



## 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.

**Third Account Current and Report of Conservator and Petition for Its Settlement**

<b>Age: 76 years</b>		<b>FRANCES KENNEDY</b> , Conservator, is petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Continued from 6/18/2013. As of 7/17/2013 the following issues remain:</b></p> <ol style="list-style-type: none"> <li>1. This conservatorship owes filing fees in the amount of \$355.00 for the filing of the 2<sup>nd</sup> account (fee waiver was denied).</li> <li>2. This conservatorship owes court investigations fees totaling \$2,339.00</li> <li>3. Need Notice of Hearing.</li> <li>4. Need proof of service of the Notice of Hearing on:             <ol style="list-style-type: none"> <li>a. Minerva Clover (conservatee)</li> <li>b. Curtis Rindlisbacher (attorney for conservatee)</li> </ol> </li> <li>5. Need Care Facility statements pursuant to Probate Code §2620(c)(5)</li> <li>6. Need bank statements pursuant to Probate Code §2620(c)(2).</li> <li>7. Receipt schedule includes deposits but does not state the source of the deposits.</li> <li>8. Petition states the conservatee's home has been rented during this account period. Receipt schedule does not include any rental income.</li> <li>9. Disbursement schedule does not show any disbursements for the bond premium. Court may require clarification.</li> </ol>
		Account period: 7/1/2010 – 12/31/2012	
<b>Cont. from 061813</b>		Accounting - <b>\$256,412.82</b>	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	Beginning POH- <b>\$152,807.00</b>	
<input checked="" type="checkbox"/>	<b>Verified</b>	Ending POH - <b>\$153,815.66</b>	
<input type="checkbox"/>	<b>Inventory</b>	Current bond is \$10,000.00	
<input type="checkbox"/>	<b>PTC</b>	Conservator - <b>waives</b>	
<input type="checkbox"/>	<b>Not.Cred.</b>	Attorney - <b>to be paid outside of the conservatorship.</b>	
<input type="checkbox"/>	<b>Notice of Hrg</b>	<b>Petitioner prays for an Order:</b>	
<input type="checkbox"/>	<b>Aff.Mail</b>	1. That the Third Account and Report be approved and settled;	
<input type="checkbox"/>	<b>Aff.Pub.</b>	2. The acts of Conservator as shown in the account and report be approved.	
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>2620(c)</b>	<input checked="" type="checkbox"/>	
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
<b>Reviewed by: KT</b>			
<b>Reviewed on: 7/17/13</b>			
<b>Updates:</b>			
<b>Recommendation:</b>			
<b>File 1 - Clover</b>			

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

- **Friday, February 27, 2015** at 9:00 a.m. in Department 303, for the filing of the fourth account.

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

Age: 2		TEMP EXTENDED TO 7-23-13	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> Page 6C is competing petition filed 5-20-13 by Paternal Grandfather Sebastian Gomez.</p> <p>1. The Court Investigator's report indicates that the minor has specific Indian ancestry (Choctaw). <u>Therefore, this matter cannot go forward until notice pursuant to the Indian Child Welfare Act (ICWA) is completed.</u></p> <p><u>See Page 2 for details.</u></p> <hr/> <p><b>Reviewed by:</b> skc</p> <hr/> <p><b>Reviewed on:</b> 7-17-13</p> <hr/> <p><b>Updates:</b></p> <hr/> <p><b>Recommendation:</b></p> <p>File 6A – Gomez</p>
		MONICA CHRISTINA ROSAS, Maternal Aunt, is Petitioner.	
Cont. from 052013		Father: <b>ROBERT GILBERT GOMEZ</b> - Personally served 3-23-13	
	Aff.Sub.Wit.	Mother: <b>SHARYN ELIZONDO</b> - Consents and waives notice	
✓	Verified	Paternal Grandfather: <b>Sebastian Gilbert Gomez</b> - Personally served 5-1-13	
	Inventory	Paternal Grandmother: Deceased	
	PTC	Maternal Grandfather: <b>Richard Elizondo</b> - Consents and waives notice	
	Not.Cred.	Maternal Grandmother: Deceased	
✓	Notice of Hrg	<b>Petitioner states</b> both parents are unsuitable to care for the minor. Both have criminal histories and Petitioner believes the father continues to use illegal drugs. Petitioner states the father has sole custody and the mother has supervised visits, however, on 2-16-13, the father went to stay with the mother because he did not have a place to stay, and on 2-19-13, left the minor unsupervised with the mother. The mother, fearing she would be in trouble for having been left alone with the baby, reported herself to CPS. CPS came to the home and determined that the father had abandoned the minor, and placed the minor in Petitioner's care. Later, the father broke into the mother's home and stole several items, which were found on him later by law enforcement (police report attached). He was arrested.	
	Aff.Mail	Petitioner state she attended a family law hearing with the mother on 3-11-13 and realized that the minor will not be safe with either parent because the mother needs help, and the father came to court either high on drugs or coming off drugs. He does not have a home and moves around.	
	Aff.Pub.	<b>Court Investigator Samantha Henson filed a report on 5-14-13.</b>	
	Sp.Ntc.		
✓	Pers.Serv.		
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		
✓	Clearances		
✓	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		

