

**(1) First Account and Report of Conservator, (2) Petition for Allowance of Fees for Attorney and (3) Petition for Waiver of Further Accounting (Prob. C. 2620, 2623, 2640, 2942)**

<b>DOD: 05/05/09</b>		<b>PAT MIRANDA</b> , Conservator, is Petitioner.  Account period: <b>08/21/03 – 07/18/06</b>  Accounting - \$51,525.40 Beginning POH- \$22,168.18 Ending POH - \$381.16  Conservator - <b>waives</b>  Attorney - \$2,000.00 (ok per Local Rule)  Petitioner states that there are no assets remaining in the estate and requests that the Conservatorship be terminated.  <b>Petitioner requests an Order:</b> 1. Approving, allowing, and settling the first account; and 2. Authorizing payment of attorney's fees;	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>CONTINUED FROM 07/23/12</u> Minute Order from 07/23/12 states: Counsel advises the Court that her hard drive quit working ten days ago so she will need additional time. Matter continued to 08/20/12. Bond to remain in place.  <u>Note:</u> This is the 5 <sup>th</sup> hearing on this matter.  As of 08/14/12, no additional documents have been filed and following items remain:  1. Need Order. 2. Previous status reports filed in this matter indicate that the conservatee died on 05/05/09, this account only covers the period from 08/21/03 – 07/18/06. Need accounting for period of 07/19/06 – 05/05/09. 3. Distributions reflect monthly payment to Conservator, Pat Miranda, of \$400.00 for <u>room and board</u> ; however, there are multiple distributions to grocery stores as follows: - 10/11/03 Food Maxx - \$186.09 - 10/28/03 Savemart - \$36.70 - 11/08/03 Savemart - \$89.47 - 01/05/03 Savemart - \$65.30 - 02/02/04 RN Market - \$70.31 - 05/12/04 Food 4 Less - \$87.06 - 06/24/04 Savemart - \$87.65 - 07/12/04 Savemart - \$86.83 - 08/02/04 RN Market - \$43.37 - 08/05/04 Food Maxx - \$88.14 - 09/16/04 Vons - \$59.64 - 01/12/05 RN Market \$58.40 Court may require clarification of charges at grocery stores, were these groceries purchased for the Conservatee? Was food not included in the Room & Board charge? Also there are payments to PG&E as follows: - 01/15/04 \$200.00; 03/04/04 \$167.01; 08/20/04 \$150.00; 09/20/04 \$100.00; 12/17/05 \$150.00; 01/07/05 \$100.00; 02/08/05 \$150.00; 03/08/05 \$150.00; 04/05/05 \$100.00; 05/06/05 \$100.00; 07/11/05 \$155.45; 10/06/05 \$100.00. Was PG&E not included in the room & board payment, if not, why aren't payments made each month. The court may require more information.  <p style="text-align: center;"><b>Continued on Next Page</b></p>
Cont. from 032712, 050712, 061812, 072312			
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			
Reviewed by: JF			
Reviewed on: 08/14/12			
Updates:			
Recommendation:			
File 1 - McCaslin			

4. Distributions schedule has several additional items that are unexplained and/or require more information showing how they benefited the conservatee, those items are as follows:

09/23/03 – Walgreens \$116.10  
 10/11/03 – Simonian Farms \$14.08  
 11/03/03 – SBC \$113.27  
 11/03/03 – Target \$119.80  
 11/03/03 – Sears \$87.31  
 11/03/03 – Sears \$21.58  
 11/13/03 – Walmart \$82.90  
 12/22/03 – Target/Gift Cert. for x-mas \$167.30 – See CRC 7.1059 (b)(3)  
 02/09/04 – Transfer to Acct. XXXXXX-8485 \$400.00 – Is this another account of the conservatee?  
 04/17/04 – Walgreens \$72.36  
 04/20/04 – Transfer to Acct. XXXXXX-8485 \$1,700.00 – Is this another account of the conservatee?  
 04/26/04 – Sears \$228.31  
 05/13/04 – Transfer to Acct. XXXXXX-8485 \$200.00 – Is this another account of the conservatee?  
 05/22/04 – Down payment on El Camino \$1,000.00 – Did the Conservatee drive? Was this car for the conservatee?  
 06/03/04 – Carol Howard \$35.00  
 06/05/04 – Walmart \$246.24  
 07/16/04 – Chapel of the Light \$450.00  
 08/03/04 – Transfer to Acct. XXXXXX-8485 \$400.00 – Is this another account of the conservatee?  
 09/01/04 – Savings Overdraft Fee \$10.00 – see CRC 7.1059(b)(1)  
 10/10/04 – Walmart \$99.92  
 10/21/04 – Wells Fargo Financial - \$70.00  
 10/27/04 – Savings overdraft fee - \$10.00 - see CRC 7.1059(b)(1)  
 11/02/04 – Savings overdraft fee - \$10.00 - see CRC 7.1059(b)(1)  
 11/08/04 – Walter Clarke & Assoc. \$150.00  
 11/08/04 – Transfer to Acct. XXXXXX-8485 \$400.00 – Is this another account of the conservatee?  
 12/02/04 – Savings overdraft fee - \$10.00 - see CRC 7.1059(b)(1)  
 12/15/04 – Transfer to Acct. XXXXXX-8485 \$1,200.00 – Is this another account of the conservatee?  
 01/03/05 – Transfer to Acct. XXXXXX-8485 \$500.00 – Is this another account of the conservatee?  
 01/12/05 – Walmart \$43.33  
 01/14/05 – Rite Aid \$29.40  
 01/14/05 – Transfer to Acct. XXXXXX-8485 \$150.00 – Is this another account of the conservatee?  
 01/14/05 – Savings overdraft fees - \$10.00 - see CRC 7.1059(b)(1)  
 01/21/05 – Overdraft charge - \$5.00 - see CRC 7.1059(b)(1)  
 01/24/05 – Overdraft charge - \$5.00 - see CRC 7.1059(b)(1)  
 01/25/05 – Overdraft charge - \$5.00 - see CRC 7.1059(b)(1)  
 02/04/05 – Transfer to Acct. XXXXXX-8485 \$400.00 – Is this another account of the conservatee?  
 02/15/05 – Transfer to Acct. XXXXXX-8485 \$400.00 – Is this another account of the conservatee?  
 03/02/05 – Transfer to Acct. XXXXXX-8485 \$500.00 – Is this another account of the conservatee?  
 03/02/05 – Transfer to Acct. XXXXXX-8485 \$200.00 – Is this another account of the conservatee?  
 03/03/05 – Overdraft fee - \$22.00 - see CRC 7.1059(b)(1)  
 03/04/05 – Check 1156 payee not listed \$50.00  
 03/10/05 – Transfer to Acct. XXXXXX-8485 \$200.00 – Is this another account of the conservatee?  
 03/14/05 – Check 1157 payee not listed \$25.00  
 03/18/05 – Transfer to Acct. XXXXXX-8485 \$400.00 – Is this another account of the conservatee?  
 04/05/05 – Transfer to Acct. XXXXXX-8485 \$200.00 – Is this another account of the conservatee?  
 04/07/05 – Transfer to Acct. XXXXXX-8485 \$200.00 – Is this another account of the conservatee?  
 04/08/05 – Check 1159 payee not listed \$507.25  
 04/18/05 – Overdraft fee \$10.00 - see CRC 7.1059(b)(1)  
 04/18/05 – Check 1160, payee not listed \$250.00

