



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 Samantha McDonald and Ebony McDonald (GUARD/P)

Case No. 03CEPR01684

Guardian: Diana McDonald (pro per)

Petitioner: Steven McDonald, JR (pro per)

Petition for Termination of Guardianship

		<p>STEVEN MCDONALD, JR., father, is petitioner.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
		<p>DIANA MCDONALD, paternal grandmother, was appointed guardian on 3/30/06.</p>	<p>1. Need Notice of Hearing. (Note: Proof of service shows parties were served with a copy of the Notice of Hearing, however, the Notice of Hearing has not been filed. Because the Notice of Hearing wasn't filed examiner is unsure of what date the parties were served for and if service was proper.)</p>
<p>Cont. from 061316</p>		<p>Court Investigator Report filed on 6/7/16</p>	<p>2. Need proof of service of the Notice of Hearing on: a. Stephanie Seja (mother) b. Yolanda Guerrero Seja (maternal grandmother) – Document filed states service on Yolanda Seja was unsuccessful because "subject unknown by area occupants; no apt number given."</p>
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<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			<p>Reviewed by: KT</p>
			<p>Reviewed on: 7/14/16</p>
			<p>Updates:</p>
			<p>Recommendation:</p>
			<p>File 1- McDonald</p>

**Petition for Probate of Will and for Letters of Administration with Will Annexed;
 Authorization to Administer Under the Independent Administration of Estates Act**

DOD: 10/3/11		FRESNO COUNTY PUBLIC ADMINISTRATOR is Petitioner and requests appointment as Administrator with Will Annexed with Full IAEA without bond. Full IAEA – ok Will dated 8/11/09 Residence: Fresno Publication: Business Journal Estimated value of estate: Real property: \$311,000.00 Probate Referee: Rick Smith Contest and Grounds for Objection to Probate of Purported Will & of Appointment of Personal Representative was filed 3/16/16. See Page 2.	NEEDS/PROBLEMS/COMMENTS: Minute Order 5/4/16: The Public Administrator has no objection to Mr. Milnes' clients being appointed. The Court grants the Public Administrator the right temporarily to have control over the assets under the \$7660 petition. Note: Contest and Grounds for Objection to Probate of Purported Will & of Appointment of Personal Representative was filed 3/16/16; however, it does not appear that a summons was submitted therewith for issuance pursuant to Probate Code §8250, and because the document indicated this continued hearing date of 4/6/16, the Contest was not assigned it's own separate hearing date at the counter. <u>Due to notice requirements, the Contest cannot be heard until defects are addressed. The Court may wish to set the Contest for noticed hearing pursuant to Probate Code §8250 at this time.</u> On 4/6/16, Mr. Milnes was admonished to address the defects in the will contest; however, nothing further has been filed. <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	
Cont. from 121515, 012716, 030216, 040616, 050416, 060116				
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Reviewed by: skc				
Reviewed on: 7/13/16				
Updates:				
Recommendation:				
File 3A - Galvan				

Page 2

Contest and Grounds for Objection to Probate of Purported Will & of Appointment of Personal Representative filed 3/16/16 BY Hope De Santiago and Stephen Galvan, daughter and son, states:

A document dated 8/11/09 purporting to be the last will was filed in this court on 11/9/11. Petitioners are informed and believe and thereon allege that the decedent left no valid Will. Probate of the purported will should be denied on the following grounds:

1. The decedent was not of sound and disposing mind and therefore lacked testamentary capacity at the time of the alleged execution of the purported will.
2. At the time of signing, the decedent was fluent in the Spanish language and not the English language use dint he purported will, and the decedent was not able to read or understand documents written in the English language. As a result, the decedent was not able to understand or comprehend the meaning and effect of the English words used in the purported will and their significance, therefore the decedent lacked testamentary intent and the signature of the decedent to the purported will was executed by the decedent under a mistake as to its legal effect.
3. Petitioners allege the purported will is not and never was the decedent's will as it was made as a direct result of undue influence on the decedent by his son, **ARTHUR G. GALVAN**, and other members of his family, and it is now (sic) and never was the will of the decedent.

See contest for description of the undue influence.

