49 years** | | |
| **DOB: 3/21/1963** | | |
| | | |
| | | |
| | | |
| **Cont. from 061412** | | |
| | **Aff.Sub.Wit.** | |
| ✓ | **Verified** | |
| | **Inventory** | |
| | **PTC** | |
| | **Not.Cred.** | |
| ✓ | **Notice of Hrg** | |
| ✓ | **Aff.Mail** | W/ |
| | **Aff.Pub.** | |
| | **Sp.Ntc.** | |
| | **Pers.Serv.** | |
| ✓ | **Conf. Screen** | |
| ✓ | **Letters** | |
| ✓ | **Duties/Supp** | |
| | **Objections** | |
| ✓ | **Video Receipt** | |
| ✓ | **CI Report** | |
| | **9202** | |
| ✓ | **Order** | |
| | **Aff. Posting** | |
| | **Status Rpt** | |
| | **UCCJEA** | |
| ✓ | **Citation** | |
| | **FTB Notice** | |

**THERE IS NO TEMPORARY. No temporary was requested.**

**JANIE JIMENEZ,** sister, is petitioner and requests appointment as conservator of the person with medical consent powers.

Capacity Declaration – **NEED**

**Voting Rights Affected**

**Petitioner states** the proposed conservatee has been diagnosed with moderate mental retardation associated with perinatal anoxia, borderline microcephaly, and seizure disorder-absence. In addition she experiences seizures on at least a weekly basis. Ms. Diaz is also diagnosed with multiple sclerosis and relies on a walker or wheelchair to ambulate.

**Petitioner also seeks the following additional powers:**

1. The power to access the confidential records and papers of the limited conservatee;
2. The power to consent or withhold consent to marriage or a registered domestic partnership;
3. The power to give or withhold medical consent;
4. The power over the limited conservatee's right to her own sexual contacts and relationships.
5. Irrespective of whether or not petitioner is given control over Ms. Diaz's ability to consent to a valid marriage, Petitioner seeks determination that Ms. Diaz lacks the capacity to enter into a valid marriage.

**Court Investigator Julie Negrete's Report filed on 6/7/12**

**NEEDS/PROBLEMS/COMMENTS:**

**This petition requests appointment of a <u>LIMITED</u> conservator.**

**Court Investigator Advised Rights on 6/6/12.**

**Voting Rights Affected need Minute Order.**

1. Need Capacity Declaration re: medical consent powers.
2. Need written report of the regional center pursuant to Probate Code §1827.5 (a).

| |
|---|
| **Reviewed by: KT** |
| **Reviewed on: 7/10/12** |
| **Updates:** |
| **Recommendation:** |
| **File 10 - Diaz** |