04/29/05 - Transfer to Acct. XXXXXX-8485 \$10.00 - Is this another account of the conservatee?  
05/05/05 - Transfer to Acct. XXXXXX-8485 \$400.00 - Is this another account of the conservatee?  
05/16/05 - Transfer to Acct. XXXXXX-8485 \$500.00 - Is this another account of the conservatee?  
06/03/05 - Check 1161, payee not listed \$500.00  
06/16/05 - Transfer to Acct. XXXXXX-8485 \$100.00 - Is this another account of the conservatee?  
06/16/05 - Check 1162, payee not listed \$505.50  
06/16/05 - Check 1163, payee not listed \$60.00  
07/01/05 - Share of Cost of IHSS - \$377.00  
07/12/05 - Check 1164, payee not listed \$20.00  
07/12/05 - Check 1165, payee not listed \$10.00  
07/11/05 - Check 1166, payee not listed \$10.00  
07/15/05 - Check 1167, payee not listed \$30.00  
07/21/05 - Transfer to Acct. XXXXXX-8485 \$60.00 - Is this another account of the conservatee?  
07/22/05 - Check 1168, payee not listed \$27.96  
07/26/05 - Check 1169, payee not listed \$25.00  
07/27/05 - Overdraft fee - \$22.00  
07/29/05 - Overdraft fee - \$5.00  
08/04/05 - Share of cost IHSS - \$377.00  
08/08/05 - Check 1170, payee not listed \$500.00  
08/16/05 - Transfer to Acct. XXXXXX-8485 \$200.00 - Is this another account of the conservatee?  
09/15/05 - Share of cost IHSS - \$377.00  
09/16/05 - Check 1171, payee not listed \$500.00  
09/28/05 - Transfer to Acct. XXXXXX-8485 \$100.00 - Is this another account of the conservatee?  
10/04/05 - Share of cost IHSS - \$377.00  
10/07/05 - Check 1172, payee not listed \$50.00  
10/11/05 - Check 1173, payee not listed \$150.00  
10/13/05 - Online transfer to Pat Miranda - \$100.00  
10/17/05 - Check 1174, payee not listed \$250.00  
11/17/05 - Online transfer, payee not listed \$589.00  
11/21/05 - Check 1301, payee not listed \$352.50  
11/22/05 - Check 1302, payee not listed \$65.00  
12/09/05 - Pat Miranda, IHSS \$589.00  
12/12/05 - Check 1303, payee not listed \$25.00  
12/29/05 - Transfer to Acct. XXXXXX-8485 \$150.00 - Is this another account of the conservatee?  
01/03/06 - Pat Miranda, Share of Cost IHSS - \$589.00  
01/10/06 - Arizona Mail Order - \$50.00  
01/20/06 - Check 1304, payee not listed \$25.00  
01/20/06 - Check 1305, payee not listed \$50.00  
01/31/06 - Check 1306, payee not listed \$6.94  
02/03/06 - Pat Miranda, Share of Costs IHSS - \$589.00  
02/07/06 - Transfer to Acct. XXXXXX-8485 \$200.00 - Is this another account of the conservatee?  
02/08/06 - Returned check fee \$30.00 - see CRC 7.1059(b)(1)  
02/14/06 - Bill Pay Arizona Mail order - \$10.00  
03/03/06 - Pat Miranda, share of costs IHSS - \$589.00  
03/06/06 - Transfer to Acct. XXXXXX-8485 \$150.00 - Is this another account of the conservatee?  
03/06/06 - Transfer to Acct. XXXXXX-8485 \$100.00 - Is this another account of the conservatee?  
03/07/06 - Returned check fee \$30.00 - see CRC 7.1059(b)(1)  
03/22/06 - Transfer to Acct. XXXXXX-8485 \$50.00 - Is this another account of the conservatee?  
04/03/06 - Pat Miranda, share of costs IHSS - \$589.00  
04/04/06 - Check 1308, payee not listed \$20.00  
04/05/06 - Transfer to Acct. XXXXXX-8485 \$75.00 - Is this another account of the conservatee?