Contestants also object to appointment of the Public Administrator. Petitioners state on 5/10/13, the PA was appointed under Probate Code §7660 in **13CEPR00400** and since that date has served in that capacity. In connection with this new appointment, the PA failed to give proper notice to the intestate heirs

NEEDS/PROBLEMS/COMMENTS:

1. **Petitioner lists only the decedent's four living children at #8; however, it appears that there are additional people entitled to notice of this proceeding, including:**

- Vanessa Galvan (Daughter of deceased son Frank Garcia Galvan, mentioned in the will)
- Vivian Saicon (Granddaughter and Named alternate executor and former conservator of the person)

Therefore, need revised declaration re #8 and proof of service of Notice of Petition to Administer Estate on Vanessa Galvan and Vivian Saicon at least 15 days prior to the hearing per Probate Code §8110.

Note: Petitioner's #8 indicates that the will provides for distribution to a trust; however, that does not appear to be the case. Need clarification.

2. **Need date of death of Frank Garcia Galvan per Local Rule 7.1.1.D. Note:** Declaration filed 2/26/16 indicates a date of death for a David Garcia Galvan. Is this a typo? There is no *David* listed at #8.

Note: If granted, the Court will set status hearings as follows:

- Wednesday, January 11, 2017 for filing Inventory and Appraisal
- Wednesday August September 20, 2017 for filing the first account or petition for final distribution

Dept. 303, 9:00 a.m. Monday, July 18, 2016

Page 2 - For reference, Examiner provides the following information and history gleaned from this estate file 12CEPR00883 and related matters: Conservatorship 11CEPR00883 and §7660 13CEPR00400:

- **Augustin G. Galvan had five children:** Frank, Arthur, Steven, Hope, and Augustin Jr. Son Frank predeceased, survived by one daughter: Vanessa. Son Arthur predeceased, survived by five children: Arthur Jr., Vivian, Maryellen, Josefina, Lucy.
- On 11/20/11, **Vivian** filed for conservatorship in 11CEPR00049, with reference to a Durable General Power of Attorney dated 8/11/09 naming her, or alternatively her sister Maryellen, as attorney-in-fact. The petition stated that conservatorship was needed to settle two matters: 1) a personal injury matter in Fresno County Superior Court (10CECG00968 Augustin Galvan vs. Paul DeSantiago) that had been settled for \$3,000.00; and 2) a real property matter in Kern County (S-1500-CV-269224-SPC Dorothy Galvan vs. Augustin Galvan) that was pending settlement. The attached proposed settlement indicated Augustin was to quitclaim 1408 Haven Drive to Dorothy, and Dorothy was to quitclaim 1348 Haven Drive, plus a vacant lot of 1.75 acres, to Augustin.
- **On 3/3/11, the Court appointed Vivian Conservator of the Person and Public Guardian as Conservator of the Estate. Decedent died 10/3/11, prior to the filing of an Inventory and Appraisal.**
- **On 11/9/11, a Will dated 8/11/09 (same date as DPOA) was lodged with this court by Attorney J. Patrick Sullivan.** The self-proving will includes a Certificate of Translation of Foreign Language and devises the entire estate to Arthur, or his children.
- PG's Final I&A for the conservatorship estate filed 7/11/12 indicated a total value of \$184,293.46 at appointment (3/3/11) consisting of \$11,993.46 cash plus **one parcel** of real property in Arvin, CA (**1408 Haven Drive-\$172,000**) and misc. personal property (\$300).
- PG's Final Account did not indicate any transactions involving the litigation. Ending POH at 7/16/12 was \$1,265.22 cash plus **1408 Haven Drive (\$172,000)** and misc. personal property (\$100). **Order filed 10/17/12 provided for delivery of the assets to the Public Administrator upon appointment and authorized a lien on the estate for fees and costs.**
- **On 10/3/12, Dorothy M. Galvan**, wife of predeceased son Frank, in pro per, filed for **Letters of Administration**, along with a **Creditor's Claim for \$400,000.00**, alleged **intestate**, and estimated the estate value the same as set forth in the PG's final account.
- On 11/8/12, Dorothy did not appear; Attorney Milnes appeared and objected on behalf of daughter Hope. Dorothy's petition was denied. Minute Order states: The Court notes that counsel has made a representation that a Will will be lodged with the Court and the Public Administrator is contemplating filing a petition. (Note: The will had apparently already been lodged.)
- **On 5/10/13, Public Administrator filed for administration under §7660 (13CEPR00400)**, alleging that the value was not expected to exceed \$150,000.00 and that the decedent died intestate. Order was entered thereon on 5/14/13. **Creditor's Claims** were filed in 13CEPR00400 by Attorney Flora Istanboulian for \$1,650.00 granted 5/17/11 in the conservatorship and by the FTB for \$3,011.46, with Request for Special Notice.
- No Final I&A was ever filed in the §7660; however, **on 1/15/14**, the PG filed an "Appraisal for Sale" with a total value of **\$261,000 including all three (3) parcels:** 1) 1408 Haven Drive (\$191,000), 2) 1348 Haven Drive (\$35,000), and 3) additional parcel (\$35,000). (Note: These values appear as of filing date, not date of death, since it was filed as "Appraisal for Sale.") Nothing further was filed in 13CEPR00400, likely because the value exceeds authority under §7660 (\$150,000).
- **On 11/19/15, the PA filed the Petition for Probate of Will (Page A)** in 12CEPR00883, which estimated the estate to contain real property valued at **\$311,000.00**. This estimate appears to be a date-of-death value of **all three parcels**.