**10 Josephine Diaz (CONS/P)** **Case No. 12CEPR00428**

**Atty Matlak, Steven M. (for Petitioner Janie Jimenez)**

**Petition for Appointment of Limited Probate Conservator of the Person (Prob. C. 1820, 1821)**

| | | | |
|---|---|---|---|
| **Age: 49 years**<br>**DOB: 3/21/1963** | | | **THERE IS NO TEMPORARY. No temporary was requested.** |
| | | | **JANIE JIMENEZ,** sister, is petitioner and requests appointment as conservator of the person with medical consent powers. |
| | | | |
| **Cont. from 061412** | | | Capacity Declaration – **NEED** |
| | **Aff.Sub.Wit.** | | **Voting Rights Affected** |
| ✓ | **Verified** | | **Petitioner states** the proposed conservatee has been diagnosed with moderate mental retardation associated with perinatal anoxia, borderline microcephaly, and seizure disorder-absence. In addition she experiences seizures on at least a weekly basis. Ms. Diaz is also diagnosed with multiple sclerosis and relies on a walker or wheelchair to ambulate. |
| | **Inventory** | | |
| | **PTC** | | |
| | **Not.Cred.** | | |
| ✓ | **Notice of Hrg** | | |
| ✓ | **Aff.Mail** | W/ | |
| | **Aff.Pub.** | | |
| | **Sp.Ntc.** | | |
| | **Pers.Serv.** | | |
| ✓ | **Conf. Screen** | | **Petitioner also seeks the following additional powers:**<br>6. The power to access the confidential records and papers of the limited conservatee;<br>7. The power to consent or withhold consent to marriage or a registered domestic partnership;<br>8. The power to give or withhold medical consent;<br>9. The power over the limited conservatee's right to her own sexual contacts and relationships.<br>10. Irrespective of whether or not petitioner is given control over Ms. Diaz's ability to consent to a valid marriage, Petitioner seeks determination that Ms. Diaz lacks the capacity to enter into a valid marriage. |
| ✓ | **Letters** | | |
| ✓ | **Duties/Supp** | | |
| | **Objections** | | |
| ✓ | **Video Receipt** | | |
| ✓ | **CI Report** | | |
| | **9202** | | |
| ✓ | **Order** | | |
| | **Aff. Posting** | | |
| | **Status Rpt** | | |
| | **UCCJEA** | | |
| ✓ | **Citation** | | |
| | **FTB Notice** | | |
| | | | ***Please see additional page*** |

**NEEDS/PROBLEMS/COMMENTS:**

**This petition requests appointment of a <u>LIMITED</u> conservator.**

**Court Investigator Advised Rights on 6/6/12.**

**Voting Rights Affected need Minute Order.**

3. Need Capacity Declaration re: medical consent powers.

**4.** Need written report of the regional center pursuant to Probate Code §1827.5 (a). – *Letter from Central Valley Regional Center filed on 7/10/12 indicates Ms. Diaz is a client of CVRC and states CVRC does not hold a position in regards to conservatorship status.* **See additional page**

**Reviewed by: KT**

**Reviewed on: 7/10/12**

**Updates:**

**Recommendation:**

**File 10 - Diaz**

**Relevant sections of Probate Code §1827.5 state**

(a) In the case of any proceeding to establish a limited conservatorship for a person with developmental disabilities, within 30 days after the filing of a petition for limited conservatorship, a proposed limited conservatee, with his or her consent, shall be assessed at a regional center as provided in Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code. The regional center shall submit a written report of its findings and recommendations to the court.

(c) A report prepared under subdivision (a) or (b) shall include a description of the specific areas, nature, and degree of disability of the proposed conservatee or proposed limited conservatee. The findings and recommendations of the regional center are not binding upon the court. – *Examiner notes that it does not appear that the letter written by Central Valley Regional Center is in compliance with this section of the Probate Code.*

**Court Investigator Julie Negrete's Report filed on 6/7/12**.

## 11 Manuel V. Torres (Estate) Case No. 12CEPR00490

**Atty** **Edwards, Mark D (for Henry Sanchez – Petitioner – Brother in Law)**

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

| | | | |
|---|---|---|---|
| **DOD: 02/09/2012** | | | **HENRY SANCHEZ,** brother in law / named executor without bond, is petitioner |
| | | | |
| | | | |
| | | | Full IAEA – o.k. |
| **Cont. from** | | | |
| | **Aff.Sub.Wit.** | s/p | |
| ✓ | **Verified** | | Will dated: 07/08/2005 |
| | **Inventory** | | |
| | **PTC** | | Residence: Reedley |
| | **Not.Cred.** | | Publication: The Business Journal |
| ✓ | **Notice of Hrg** | | |
| ✓ | **Aff.Mail** | w/o | **Estimated value of the estate:**<br>Personal property - $5,000.00<br>Real property -$100,000.00<br>**Total: -$105,000.00** |
| ✓ | **Aff.Pub.** | | |
| | **Sp.Ntc.** | | |
| | **Pers.Serv.** | | |
| | **Conf. Screen** | | Probate Referee: Steven Diebert |
| ✓ | **Letters** | | |
| ✓ | **Duties/Supp** | | |
| | **Objections** | | |
| | **Video Receipt** | | |
| | **CI Report** | | |
| | **9202** | | |
| ✓ | **Order** | | |
| | **Aff. Posting** | | |
| | **Status Rpt** | | |
| | **UCCJEA** | | |
| | **Citation** | | |
| | **FTB Notice** | | |

**NEEDS/PROBLEMS/COMMENTS:**

1. Need Affidavit of Publication in the correct newspaper pursuant to Local Rule 7.9A. Petitioner indicates residence was in Reedley therefore the correct publication should be The Reedley Exponent. Petitioner published in The Business Journal.