04/19/06 – Check 1309, payee not listed \$25.00  
04/24/06 - Transfer to Acct. XXXXXX-8485 \$100.00 - Is this another account of the conservatee?  
04/24/06 – Bill Pay Arizona Mail Order \$10.00  
05/08/06 – Pat Miranda, Share of costs IHSS \$402.00  
05/11/06 – Merrick Bank Credit Card Payment \$310.76 – Is this the conservatee's credit card?  
05/24/06 – Check 1311, no payee listed \$15.00  
05/26/06 – Check 1312, no payee listed \$638.00  
06/13/06 – Check 1313, no payee listed \$638.00  
07/14/06 – Check 1315, no payee listed \$1,224.00  
07/14/06 – Transfer to Checking? \$350.00

(1) First and Final Account and Report of Administration and (2) Petition for Settlement and (3) for Statutory Commissions and Fees to Executor and Attorney and (4) for Final Distribution

<b>DOD: 12/25/2008</b>		<b>L. CHARLES MILLER</b> , Executor, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		Account period: 4/2/2009- 5/31/12	
<b>Cont. from</b>		Accounting - <b>\$202,028.64</b>	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	Beginning POH - <b>\$118,812.89</b>	
<input checked="" type="checkbox"/>	<b>Verified</b>	Ending POH - <b>\$139,486.22</b>	
<input checked="" type="checkbox"/>	<b>Inventory</b>	Executor - <b>\$6,874.80</b>	
<input checked="" type="checkbox"/>	<b>PTC</b>	(statutory)	
<input checked="" type="checkbox"/>	<b>Not.Cred.</b>	Attorney - <b>\$6,874.80</b>	
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>	(statutory)	
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	Closing - <b>\$1,500.00</b>	
	W/		
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>	<b>Distribution, pursuant to Decedent's Will, is to:</b>	
<input checked="" type="checkbox"/>	<b>Letters</b>	4/3/09 James Allen Richardson, Kathryn Irene Sothern, Louise Anita Redcloud, Nancy Christine Rakes, Mary Elizabeth Smith, John Phillip Stafford, Thomas Scott Stafford, Lora Jayne Lindell, Lewis Charles Miller, Jr., Susan Leonard and Marguerite Miller - \$9,584.36 each	
	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
<input checked="" type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>	Kimberly Sue Voelker, Denice Martin, Erica Jones Lantz and Wm Scott Richardson - \$4,792.16 each	
<input checked="" type="checkbox"/>	<b>FTB Notice</b>		
			<b>Reviewed by: KT</b>
			<b>Reviewed on: 8/15/12</b>
			<b>Updates:</b>
			<b>Recommendation: SUBMITTED</b>
			<b>File 2 - Ferguson</b>

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

**Atty Knudson, David N. (for Lucia Kennedy, Guardian ad Litem for Michael Coit, minor son - Objector)**

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

<b>DOD: 7-1-11</b>		<p><b>DENNIS A. MAXWELL</b>, Administrator with Will Annexed, is Petitioner.</p> <p>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 <b>LUCIA KENNEDY</b> to reside prior to his death. Decedent lived in a different home on a different parcel of property.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p><b>Petitioner requests an order under Probate Code §850 directing Ms. Kennedy to immediately turn over possession of the mobile home to Petitioner as Administrator.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Continued from 7-16-12.</u></p> <p><b>Note:</b> 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).</p> <p><b>Note:</b> Ms. Kennedy individually has also filed a Declaration Statement of Interest as an interested party.</p> <p><b>Note:</b> Page 3C is Ms. Kennedy's (as GAL for Michael Kennedy) Petition for Order Setting Aside Exempt Personal Property to Minor Child; Setting Apart Probate Homestead and for Payment of Family Allowance for Minor Child.</p> <p><b>Note:</b> 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.</p> <p><b>Note:</b> 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.</p> <p>Reviewed by: skc</p> <p>Reviewed on: 8-15-12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 3A - Coit</p>	
<b>Cont. from 071612</b>				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			W
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input checked="" type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			

**PAGE 2****Lucia Kennedy, guardian ad litem of Michael Coit, son of decedent, objects.**

**Objector states Michael Coit resides in the mobile home and was not properly served.** Petitioner alleges that Michael Coit does not reside there. That is incorrect. Even though Michael has been attending boarding school in AZ for the 2011-2012 school year, he has returned to the home for vacation and breaks, and upon the conclusion of the school year in May 2012, he has returned and is living in the residence, which is the only home he has known.

Probate Code §851 requires notice of hearing be personally served. It is unclear whether service was made by counsel on behalf of Lucia Kennedy individually, as guardian ad litem for Michael, or both. However, CCP 416.60 requires service on the minor as well, if over the age of 12. Michael is 15; therefore personal service is required.

**Objector states the petition should be abated pending determination of the Petition for Homestead.**

Petitioner has filed a petition on behalf of Michael Coit to have the mobile home and surrounding property set aside as a probate homestead. It is anticipated that when a probate homestead is granted, Michael will live in the mobile home along with his mother.

**Objector requests that this petition be denied or at least abated until a ruling on the probate homestead is made; and that upon presentation of a proper petition for payment of extraordinary compensation, the Court consider appropriate compensation for litigation counsel pursuant to applicable Probate Code and California Rules of Court.**

***The remainder of the Objection deals with the petition filed at Page 3B of this calendar and is addressed separately. See Page 3B.***

Magness, Marcus D. (for Dennis A. Maxwell – Administrator – Petitioner)  
Knudson, David N. (for Lucia Kennedy, Guardian ad Litem for Michael Coit, minor son – Objector)  
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)