Page 3 – NEEDS/PROBLEMS/COMMENTS:

1. Need Notice of Petition to Administer Estate (DE-121) and proof of service at least 15 days prior to the hearing on all interested parties.

Note: The California Franchise Tax Board filed a Creditor's Claim and Request for Special Notice in 13CEPR00400, the prior administration under §7660. Although the cases have not been formally consolidated, the Court may require special notice to the FTB of this change in administration.

Note: The Court may also require notice to anyone else who may be affected, including counsel, under the various matters being litigated in Fresno County and Kern County.

2. Need Duties and Liabilities of Personal Representative, Confidential Supplement (DE-147, 147S).
3. The decedent's Will dated 8/11/09 was lodged with the Court by Attorney J. Patrick Sullivan on 11/9/11 pursuant to §8200. On its face, it appears valid. It appears to be duly executed and self-proving, contains a Certificate of Translation of Foreign Language, and is dated the same date as the Durable Power of Attorney referenced in the conservatorship estate.

The will names Arthur (deceased), or alternatively Vivian as Executor and devises the estate to Arthur or his children. The Public Administrator's petition at Page A seeks to admit the will to probate; however, Mr. Milnes, representing Hope and Steven, filed a contest, which has not yet been properly noticed or heard.

This petition simply alleges that the will is invalid and seeks to probate the estate as intestate.

The Court may require authority or further information as to why the will is alleged to be invalid and should not be admitted.

4. At Attachment 3(c), Petitioner alleges that the estate consists of three (3) parcels of real property. However, the estimated value of the estate at #3(c) is \$172,100, which is the value set forth in the final conservatorship accounting for only one parcel of real property (and personal property). The Court may require clarification as to the estimated value of the estate.
5. Petitioner states at Attachment 3(f)(2)(a) that she is seeking quiet title by adverse possession to all three parcels of real property. Examiner notes that if Petitioner is successful, it appears the estate will have no assets and will likely be closed as insolvent.

However, this stated intent appears contrary to the information that was previously provided to the Court in the form of a proposed settlement attached to Ms. Saicon's conservatorship petition, which appeared to be a property exchange.

The Court may require further clarification regarding the status of the alleged estate assets – Were all parcels held in the decedent's name at his death? Why were the other parcels not previously identified during conservatorship and prior estate proceedings?