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

- **Friday, 12/21/2012 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Friday, 09/20/2013 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

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

**Reviewed by:** KT / LV

**Reviewed on:** 07/07/2012

**Updates:**

**Recommendation:**

**File 11 - Torres**



**Dept. 303, 9:00 a.m. Monday, July 16, 2012**

**12 Willie Giesbrecht (Estate)** **Case No. 12CEPR00502**

**Atty Shepard, Jefferson S. (for Petitioner – Barbara Clutter)**

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

| | | | | |
|---|---|---|---|---|
| **DOD: 09/15/2011** | | | **BARBARA CLUTTER,** niece / named executor without bond, is petitioner. | **NEEDS/PROBLEMS/COMMENTS:**<br>1. Petition is incomplete. Page #2 of the Petition is not included. |
| | | | Full IAEA – o.k. | |
| **Cont. from** | | | | |
| | **Aff.Sub.Wit.** | s/p | | **Note: If the petition is granted status hearings will be set as follows:** |
| | **Verified** | | Will dated: 09/09/1998 | |
| | **Inventory** | | | |
| | **PTC** | | Residence: Reedley<br>Publication: Reedley Exponent | • **Friday, 12/21/2012 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and** |
| | **Not.Cred.** | | | |
| ✓ | **Notice of Hrg** | | | • **Friday, 09/20/2013 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution. |
| ✓ | **Aff.Mail** | w | **Estimated value of the estate: ?** | |
| ✓ | **Aff.Pub.** | | | 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. |
| | **Sp.Ntc.** | | Probate Referee: Steven Diebert | |
| | **Pers.Serv.** | | | |
| | **Conf. Screen** | | | |
| ✓ | **Letters** | | | |
| ✓ | **Duties/Supp** | | | |
| | **Objections** | | | |
| | **Video Receipt** | | | |
| | **CI Report** | | | |
| | **9202** | | | |
| ✓ | **Order** | | | |
| | **Aff. Posting** | | | **Reviewed by:** KT / LV |
| | **Status Rpt** | | | **Reviewed on:** 07/09/2012 |
| | **UCCJEA** | | | **Updates:** |
| | **Citation** | | | **Recommendation:** |
| | **FTB Notice** | | | **File 12 - Giesbrecht** |

## 13 Helen Clarice Hickey (Det Succ) Case No. 12CEPR00519

**Atty** **Campagne, Justin T. (for Peggy Ann Mason – Trustee)**

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

| DOD: 02/25/2012 | | | PEGGY ANN MASON, named Trustee of the Helen C. Hickey Trust, is petitioner. | NEEDS/PROBLEMS/COMMENTS: |
|---|---|---|---|---|
| | | | 40 Days since DOD | 1. Need attachment 11 containing (1) the legal description of the real property and its APN and (2)decedent's interest in the property. |
| Cont. from | | | No other proceedings | |
| | Aff.Sub.Wit. | | I & A - **$70,000.00** | 2. Need Notice of Hearing |
| ✓ | Verified | | | |
| ✓ | Inventory | | Will dated: 01/01/2012 – devises entire estate to Peggy Ann Mason as Trustee of the Helen C. Hickey Testamentary Trust. | 3. Need Order |
| | PTC | | | |
| | Not.Cred. | | | |
| | Notice of Hrg | x | | |
| | Aff.Mail | x | Petitioner requests Court determination that decedent's interest in the real property located at 1742 W. Buckingham Way, Fresno, Ca. 93705 pass to Peggy Ann Mason, as trustee of the Helen C. Hickey Testamentary Trust pursuant to decedent's will. | |
| | Aff.Pub. | | | |
| | Sp.Ntc. | | | |
| | Pers.Serv. | | | |
| | Conf. Screen | | | |
| | Letters | | | |
| | Duties/Supp | | | |
| | Objections | | | |
| | Video Receipt | | | |
| | CI Report | | | |
| | 9202 | | | |
| | Order | x | | |
| | Aff. Posting | | | **Reviewed by:** KT / LV |
| | Status Rpt | | | **Reviewed on:** 07/10/2012 |
| | UCCJEA | | | **Updates:** 07/10/2012 |
| | Citation | | | **Recommendation:** |
| | FTB Notice | | | **File 13 - Hickey** |