<b>DOD: 7-1-11</b>	<b>DENNIS A. MAXWELL</b> , Administrator with Will Annexed, is Petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Continued from 7-16-12; set for trial 1-15-13.</u></p> <p><u>Minute Order 7-16-12: Matter continued to 8-20-12. Counsel requests that the issue regarding the Instructions to Determine Controlling Testamentary Documents be set for trial with a 1-2 day estimate.</u></p> <p><u>A trial date of 1-15-13 is set, issue to remain on calendar for 8-20-12 for trial confirmation only.</u></p> <p><u>See additional pages.</u></p> <p><u>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.</u></p> <hr/> <p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 8-15-12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p>File 3B - Coit</p>
	<b>Petitioner states</b> Decedent is survived by five (5) children by four (4) different women:	
<b>Cont. from 071612</b>	<ul style="list-style-type: none"> <li>Decedent was married to Roberta E. Coit, who died in 1964. They had one daughter together, <b>Kelly Coit</b>.</li> <li>Next, Decedent married Tonja A. Coit. They had one daughter together, <b>Amy Coit</b>, before divorcing in 1975.</li> <li>In the 1980s, Decedent was engaged to <b>Dayna Valadao</b>, and they had two sons together: <b>Mark Coit</b> and <b>Mitchell Coit</b>.</li> <li>In 1996, Decedent had one son, <b>Michael Coit</b>, with a woman named <b>Lucia Kennedy</b>.</li> </ul>	
<input type="checkbox"/> Aff.Sub.Wit.	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 <b>Marv Coit, Inc.</b> , a corporation that provides custom farming services to Decedent's farmland.	
<input checked="" type="checkbox"/> Verified	<b>Petitioner is aware of four (4) separate estate documents executed by Decedent:</b>	
<input type="checkbox"/> Inventory	<ul style="list-style-type: none"> <li><b>1981 Trust</b> – The Marvin M. Coit 1981 Revocable Living Trust Agreement</li> <li><b>1981 Will</b> – Pour-over to 1981 Trust</li> <li><b>1986 Codicil</b> – First Codicil to Will of Marvin M. Coit dated 1986</li> <li><b>2005 Trust</b> – Marvin M. Coit Family Trust First Amended Declaration and Agreement of Trust executed in 2005</li> </ul>	
<input type="checkbox"/> PTC	<b>Petitioner has also located the following <u>unsigned</u> document:</b>	
<input type="checkbox"/> Not.Cred.	<ul style="list-style-type: none"> <li><b>1998 Trust</b> – The Marvin M. Coit Family Trust Declaration and Agreement of Trust that contains a "June __, 1998" date.</li> </ul>	
<input checked="" type="checkbox"/> Notice of Hrg	<b>Decedent also had an irrevocable life insurance trust (the "ILIT") created in 1998.</b>	
<input checked="" type="checkbox"/> Aff.Mail	<b>SEE ADDITIONAL PAGES</b>	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input checked="" type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

PAGE 2

**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.

Examiner further notes that notes that Marva Critch, who has filed a Statement of Interest, may also be included as a child under the 1981 Will and 1981 Trust; however, any determination regarding the trust need to occur in a separate trust case, as noted at NEEDS/PROBLEMS/COMMENTS.

**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.4<sup>th</sup> 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**

PAGE 5

**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**

PAGE 7

**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 instruments, 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 Guardian 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**

PAGE 8

**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 extent 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**

PAGE 9

**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.*
- 

**Note: The following documents were filed 7-13-12 in objection:**

- Objection to Petition for Order Directing Transfer of Possession of Mobile Home (Page 3A)
- Statement of Interest and Response to Petition to Determine Entitlement to Distribution (Heirship);
- Response to Petition for Extraordinary Attorney's Fees and Other Instructions
- Petition for Order Setting Aside Exempt Personal Property to Minor Child; Setting Apart Probate Homestead and for Payment of Family Allowance for Minor Child (Page 3C)

**Objection states:**

1. Respondent, as GAL for Michael, states Petitioner has no objection to payment of litigation counsel; however, the request does not comply with Probate Code §10811(b) or Cal. Rules of Court 7.7.02. No declaration by Patrick Gorman was attached. Respondent agrees that it would be prudent to eliminate successive and duplicative filing fees for payments on litigation expense; however, the petition does not propose any procedure.
2. Petitioner phrases his request as a petition for instructions to determine which of Decedent's estate documents control; however, this is not the proper subject of a petition for instructions. Probate Code §9611 provides that a petition for instructions may be brought only when no other procedure is provided by statute. But it is clear that there are a number of statutory procedures, primarily in the **Trust law**, which can be availed of to grant relief – and appropriate procedural safeguards should not be subsumed in the interest of expediency. A discussion of the various estate-planning documents is provided. Respondent states that it is anticipated that extrinsic evidence will be necessary to resolve these issues, which will require discovery, and trial if no agreement is reached.
3. Respondent opposes the proposed distribution set forth in the petition. Respondent believes based on review of the documents that Decedent intended his real property to be held in and administered under the terms of the 2005 Trust, but that all other assets, including the farming operation, be administered under the 1981 Trust. Respondent has and will seek to introduce additional evidence in support of this position.
4. Re Tuition: The issues raised are largely obviated by the recent decision that Michael will not be attending the Orme School for the 2012-13 school year. However, he will have support needs, which have been raised in the petition for family allowance (Page 3C).
5. The Creditor's Claim filed by Ms. Kennedy does not trigger the no contest clause. The claim was filed by Ms. Kennedy personally, not as GAL of Michael. The claim does not cause forfeiture of Michael's share. Probate Code §21311(c) states a no contest clause shall only be enforced if the no contest clause expressly provides for that application. The language is simply not there. The statutes contain no provisions dealing with "indirect contests." Thus Petitioner's allegation that the Court must determine whether the filing of a creditor's claim is a direct or indirect contest is specious. Rather than seeking to protect the interest of Decedent's son, Petitioner uses a "bootstrap" argument to try to defeat Michael's interest, raising serious questions about whether Petitioner is observing his duty as a trustee to treat all beneficiaries fairly and to act in their best interest.