6. The Court may also require further information and status of the various other litigation.

Note: If granted, the Court will set status hearings as follows:

- Wednesday, January 11, 2017 for filing Inventory and Appraisal
- Wednesday August September 20, 2017 for filing the first account or petition for final distribution

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

DOD: 01/16/2005	JOHN T. LAETTNER , son, was appointed Executor with full IAEA authority without bond on 01/23/2013.	NEEDS/PROBLEMS/COMMENTS:
	Letters issued 01/29/2013.	
Cont. from 032814, 033015, 111615, 010416	Inventory and Appraisal filed 07/10/2013 shows a value of \$12,892.00.	Minute order of 01/04/2016: Counsel reports there was legal action for abandonment that went against the estate with regard to the mineral rights, and now pending legal malpractice suit; an additional six months is requested.
Aff.Sub.Wit.	Declaration of Philip M. Flanigan and Status Report filed 07/05/2016 states John T. Laettner needed to be appointed as Executor of the decedent's estate in order to receive an interest in mineral rights in Nebraska that were the subject of a quiet title action.	1. Need First Account or Petition for Final Distribution.
Verified	The Court order filed July 6, 2013, declared the mineral rights held by the decedent were abandoned. An appeal of this Order was dismissed by the Nebraska Court of Appeals on 02/23/2015 (Case No. A-15-00073). Specifically at issue, the attorney handling the appeal failed to respond to an Order to Show Cause issued by the Court of Appeals, resulting in the dismissal of the appeal. The Petitioner since, has filed a case Federal Court (Case No. 4:15-cv-03123), and the trial will be tried in Lincoln, Nebraska. The Defendant in the case filed a Change of Venue Motion that has been denied. The parties were ordered into Mediation, which was held on 04/20/2016 and was not successful. The Plaintiff (Petitioner) filed a Motion for Affirmative Summary Judgment on the issue of proximate cause on 06/15/2016. Any reply is due by 07/30/2016. After that, Magistrate Cheryl Zwart will set further schedules within ten days of the ruling on the Motion. Petitioner is represented by attorney David Domina of Omaha, NE, in the negligence matter. Petitioner respectfully requests that this probate matter be continued six months pending the results of the negligence matter.	
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Citation		
FTB Notice		
		Reviewed by: LV
		Reviewed on: 07/12/2016
		Updates:
		Recommendation:
		File 4 – Mullennix

Status RE: Termination of Proceeding for Deceased Conservatee

DOD: 1/14/16	<p>The FRESNO COUNTY PUBLIC GUARDIAN was appointed Conservator of the Estate on 8/26/14.</p> <p>Conservator's First Account was settled on 10/22/15.</p> <p>The Conservator informed the Court that the Conservatee passed away on 1/14/16.</p> <p>On 1/19/16, the Court set this status hearing for termination of proceeding for deceased Conservatee and sent notice to the Conservator, County Counsel.</p> <p>Status Report filed 7/13/16 states the Public Guardian was short-staffed for several months. That office is now back up to reasonable staffing and is able to prepare accountings. In fact, at least five were filed in the last three weeks. However, the account clerk is not able to get all of the accounts done by their status hearing dates. In addition, the person who prepares the schedules and documents is currently helping with fiscal year inventory reports.</p> <p>Therefore, it is respectfully requested that the next status hearing be set no sooner than 60 days from the date of this hearing.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need final account.</p>
Aff.Sub.Wit.		
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	<p>Reviewed by: skc</p> <p>Reviewed on: 7/13/16</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 5- Rousseau</p>	

DOD: 12/03/2013	<p>LINDA GREEN, daughter, was appointed Executor with full IAEA authority without bond on 01/07/2015.</p> <p>Letters issued on 01/07/2015.</p> <p>Partial Inventory and Appraisal No. 1 filed 05/12/2015 shows an estate valued at \$103,200.30.</p> <p>Final Inventory and Appraisal filed 07/07/2015 shows an estate valued at \$14,241.17.</p> <p>Minute Order of 01/07/2015 set this matter for the filing of the Inventory and Appraisal.</p> <p>Status Hearing Report filed 03/03/2016 (for 03/07/2016 hearing) states the decedent's residence sold, and her savings bonds have been sent off to the Treasury to be liquidated and are awaiting funds to be directly deposited into the estate account. The last remaining issue is the set up for the scholarship at San Jose State per the Decedent's will. The Decedent stated in her will that the scholarship was to go to a woman, but state universities are prohibited under Prop 29 from having specific criteria on the basis of age, gender, ethnicity or race. Attorney Horton has been working with the Associate Vice President of Development at San Jose State to fix this issue so that the gift to San Jose State would not lapse. The beneficiaries of the estate have all agreed and will sign a formal Agreement to modify the requirements of the scholarship so that it would not be prohibited, but Attorney Horton is in the process of getting the agreement language approved by San Jose State before everyone can sign. This will be the last thing needed for the final accounting and petition for distribution, as the estate cannot be closed until the agreement is signed.</p> <p>Ms. Horton asks that this matter be continued out for 60 days for further status.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order of 05/16/2016: Ms. Walters represents that they are awaiting liquidation of the US savings bonds.</p> <ol style="list-style-type: none"> 1. Need First Account or Petition for Final Distribution or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.
Cont. from 030716, 051616		
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Citation		
FTB Notice		
		Reviewed by: LV
		Reviewed on: 07/12/2016
		Updates:
		Recommendation:
		File 9- Green