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1. (Continued):

Notice of Child Custody Proceeding for Indian Child (Form ICWA-030), must be served prior to the general hearing, together with copies of petition and all attachments, including this form, on the child's parent; any Indian custodian; any Indian tribe that may have a connection to the child; the Bureau of Indian Affairs (BIA), and possibly the U.S. Secretary of the Interior, by certified or registered U.S. Mail, return receipt requested. (Please see Probate Code 1460.2, and CA Rules of Court 7.1015)

Need proof of notice per ICWA.

*Note: It appears that the "Parental Notification of Indian Status" Form ICWA-020 was filed; however, the above notice is still required.*

*Since Petitioner appears to continue to be represented by Attorney Xiong-Vang, the attorney is responsible for completing and serving the required ICWA notice. See CRC 7.1015 (c)(3).*

		<b>NEEDS/PROBLEMS/COMMENTS:</b>  <ul style="list-style-type: none"> <li>CONFIDENTIAL</li> </ul>
<b>Cont. from 052013</b>		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		<b>Reviewed by:</b> skc
		<b>Reviewed on:</b> 7-17-13
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 6B – Gomez</b>

Age: 3	TEMP DENIED 5-20-13	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. If this petition goes forward, need ICWA notice to appropriate agencies and tribe per law.</p>
	<p><b>SEBASTIAN GILBERT GOMEZ</b>, Maternal Aunt, is Petitioner.</p> <p>Father: <b>ROBERT GILBERT GOMEZ</b> - Nominates, consents and waives notice Mother: <b>SHARYN ELIZONDO</b></p> <p>Paternal Grandmother: Deceased Maternal Grandfather: <b>Richard Elizondo</b> Maternal Grandmother: Deceased</p> <p><b>Petitioner states</b> the father was given custody in Family Law Court. Mother made false report in order to take the child from his custody. Child needs to be protected from their mother's family members. Petitioner states: Mother father has been doing sex act with my granddaughter.</p> <p><b>Court Investigator Samantha Henson filed a report on 7-16-13.</b></p>	
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: skc
		Reviewed on: 7-17-13
		Updates:
		Recommendation:
		File 6C – Gomez