**SEE ADDITIONAL PAGES****Dept. 303, 9:00 a.m. Monday, August 20, 2012**

PAGE 10

Respondent requests that:

- Upon presentation of a proper petition for payment of extraordinary compensation, the Court consider appropriate compensation for litigation counsel pursuant to Probate Code and Cal. Rules of Court;
- The Petition for Instructions be denied and appropriate proceeding be initiated to determine the validity of the trust instruments;
- The Court determine the appropriate distribution as evidenced by Decedent's estate planning documents and such extrinsic and additional evidence as may be presented;
- Any determination concerning payment for schooling be deferred and dealt with in the Petition for Family Allowance (Page 3C)
- The Court determine that the Creditor's Claim does not constitute a contest and the language of the trust does not expressly provide that the filing of a creditor's claim will be deemed a direct contest pursuant to Probate Code §21311(a)(3)

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.

On 10-20-11, 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 any 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* the 1981 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. Need proof of service of Notice of Hearing on Ms. Critch and her attorney.

(1) Petition for Order Setting Aside Exempt Personal Property to Minor Child and (2) Setting Apart Probate Homestead and (3) for Payment of Family Allowance for Minor Child

DOD: 7-1-11	<p><b>LUCIA KENNEDY, Guardian Ad Litem of Michael Coit, Decedent's minor son, is Petitioner.</b></p> <p><b>Petitioner states:</b></p> <ul style="list-style-type: none"> <li>Dennis A. Maxwell was appointed as Administrator with Will Annexed on 10-20-11. Bond of \$11,460,000.00 was filed and Letters issued on 12-12-11.</li> <li>I&amp;A reflects assets of \$13,257,744.58.</li> <li>Certain creditor's claims have been filed and the time for filing claims has passed.</li> </ul> <p><b>Petitioner requests that the Court set aside to or for the benefit of Michael Coit the following property pursuant to Probate Code §6510:</b></p> <ul style="list-style-type: none"> <li>All household furniture, furnishings, clothing and personal effects of the decedent located in the residence at 534 N. Lyon in Firebaugh, including any personal property of the decedent stored in, on or around said residence including carpentry and other tools located in the garage, together with any and all other property that is or would be exempt from a money judgment as described in Probate Code §6510</li> <li>All household furniture, furnishings, clothing and personal effects of the decedent located in that certain structure known as "the Shack" located on that certain property known as the "Hill Ranch" located in western Fresno County where Decedent stayed from time to time</li> </ul> <p><b>Petitioner states</b> the property consists of household furniture and furnishings of good quality which were used by Decedent. Petitioner is filing a petition for a probate homestead on behalf of Michael Coit, and said personal property will be needed in the complete and full use and enjoyment of the residence by the minor child.</p> <p style="text-align: center;"><b><u>SEE ADDITIONAL PAGES</u></b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> Pursuant to Probate Code §6523(a): "In selecting and setting apart the probate homestead, the court <u>shall consider</u> the needs of the surviving spouse and minor children, the liens and encumbrances on the property, the claims of creditors, the needs of the heirs or devisees of the decedent, <u>and the intent of the decedent with respect to the property in the estate and the estate plan of the decedent as expressed in inter vivos and testamentary transfers or by other means.</u> [Emphasis added.]</p> <p>Examiner notes that a trial has been set for 1-15-13 on the Administrator's petition to determine controlling testamentary documents and determine heirship (Page 3B of this calendar). Examiner notes that the outcome of that trial (for controlling <u>estate</u> documents, and then petition, hearing and outcome of <u>further hearing and/or trial regarding trust matters</u> may be pertinent to the Court's consideration of this petition.</p> <p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 8-16-12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 3C - Coit</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		

**PAGE 2**

**Petitioner states:** Petitioner, on behalf of Michael Coit, seeks probate homestead created in that certain property located at 534 N Lyon, which parcel consists of approx. 160 acres, a portion of which is planted with almonds and pistachios, and which parcel also contains offices and shop facilities used in Decedent's farming operation.

Located on said parcel is a double wide mobile home. From Michael's birth in 1996, this mobile home has been his residence. He attended school from 2010-2012 in Arizona, but at all times the mobile home remained his residence. He resided there with his mother Lucia Kennedy. Decedent Marvin Coit also resided in the mobile home much of that time.

As Decedent's only minor child, Michael is the only person for whom a probate homestead may be set aside. Decedent owned no other real property which is suitable for occupancy as a homestead.

Even though Michael attended boarding school the past two years, a decision was made not to return. It is intended that Michael will reside in the mobile home with his mother during the next school year and for the foreseeable future.

Petitioner Lucia Kennedy has resided in said mobile home with her son since his birth. Much of the time Decedent Marvin Coit resided there too. Such residence did not, and has not disrupted farming operations.

Decedent was not married at the time of his death. He had four other children, (Amy Coit, Kelly Maura, Mark Coit and Mitchell Coit. None of them were dependent on Decedent at the time of his death. Accordingly, Michael is the only person for whom a probate homestead may be set aside under Probate Code §6520.

Dennis Maxwell, the personal representative, has filed a petition for order directing the transfer of possession of the mobile home to the estate [Page 3A]. Petitioner has concurrently filed objections to that petition, including an objection that the mobile home is being sought as a probate homestead for Michael in this Petition.

The family allowance will not interfere with the administration of the estate – the I&A shows cash and liquid assets of more than \$2.2 million.

Michael is in need of and is entitled to a reasonable allowance from the property of Decedent's estate for his maintenance and support during the administration of the estate. Michael has no other property of his own from which income can be generated for his support.

Michael will not return to boarding school this year and it is intended that he will live on the ranch property in Firebaugh. As she did in the past, Michael's mother, Lucia Kennedy, plans to "home school" Michael, and has made arrangements through Central Valley Home School for the 2012-13 school year, which will include regular study and work under his mother's direction as well as group sessions 2-3 times a week in Kingsburg, CA to obtain certain college-preparatory subjects.

**SEE ADDITIONAL PAGES**

PAGE 3

Petitioner requests a total family allowance of \$6,700.00/month.