Probate Status Hearing RE: Filing of the Inventory and Appraisal

DOD: 9/16/2015	<p>MEGAN DAVIS, daughter, was appointed Administrator with full IAEA without bond on 11/16/2015.</p> <p>Letters issued 11/16/2015.</p> <p><u>Minute order dated 11/16/2015</u> set this status hearing re: the filing of the inventory and appraisal.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>OFF CALENDAR. Order dated 7/8/16 continued the matter to 11/21/16.</p> <p>1. Need inventory and appraisal.</p>
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FTB Notice		
		Reviewed by: KT
		Reviewed on: 7/8/16
		Updates:
		Recommendation:
		File 14- Davis

Status RE: Receipt for Blocked Account

	<p>AMALIA ALVAREZ, Mother, was appointed Guardian of the Estate on 4/4/16 with bond of \$102,000.00 and all funds placed into a blocked account.</p> <p><i>Note: Bond has not been filed and Letters have not yet issued.</i></p> <p>Minute Order 4/4/16 states: The Court orders that the funds be placed into a blocked account upon receipt. This Court would be open to investment of the funds in the future, and would be looking for Counsel to provide specifications/projections with regard to the investment. The issue of bond is taken under advisement by the Court. Counsel may provide additional justification regarding the support issue in this matter.</p> <p>The Court also set this status hearing for the filing of the receipt for blocked account.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 6/13/16: Funds must be deposited in a blocked account. The Court does not order a bond at this time.</p> <p>Note: Letters issued 6/21/16.</p> <p>The following issue remains noted:</p> <p>2. Need receipt for blocked account (MC-356) or written status report per Local Rule 7.5.</p> <p>Note: Because the original order required bond rather than blocking, it appears a separate Order to Deposit Money Into Blocked Account will also be necessary. Need Order MC-355.</p>
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		Reviewed by: skc
		Reviewed on: 7/11/16
		Updates:
		Recommendation:
		File 17- Abarca

Petition for Appointment of Probate Conservator of the Person and Estate

		<u>Temporary Expires 7/18/16</u>	NEEDS/PROBLEMS/COMMENTS:
		PUBLIC GUARDIAN is petitioner	Court Investigator Advised Rights on 7/7/16.
		Please see petition for details.	
Cont. from			1. Petition lists the son as <u>David</u> Yewdall. Notice of Hearing shows notice sent to <u>Davis</u> Yewdall. Need clarification.
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		2. Need Capacity Declaration re: medical consent powers.
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			Reviewed by: KT
			Reviewed on: 7/13/16
			Updates:
			Recommendation:
			File 23- Yewdall

Petition for Appointment of Probate Conservator of the Person and Estate

		<u>Temporary Expires 7/18/16</u>	<p>PUBLIC GUARDIAN is petitioner Please see petition for details.</p> <p>Court Investigator Report filed on 7/12/16</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Court Investigator Advised Rights on 7/7/16.</p> <p>3. Petition lists the son as <u>David</u> Yewdall. Notice of Hearing shows notice sent to <u>Davis</u> Yewdall. Need clarification.</p> <p>4. Need Capacity Declaration re: medical consent powers.</p>
Cont. from				
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	FTB Notice			
			Reviewed by: KT	
			Reviewed on: 7/13/16	
			Updates:	
			Recommendation:	
			File 24- Yewdall	