<b>DOD: 8/17/2012</b>	<b>EDWARD SIMPSON</b> , brother, is petitioner and requests appointment as Administrator.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>Petition does not address bond. The decedent sole heir is his minor son. Therefore, bond should be set at \$1,000,000.00.</li> <li>Need Notice of Petition to Administer the Estate.</li> <li>Need proof of service of the Notice of Petition to Administer the estate on:             <ol style="list-style-type: none"> <li>Karter Simpson, minor son</li> <li>The person or persons having legal custody of Karter Simpson.</li> </ol> </li> <li>Need Letters</li> </ol>
<b>Cont. from 060413</b>	Petitioner was appointed special administrator for the sole purpose of speaking with the insurance company. Letters of Special Administration expire on 6/4/13.	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Full IAEA – o.k.	
<input checked="" type="checkbox"/> <b>Verified</b>	Decedent died intestate.	
<b>Inventory</b>	Residence: Reedley	
<b>PTC</b>	Publication: Fresno Business Journal	
<b>Not.Cred.</b>	<b>Estimated value of the estate:</b>	
<b>Notice of Hrg</b>	Personal property - \$1,000,000.00	
<b>Aff.Mail</b> <input checked="" type="checkbox"/>	<b>Probate Referee: Rick Smith</b>	
<b>Aff.Pub.</b> <input checked="" type="checkbox"/>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b> <input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/> <b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>	<b>Reviewed by: KT</b>	
<input checked="" type="checkbox"/> <b>Order</b>	<b>Reviewed on: 7/17/13</b>	
<b>Aff. Posting</b>	<b>Updates:</b>	
<b>Status Rpt</b>	<b>Recommendation:</b>	
<b>UCCJEA</b>	<b>File 7 – Simpson</b>	
<b>Citation</b>		
<b>FTB Notice</b>		

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

<b>DOD: 8-7-10</b>	<b>JOHN P. MCCANN and COLLEEN E. DEMPSEY</b> , two of the three named co-executors, are Petitioners.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Minute Order 6-27-13:</b> Mr. McFarlane will file brief by 7-19-13 regarding issues. Ms. Burnside will file response by 7-31-13. Continued to 7-23-13 at 9:00 am, set on 7-23-13 at 9:00 am for status. (Page 8B).</p> <p>1. Need authority for Fresno Superior Court as appropriate venue for probate and administration of this Decedent's estate, as there does not appear to be any property subject to administration here, and this is not a request for ancillary probate. See Probate Code §§ 7052 (including commentary), and 12510.</p> <p>The Decedent was a resident of Katy, Harris County, Texas, and Petitioners do not allege that the Decedent owned any property here. Rather, Petitioners allege that monies taken by Daniel J. McCann that are the subject of other ongoing litigation here <u>may</u> belong to the estate.</p> <p>Examiner notes that Daniel McCann is a resident of Quechee, Vermont.</p> <p><b><u>If this matter goes forward here:</u></b></p> <p style="text-align: center;"><b><u>SEE ADDITIONAL PAGES</u></b></p> <hr/> <p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 7-17-13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p>File 8A - McCann</p>
	Petitioner John P. McCann is a resident of Clovis, CA.	
<b>Cont. from 062713</b>	Petitioner Colleen E. Dempsey is a resident of Katy, TX.	
<input checked="" type="checkbox"/> <b>Aff.Sub.Wit.</b>	Full IAEA – ok	
<input checked="" type="checkbox"/> <b>Verified</b>	Will dated 11-19-08	
<b>Inventory</b>	<b>Residence: Katy, Harris County, TX</b>	
<b>PTC</b>	Publication: Fresno Business Journal	
<b>Not.Cred.</b>	<b>Estimated Value of Estate:</b>	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	Personal property: \$1,500,000.00	
<input checked="" type="checkbox"/> <b>Aff.Mail</b> <span style="float: right;">W</span>	<b>Petitioners state</b> there is a claim against Daniel J. McCann for monies taken by Mr. McCann from the decedent prior to her death filed in the matter of the John P. McCann and Elizabeth A. McCann Trust dated April 2, 1999, with Fresno Superior Court Case No. 11CEPR00871. The monies may belong to the decedent's estate. Petitioners state that Daniel J. McCann is the third named co-executor; however, his appointment as co-executor in the estate would be an irreconcilable conflict of interest.	
<input checked="" type="checkbox"/> <b>Aff.Pub.</b>	<b>Daniel J. McCann filed Opposition to Petition on 6-21-13 states four grounds of objection. See additional pages.</b>	
<b>Sp.Ntc.</b>	Probate Referee: Rick Smith	
<b>Pers.Serv.</b>	<b><u>SEE ADDITIONAL PAGES</u></b>	
<b>Conf. Screen</b>		
<input checked="" type="checkbox"/> <b>Letters</b>		
<input checked="" type="checkbox"/> <b>Duties/Supp</b>		
<input checked="" type="checkbox"/> <b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		