**Dept. 303, 9:00 a.m. Monday, July 16, 2012**

**14 David Scott Weaver (Estate)** **Case No. 12CEPR00521**

**Atty Motsenbocker, Gary L (for Petitioner – David Morse)**

**Petition for Probate of Will and for Letters Testamentary (Prob. C. 8002, 10450)**

| | | | |
|---|---|---|---|
| **DOD: 05/05/2012** | | | **DAVID MORSE**, named executor without bond, is petitioner. |
| | | | |
| | | | |
| | | | |
| **Cont. from** | | | Full IAEA- o.k. |
| | **Aff.Sub.Wit.** | s/p | |
| ✓ | **Verified** | | Will dated: 05/20/2008 |
| | **Inventory** | | |
| | **PTC** | | Residence: Squaw Valley |
| | **Not.Cred.** | | Publication: Reedley Exponent |
| ✓ | **Notice of Hrg** | | **Estimated value of the estate:** |
| ✓ | **Aff.Mail** | w | Personal property - $10,000.00 |
| ✓ | **Aff.Pub.** | | Real property - $100,000.00 |
| | **Sp.Ntc.** | | **Total - $110,000.00** |
| | **Pers.Serv.** | | |
| | **Conf. Screen** | | Probate Referee: Rick Smith |
| ✓ | **Letters** | | |
| ✓ | **Duties/Supp** | | |
| | **Objections** | | |
| | **Video Receipt** | | |
| | **CI Report** | | |
| | **9202** | | |
| ✓ | **Order** | | |
| | **Aff. Posting** | | |
| | **Status Rpt** | | |
| | **UCCJEA** | | |
| | **Citation** | | |
| | **FTB Notice** | | |

**NEEDS/PROBLEMS/COMMENTS:**

1. Need Affidavit of Publication in the correct newspaper pursuant to Local Rule 7.9A. Petition indicates that the decedent's residence was in Squaw Valley therefore the correct publication should be either the Fresno Bee or The Business Journal. Petitioner published in The Reedley Exponent.

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

- **Friday, 12/21/2012 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Friday, 09/20/2013 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