Michael's estimated monthly expenses are \$4,725.00 (details in petition). Petitioner states that if homestead is granted, no separate cash outlay for housing and other expenses will be necessary; however, the mobile home is in need of numerous repairs. If the repairs are provided by the estate, they need not be included in the family allowance. Otherwise, Petitioner will request \$500/mo for those items. Petitioner states that Michael may be able to be added to the business's health coverage. In addition, Petitioner states that Michael also anticipates the need for driving/vehicle/insurance expenses since he is now 15½ years old estimated at \$1,675/mo.

In addition, Michael is entitled to such allowance from the date of his father's death (7-1-11). Due to the delay in administration and the fact that Michael was attending boarding school, this was not previously requested. However, between July 2011 and May 2012, various expenses were incurred on Michael's behalf, including clothing, personal needs, travel to and from school, incidental school expenses, etc. Petitioner believes that \$5,500 or \$500/mo for that time frame is reasonable.

Michael is the sole individual entitled to a family allowance under PC 6540(a). His position as the only qualifying individual confers a special protection for him to receive this allowance from the estate. Cites provided. The fact that he is also a trust beneficiary does not extinguish this right.

The allowance is intended to be made in addition to, not in lieu of, his interest in the estate. Michael is eligible to receive the family allowance and his interest in the estate should not impact this right.

Petitioner requests attorney fees of \$2,500.00 for this petition plus reimbursement of \$435 filing fee.

Petitioner prays for an order:

- Setting aside personal property as described above
- Setting aside probate homestead as described above
- Family allowance of \$6,700/month commencing 6-1-12 until further order of the Court or final distribution
- Family allowance for 7-1-11 through 5-31-12 of \$500/month or an aggregate amount of \$5,500.
- Attorney fees and costs of \$2,935 plus such other amounts as may be incurred in this action

*Note: Petitioner lists interested parties, but has not included Marva Critch, another daughter who has filed a statement of interest in this case. Continuance and further notice may be necessary.*

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Opposition was filed 5-15-12 by Administrator Dennis Maxwell. Objection states the request for probate homestead, the request for family allowance, and the request for attorney fees should be denied as prayed, with details outlined in the Opposition and reference to Probate Code §6544 re fees. Additional cites included.

Atty Keeler, Jr., William J., of Garvey Schubert & Barer, Portland, Or (for Petitioner Dennis L. Thomas, Successor Co-Trustee)

Atty Ivy, Scott J., of Lang Richert & Patch (for Respondent Janette Courtney, Executor)

Atty Neilson, Bruce A. (by Association, for Respondent Janette Courtney, Executor)

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

Ernest DOD: 2003		<p><b>DENNIS L. THOMAS</b>, son, Beneficiary, and Successor Co-Trustee, is Petitioner.</p> <p><b>Petitioner states:</b></p> <ul style="list-style-type: none"> <li>Ernest and Loretta Drummond were married and had no children together, but had seven children total from prior marriages: <ul style="list-style-type: none"> <li>Ernest's children: <b>SANDRA THOMPSON, JOANN DAWSON</b> and [ERNEST] <b>MICHAEL DRUMMOND, JR;</b></li> <li>Loretta's children: <b>STEVEN THOMAS, DAVID THOMAS, DENNIS L. THOMAS</b> (Petitioner), and <b>JANETTE BURCH COURTNEY;</b></li> </ul> </li> <li>Ernest and Loretta founded a successful hearing aid company called the <b>DRUMMOND COMPANY</b> (Drummond Co.);</li> <li>On 4/23/1992, Ernest and Loretta created the <b>ERNEST L. DRUMMOND FAMILY TRUST</b> ("<b>Ernest Trust</b>") (copy attached as Exhibit A); Schedule A to the <b>Ernest Trust</b> identifies and places into the Trust 2 parcels of real property, 2 bank accounts, 2 vehicles, 2 life insurance policies, an IRA, and 100% of the 30,000 shares of the Drummond Co. as property of the <b>Ernest Trust</b>; many of those assets remained in joint tenancy between Ernest and Loretta until Ernest's death, including the Drummond Co. shares;</li> <li>On 4/30/2003, Ernest and Loretta amended the <b>Ernest Trust</b> (copy of First Amendment attached as Exhibit B), in which both Ernest and Loretta agreed to make specific trust distributions of a 40-acre ranch and a liquor store in Mariposa to <b>STEVEN THOMAS</b>, son, and to provide all of Loretta's and Ernest's shares in the Drummond Co. to Dennis Thomas (Petitioner) free of trust upon the death of the survivor of Loretta and Ernest;</li> </ul> <p align="center"><b>~Please see additional page~</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Continued from 7/9/2012.</b> Minute Order states Mr. Keeler appearing via conference call. Counsel requests a continuance.</p> <p><b>Note:</b> Attorneys for Respondent Janette Courtney filed on 5/22/2012 a Notice of Association of Counsel indicating that Attorney Bruce A. Neilson is associated in as counsel for Janette Courtney.</p> <p><b>Note for background:</b> Order Granting Ex Parte Application for Temporary Restraining Order signed on 11/29/2011 orders Janette Courtney, Executor [appointed with full IAEA without bond on 9/15/2011], is restrained from transferring, selling, encumbering, leasing or granting any other interest in the real property located in Visalia to Tad Edwards or his assignee, or otherwise committing the acts described in the Notice of Proposed Action dated 10/25/2011 absent the supervision and order of this Court.</p> <p>1. Need proposed order.</p>
Loretta DOD: 6/9/2011			
Cont. from 020712, 043012, 070912			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail	W/		
Aff.Pub.			
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Pers.Serv.			
Conf. Screen			
Letters	091511		
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order	X		
Aff. Post			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
Reviewed by: LEG /KT			
Reviewed on: 6/29/12			
Updates:			
Recommendation:			
File 4 - Drummond			

**Petitioner states, continued:**

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

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**Petitioner states, continued:**

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

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

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

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

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

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

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

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

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

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

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

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

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**Petitioner prays for an Order from the Court finding that:**