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Daniel J. McCann filed Opposition to Petition on 6-21-13 states four grounds of objection:

- 1) California Superior Court does not have jurisdiction to probate Mrs. McCann's will.
- 2) Petitioners have delayed and waived their right to appointment as personal representatives.
- 3) Petitioners are not competent to act as personal representatives because they are wasting and neglecting any assets the probate estate may have.
- 4) Petitioners are estopped from bringing their petition, which should be abated until the trust litigation is concluded.

Authorities cited include numerous cases, statutes, treatises. See objection for facts and details. Objector states the California Court's involvement with the trust does not confer probate jurisdiction. Objector requests that the petition be denied, for costs of suit, and all other proper relief.

**NEEDS/PROBLEMS/COMMENTS:**

2. The Court may require declination to serve from Daniel J. McCann.
3. Petitioners request appointment without bond and state the will waives bond; however, because they are only two of the three named co-executors, and due to the extensive litigation already in existence, the Court may require bond in the amount of \$1,500,000.00. Alternatively, the Court may require waiver from appropriate relatives/beneficiaries, or authority for waiver of bond as requested. (Note: Because Petitioners are also the co-trustees of the trust, waiver may be required from trust beneficiaries.)
4. The Court may require clarification regarding Fresno Business Journal as appropriate publication with regard to Probate Code §8121 (b), since the decedent did not reside here or own property here. Rather, the property that Petitioners state may be recovered is held by Daniel J. McCann, a resident of Vermont, and the Decedent was a resident of Texas.

**Note to Attorney:** Although the current Judicial Council form "Notice of Petition to Administer Estate" (updated 1-1-13) was used, the publication does not contain the updated language. For future petitions, please remember to note the update for publication.

**Status Hearing**

	<b>JOHN P. MCCANN and COLLEEN E. DEMPSEY</b> filed Petition for Probate of Will and Letters Testamentary and Authorization to Administer under IAEA on 5-17-13 in Fresno Superior Court.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>As of 7-17-13, nothing further has been filed. See issues at Page 8A.</b></p>
	<b>DANIEL J. MCCANN</b> filed Opposition on 6-21-13.	
	<b>Minute Order 6-27-13 states</b> Mr. McFarlane will file brief by 7-19-13 regarding issues. Ms. Burnside will file response by 7-31-13. Matter continued to 7-23-13 9:00 am, set on 7-23-13 9:00 am for status.	
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
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<b>Duties/Supp</b>		
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<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by:</b> skc
		<b>Reviewed on:</b> 7-17-13
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 8B – McCann</b>

<b>DOD: 12-21-12</b>		<p><b>JAIME VASQUEZ and CARO CARUSO</b>, Grandson and Granddaughter of the decedent and Co-Trustees of the <b>Rosa Haydee Lopez Living Trust dated April 3, 2011</b>, are Petitioners.</p> <p>40 days since DOD</p> <p>No other proceedings</p> <p>I&amp;A: \$95,000.00 (real property only)</p> <p>Will dated 4-3-11 devises the estate, after certain specific bequests, to <b>The Rosa Haydee Lopez Living Trust dated April 3, 2011</b>.</p> <p>Petitioners request court determination that the decedent's 100% interest in certain real property in Reedley, CA, passes to them as co-trustees of the trust.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>
<b>Cont. from 062613</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input checked="" type="checkbox"/>	<b>Inventory</b>		
<input checked="" type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b> W		
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
		<p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 7-17-13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b> SUBMITTED</p> <p><b>File 9 - Lopez</b></p>	