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

**Reviewed by:** KT / LV

**Reviewed on:** 07/09/2012

**Updates:** 07/10/2012

**Recommendation:**

**File 14 – Weaver**

**15 Daniel William Anderson (Spousal)** **Case No. 12CEPR00527**

**Atty Cobb, Lee S.W. (for Petitioner – Margaret L. Anderson)**

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

| | | | | |
|---|---|---|---|---|
| **DOD: 03/22/2012** | | | **MARGARET L. ANDERSON,** surviving spouse is petitioner.<br><br>No other proceedings.<br><br>Will dated 10/27/1988 devises entire estate to spouse, Margaret L. Anderson.<br><br>Petitioner states: that the decedent's will provides that his entire estate shall pass to Petitioner.<br><br>Petitioner requests Court confirmation that ½ of the property located at 6141 N. West Ave. #102, Fresno, California, ½ of the 2007 Acura and 2009 Acura be passed to her and that the remaining ½ is confirmed as belonging to Margaret L. Anderson. | **NEEDS/PROBLEMS/COMMENTS:** |
| | | | | |
| | | | | |
| | | | | |
| **Cont. from** | | | | |
| | **Aff.Sub.Wit.** | | | |
| ✓ | **Verified** | | | |
| | **Inventory** | | | |
| | **PTC** | | | |
| | **Not.Cred.** | | | |
| ✓ | **Notice of Hrg** | | | |
| ✓ | **Aff.Mail** | w/ | | |
| | **Aff.Pub.** | | | |
| | **Sp.Ntc.** | | | |
| | **Pers.Serv.** | | | |
| | **Conf. Screen** | | | |
| | **Letters** | | | |
| | **Duties/Supp** | | | |
| | **Objections** | | | |
| | **Video Receipt** | | | |
| | **CI Report** | | | |
| | **9202** | | | |
| ✓ | **Order** | | | |
| | **Aff. Posting** | | | **Reviewed by:** KT / LV |
| | **Status Rpt** | | | **Reviewed on:** 07/09/2012 |
| | **UCCJEA** | | | **Updates:** |
| | **Citation** | | | **Recommendation:** |
| | **FTB Notice** | | | **File 15 - Anderson** |



**Dept. 303, 9:00 a.m. Monday, July 16, 2012**

## 16 Adam Carbajal Special Needs Trust Case No. 10CEPR00612

**Atty** **Herold, Kim (for Maria Alvarez-Garcia – Trustee)**

**Ex Parte Petition for Withdrawal of Funds from Blocked Account**

| | | |
|---|---|---|
| **Age: 8** | | |
| **DOB: 10-31-03** | | |
| | | |
| | | |
| | | |
| | **Aff.Sub.Wit.** | |
| ✓ | **Verified** | |
| | **Inventory** | |
| | **PTC** | |
| | **Not.Cred.** | |
| ✓ | **Notice of Hrg** | |
| ✓ | **Aff.Mail** | w |
| | **Aff.Pub.** | |
| | **Sp.Ntc.** | |
| | **Pers.Serv.** | |
| | **Conf. Screen** | |
| | **Letters** | |
| | **Duties/Supp** | |
| | **Objections** | |
| | **Video Receipt** | |
| | **CI Report** | |
| | **9202** | |
| ✓ | **Order** | |
| | **Aff. Posting** | |
| | **Status Rpt** | |
| | **UCCJEA** | |
| | **Citation** | |
| | **FTB Notice** | |

**MARIA ALVAREZ-GARCIA**, Maternal Grandmother, Guardian, and Trustee, is Petitioner.

**Petitioner filed this Ex Parte Petition for Withdrawal of Funds from Blocked Account on 6-1-12. for withdrawal of $2,908.65 for vacation for Beneficiary and three (3) family members.**

**Petitioner states** the trust is a discretionary, spendthrift trust with the purpose of supplementing public resources and benefits. The term "special needs" is defined in the trust as the requisites for maintaining Adam's good health, safety, and welfare and include special equipment, programs of training, education and habilitation, travel needs and recreation, which are related to and made reasonably necessary by Adam's disabilities.

Article Four, Paragraph 1 provides that the trustee may pay to or apply for the benefit of the life beneficiary as much of the trust net income or principal as she, in her discretion, considers necessary or advisable from time to time to meet his special needs.

**Sections 4.2.2 and 4.2.4** specifically state that distributions may be made for a vacation for Adam and three immediate family members. Petitioner would like to take Adam to Disneyland. The Disneyland Hotel has a room that will accommodate his special needs.

For the room and park tickets for Adam, Petitioner and her husband, and one other family member to assist with Adam's care, the cost would be $2,508.65. The estimate for food and gas is $400.00. Petitioners request the Court approve withdrawal of $2,908.65 for this trip.

**The current value of the trust is $142,109.67 with monthly annuity payments to the trust of $1,151.00 for 23 more years.** After the disbursements for the above reimbursements there are sufficient assets to continue to provide for the reasonably foreseeable special needs of Adam. Petitioner requests the Court approve the withdrawal of funds.

**NEEDS/PROBLEMS/ COMMENTS:**

**Note:** Petitioner filed an Ex Parte Petition for Withdrawal of Funds from Blocked Account on 5-15-12, which included a request for %5,717.09 for a trip for the beneficiary and eight (8) family members to Disneyland. The Court set the matter for hearing on 5-29-12.

**Minute Order 5-29-12:** The Court denies the request for funds for Disneyland. The Court approves the remaining items. Counsel to submit a revised order.

Petitioner submitted an Order for Withdrawal of Funds from Blocked Account after that hearing that included the approved expenses, *and also included $1,745.06 for "vacation for 4."*

Pursuant to the minute order of 5-29-12, that line item was stricken upon signature on 5-31-12.

**Reviewed by:** skc

**Reviewed on:** 7-11-12

**Updates:**

**Recommendation:**

**File 16 - Carbajal**

**17 Jordan Giovanni Molina (GUARD/P)** **Case No. 11CEPR00852**

**Atty Quintanar, Sophia (Pro Per – Petitioner – Paternal Grandmother)**

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

**Age: 12/12/2009**
**DOB: 2**

**Cont. from**

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

**GENERAL HEARING 09/04/2012**

**SOPHIA QUINTANAR,** paternal grandmother, is petitioner

Father: **DONICIO CARLOS RAMIREZ**

Mother: **CATHRINE GARCIA,** declaration of due diligence filed 07/02/2012

Paternal grandfather: Carlos Ramirez Navarro

Maternal grandparents: Unknown

**Petitioner alleges:** that the mother asked the petitioner to pick up the child on February 5th and mother has never come back for the child. Father is currently incarcerated. Petitioner states the mother is unable to provide stability for the child. The child is forced to stay with whoever will house them and that mother's friends look like drug addicts.

Petitioner requests to be excused from giving notice to the mother because her address is unknown.

**NEEDS/PROBLEMS/COMMENTS:**

1. Need Notice of Hearing

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:
   - Donicio Carlos Ramirez (Father)
   - Cathrine Garcia (Mother) – Unless the Court dispenses with notice

Note: Declaration of Due Diligence filed on the mother states that petitioner has no personal information about the mother and that the petitioner has not had contact with the mother since 02/05/2012 when she pick up the child, however, the Declaration of Due Diligence was signed on 05/29/2012. Perhaps the Petitioner has had contact since then.

**Reviewed by:** KT / LV

**Reviewed on:** 07/10/2012

**Updates:**

**Recommendation:**

**File 17 - Molina**



**Dept. 303, 9:00 a.m. Monday, July 16, 2012**

**18 Alynna Sue Moore (GUARD/P)** **Case No. 11CEPR00938**

**Atty Johnston, Shana H. (pro per – mother/Petitioner)**

**Petition for Visitation**

| | | | |
|---|---|---|---|
| **Age: 2**<br>**DOB: 08/30/09** | | | **SHANA JOHNSTON,** mother, is Petitioner. |
| | | | **BETTY NICHOLLS,** paternal grandmother, was appointed as Guardian and Letters were issued on 12/14/11. – *served by mail on 06/18/12* |
| **Cont. from** | | | Father: **RONALD MOORE –** *served by mail on 06/18/12* |
| | **Aff.Sub.Wit.** | | Paternal grandfather: RICKY DOWD – *served by mail on 06/18/12* |
| ✓ | **Verified** | | Maternal grandparents: DECEASED |
| | **Inventory** | | Petitioner states that she would like to have court ordered visitation so that she can see her daughter on a regular basis. |
| | **PTC** | | |
| | **Not.Cred.** | | |
| ✓ | **Notice of Hrg** | | |
| ✓ | **Aff.Mail** | w/ | |
| | **Aff.Pub.** | | |
| | **Sp.Ntc.** | | |
| | **Pers.Serv.** | | |
| | **Conf. Screen** | | |
| | **Letters** | | |
| | **Duties/Supp** | | |
| | **Objections** | | |
| | **Video Receipt** | | |
| | **CI Report** | | |
| | **9202** | | |
| | **Order** | x | |
| | **Aff. Posting** | | |
| | **Status Rpt** | | |
| | **UCCJEA** | | |
| | **Citation** | | |
| | **FTB Notice** | | |

| |
|---|
| **NEEDS/PROBLEMS/COMMENTS:** |
| **Reviewed by:** JF |
| **Reviewed on:** 07/11/12 |
| **Updates:** |
| **Recommendation:** |
| **File 18 - Moore** |



**Dept. 303, 9:00 a.m. Monday, July 16, 2012**

**19 Peter Jeffery Garza, Jr. (GUARD/E)** **Case No. 12CEPR00533**

**Atty Garza, Peter Jeffery**

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

| | | |
|---|---|---|
| **Age: 16 years** | | |
| **DOB: 4/11/96** | | |
| | | |
| | | |
| | | |
| **Cont. from** | | |
| | **Aff.Sub.Wit.** | |
| ✓ | **Verified** | |
| | **Inventory** | |
| | **PTC** | |
| | **Not.Cred.** | |
| | **Notice of Hrg** | X |
| | **Aff.Mail** | X |
| | **Aff.Pub.** | |
| | **Sp.Ntc.** | |
| | **Pers.Serv.** | X |
| ✓ | **Conf. Screen** | |
| ✓ | **Letters** | |
| ✓ | **Duties/Supp** | |
| | **Objections** | |
| | **Video Receipt** | |
| | **CI Report** | n/a |
| | **9202** | |
| ✓ | **Order** | |
| | **Aff. Posting** | |
| | **Status Rpt** | |
| | **UCCJEA** | n/a |
| | **Citation** | |
| | **FTB Notice** | |

**THERE IS NO TEMPORARY. Temporary was denied on 6/25/12 (no appearance).**

**PETER JEFFERY GARZA**, Father, is Petitioner and requests appointment as Guardian of the Estate without bond.

Mother: Deceased
Paternal Grandfather: Deceased
Paternal Grandmother: Manuela Garza
Maternal Grandfather: Thomas Sanchez
Maternal Grandmother: Deceased
Siblings: Jessica Garza and Noemi Garza (both adults)

**Estimated value of estate: $292,000.00** (personal property - life insurance proceeds)

**Petitioner states** the minor's mother was murdered. The minor along with his sisters is beneficiary of various life insurance proceeds, but many of the companies will not pay or communicate with Petitioner until guardianship of the estate is established.

Specifically, Sun Life is waiting to pay $94,000, Fosters is waiting to pay $198,000, and Allstate is waiting to pay on a retirement fund their mother had in a sum that has yet to be determined. These funds are available to this minor's sisters, but Allstate refuses to even speak to Petitioner without Letters of Temporary Guardianship of the Estate.

Petitioner states the funds will go into trust for him until he reaches majority and can manage his own funds.

**Probate Referee: Steven Diebert.**

**NEEDS/PROBLEMS/COMMENTS:**

1. Need Notice of Hearing.
2. Need proof of personal service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice for:
   a. Peter Jeffery Garza, Jr.
3. Need proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on:
   a. Manuela Garza (paternal grandfather.
   b. Thomas Sanchez (maternal grandfather)
   c. Jessica Garza (sibling)
   d. Noemi Garza (sibling)
4. Petitioner requests that no bond be required and does not address whether or not the funds will be placed into a blocked account. Local Rule 7.8.1l states absent a showing of good cause it is the policy of the court to block all funds in guardianship estates.

**Note**: If the guardianship is granted the court will set status hearings as follows:

- **Friday, August 31, 2012**, at 9:00 a.m. in Dept. 303 for the filing of the receipt for blocked account;
- **Friday, November 16, 2012**, at 9:00 a.m. in Dept. 303 for the filing of the inventory and appraisal; **and**
- **Friday, September 13, 2013**, at 9:00 a.m. in Dept. 303 for the filing of the first account.

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

**Reviewed by: KT**

**Reviewed on: 7/11/12**

**Updates:**

**Recommendation:**

**File 19 - Garza**



**Dept. 303, 9:00 a.m. Monday, July 16, 2012**