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

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

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

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

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

**Contestant requests:**

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

Atty Keeler, William J. (for Roberto Garcia – Petitioner)  
 Atty Phillips, John W. (for Evelyn Lauderdale – Trustee/Objector)  
 Atty Kirby, John (of Oakland for John Hancock Life Insurance Company)  
 Atty Durbrow, Robert T. (for Keiko Collins and Mary Lu DaCosta – interested parties)

**Roberto Garcia's Notice of Motion and Motion to Consolidate Matters**

<b>DOD: 06/29/11</b>	<b>ROBERTO GARCIA</b> , Trust Beneficiary, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	Petitioner moves to consolidate Fresno County Superior Court Cases 11CEPR01018, 11CECG02841, and 11CECG04057 for the purposes of joint pretrial motions and joint trial of the issues in the three actions.	<b>Note:</b> These notes are only a brief outline of the documents filed.
<b>Cont. from</b>		
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>		
<input type="checkbox"/> <b>Inventory</b>		
<input type="checkbox"/> <b>PTC</b>		
<input type="checkbox"/> <b>Not.Cred.</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	The motion is made on the ground that the common issues of law and fact present in the three cases, as well as convenience and judicial economy that would be served through a single, joint trial, warrant the consolidation of all actions pertaining to Mrs. Shubin's trust and estate that are currently venued in the Fresno County Superior Court for the purposes of trial.	1. Need Order.
<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>	<b>Request for Judicial Notice in Support of Motion to Consolidate Matters filed 07/16/12.</b>	
<input type="checkbox"/> <b>Letters</b>		
<input type="checkbox"/> <b>Duties/Supp</b>	<b>Roberto Garcia's Memorandum of Points and Authorities in Support of Motion to Consolidate Matters filed 07/16/12.</b>	
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>	<b>Lauderdale's Notice of Motion to Consolidate Actions filed 07/23/12 (hearing set for 10/03/12)</b>	
9202		
<input type="checkbox"/> <b>Order</b>	x	
<input type="checkbox"/> <b>Aff. Posting</b>		<b>Reviewed by:</b> JF
<input type="checkbox"/> <b>Status Rpt</b>		<b>Reviewed on:</b> 08/16/12
<input type="checkbox"/> <b>UCCJEA</b>		<b>Updates:</b>
<input type="checkbox"/> <b>Citation</b>		<b>Recommendation:</b>
<input type="checkbox"/> <b>FTB Notice</b>		File 5 - Shubin
	<b>Request for Judicial Notice in Support of Respondent's (Lauderdale) Opposition to Petitioner's Motion to Consolidate Matters filed 08/07/12.</b>	
	<b>Declaration of John Phillips in Opposition to Motion of Roberto Garcia to Consolidate Matters filed 08/07/12.</b>	
	<b>Reply in Support of Robert Garcia's Motion to Consolidate Matters filed 08/13/12.</b>	

Atty Young, Charlotte A. (pro per – daughter/Petitioner)  
 Atty Teixeira, Stanley (Court appointed for proposed conservatee)

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C. 1820, 1821, 2680-2682)

Age: 81 DOB: 07/02/30	<b><u>PETITIONER WAS APPOINTED AS CONSERVATOR OF THE PERSON WITH MEDICAL CONSENT POWERS ON 06/25/12; DEMENTIA POWERS WERE NOT GRANTED</u></b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<b>CHARLOTTE YOUNG</b> , daughter, is Petitioner and requests appointment as Conservator of the Person with medical consent and dementia powers to administer dementia medications and as Conservator of the Estate without bond. Petitioner also requests that the Court waive the filing of an Inventory & Appraisal and waives accountings as long as the estate meets the requirements of Probate Code § 2628.		<b>CONTINUED FROM 06/25/12</b> Minute order from 06/25/12 states: The Court grants the Petition for Conservator of the Person and appoints Charlotte Young as the conservator. The Court orders the voting rights affected. The Court directs Charlotte Young to file an Inventory & Appraisal and obtain an amended declaration from the doctor indicating that medication is required. The Petition for Conservator of the Estate is continued to 08/20/12.
<b>Cont. from 062512</b>	<b>Estimated Value of the Estate:</b>		<b>1. Need Order and Letters.</b>
<input type="checkbox"/> Aff.Sub.Wit.	Annual income - \$18,600.00		<b>Note: If the petition is granted and accountings/Inventory &amp; Appraisal are not waived, status hearings will be set as follows:</b> <ul style="list-style-type: none"> <li>• Friday, 11/16/2012 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <b>and</b></li> <li>• Friday, 08/16/2013 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution.</li> </ul> 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.
<input checked="" type="checkbox"/> Verified	I & A filed 08/06/12 - \$377.42		
<input type="checkbox"/> Inventory	Voting Rights Affected.		
<input type="checkbox"/> PTC	Petitioner states that Acie suffers from Alzheimer's disease and is no longer able to manage his finances or personal affairs. He cannot be left alone and requires assistance with all activities of daily living. He is unable to eat, prepare meals, bathe, dress and groom himself, and use the restroom without assistance. He is unable to take his medication or maintain a clean living environment. He doesn't know the date or time and does not recognize familiar people. He cannot handle money transactions or conduct banking transactions, he is susceptible to financial abuse.		
<input type="checkbox"/> Not.Cred.			
<input checked="" type="checkbox"/> Notice of Hrg			
<input checked="" type="checkbox"/> Aff.Mail	w/o		
<input type="checkbox"/> Aff.Pub.			
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<input checked="" type="checkbox"/> Pers.Serv.			
<input checked="" type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters	x		
<input checked="" type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input checked="" type="checkbox"/> Video Receipt			
<input checked="" type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input type="checkbox"/> Order	x		
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input checked="" type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice		<b>Court Investigator Jennifer Daniel filed a report on 06/12/12.</b>	

**Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution (Prob. C. 12200, et seq); Failure to File Inventory and Appraisal**

<b>DOD: 02/28/07</b>	<p><b>JANET PICARD</b>, was appointed Executor with no IAEA authority on 02/05/08 and Letters were issued on 02/21/08.</p> <p><b>Notice of Status Hearing filed 10/05/11</b> set this matter for status. The Clerk's Certificate of Mailing shows that the Notice of Status Hearing was mailed to Nancy Oehler, the Executor's counsel, on 10/05/11.</p> <p><b>Status Report of Executor and Petition to Continue Estate Administration</b> was filed 10/31/11 by Executor, and states:          The Estate is not ready for distribution nor in a condition to be closed. The Petitioner has had some difficulty in ascertaining the assets of the decedent, however, an inventory of assets has now been prepared and submitted to the Probate Referee for valuation. The Petitioner estimates that it will need one year to close the administration of the estate and requests a continuance until November 2012.</p> <p><b>Inventory &amp; Appraisal filed 12/21/11.</b></p> <p><b>Corrected Inventory &amp; Appraisal filed 05/24/12.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b><u>CONTINUED FROM 02/27/12</u></b></p> <p>1. <b>Need First Account and Petition for Final Distribution.</b></p> <p><b>Note:</b>  <b>See Page 9 for a related matter.</b></p>
<b>Cont. from 11-14-11, 022712</b>		
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
<input checked="" type="checkbox"/> <b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 08/14/12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 7 - Picard</b></p>

Atty Rountree, L. Clarke (for paternal grandmother Kimberly Bird)

Atty Rusca, Rose Marie (for Petitioner/guardian/maternal grandmother Victoria Van Linge-Schuh)

Atty Bird, Seth (pro per Father)

Status

Age: 6 years DOB: 4/26/2006	<p><b>VICTORIA VAN LINGE-SCHUH</b>, maternal grandmother, was appointed guardian on 9/1/09.</p> <p>Father: <b>SETH BIRD</b></p> <p>Mother: <b>CHERISSE GILBERT</b></p> <p>Paternal grandfather: Kenneth Bird Paternal grandmother: Kimberly Bird Maternal grandfather: Keith Gilbert</p> <p><b>Guardian Victoria Van Linge-Schuh filed a petition to clarify the visitation.</b> Guardian alleged in her petition that since the father had been having unsupervised visits the minor had begun wetting the bed and acting out in violent ways. The Guardian requested that the visits with the father be supervised and that the father be ordered to submit to drug testing.</p> <p><b>Response of Clark Roundtree, attorney for paternal grandmother Kimberly Bird</b> alleged that the Guardian's petition was in retaliation for an incident that occurred on the last day of school.</p> <p><b>Minute order dated 7/9/12 from the hearing on the Petition to Clarify Visitation states:</b> The court orders that the Tuesday visits in the March [May] order remain in full force and effect and the October order be followed with respect to the remaining issues. The Court further orders that father Seth Bird provide copies of his last three drug tests to Mr. Roundtree and Ms. Rusca. Additionally, Seth Bird is ordered to submit to a hair follicle test no later than 5:00 p.m. today at Choice Compliance Solutions. Ms. Rusca's client is ordered to pay the cost of the test. Seth Bird is ordered to bring proof that he has been attending a minimum of two AA/NA meetings per week to the next hearing.</p> <p style="text-align: center;"><b>Please see additional page</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>
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	<p><b>Reviewed by: KT</b></p> <p><b>Reviewed on: 8/15/12</b></p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 8 - Gilbert</b></p>	

**Reply Declaration of Guardian Victoria Van Linge-Schuh, filed on 8/8/12 states**, the petition she filed was due to recent events concerning the welfare and well-being of the minor. The points she brought up in her declaration were becoming more prevalent with the unsupervised visits to father, Seth Bird's home. Guardian states the eight declarations presented to her when she walked into court on July 9<sup>th</sup> were shocking, demeaning, unfounded and untrue attacks on her character. The minor was the focus of the hearing and he was exposed to and played violent games. Due to the minor's display of anger and aggression and bed wetting since his unsupervised visits with his father the minor is seeing a mental health counselor whose assessment is attached as Exhibit 3.

The guardian is asking that the court reinstate some sort of stability in the minor's life. While the minor loves his paternal grandmother and is getting to know his father, the constant transition between 3 homes with 3 wildly different parenting styles is not meeting his needs. In fact, as a direct result of the current visitation order, the minor has been diagnosed with anxiety disorders.

On 7/9/12 the court ordered the father to provide the guardian's attorney with his last 3 drug tests. As of 8/2/12 the guardian has yet to receive them.

The Guardian is requesting the court modify the existing visitation orders as they have created medical/emotional problems for the minor.

Guardian believes the minor needs to continue spending time with his paternal grandmother on alternating weekends and the father can see the minor on his mother's weekends provides she supervises them.

Guardian requests the court try this plan for three months and see if the minor's anxiety and bedwetting improves.

**Note:**

The guardian, Victoria Van Linge-Schuh and the paternal grandmother Kimberly Bird have an extensive visitation schedule that includes where the minor resides during the week, on weekends, holidays etc.

**Visitation order per Order dated 10/18/11, in summary:**

During the school year, Kimberly Bird (paternal grandmother), has visitation on the 2<sup>nd</sup>, 4<sup>th</sup> and 5<sup>th</sup> weekend of the month from Friday after school to Monday 9:00 (delivery at school). The visitation is extended to Tuesdays if Monday is a legal holiday.

Kimberly Bird (paternal grandmother) also has visits on alternating Tuesdays after school to Wednesdays (delivery at school).

Summer vacation Kimberly Bird and the guardian, Victoria Van Linge-Schuh have the minor with them on alternating weeks.

Holiday visits are also outlined in the visitation schedule.

**Please see additional page**

**Visitation order per Order dated 5/7/12, in summary:**

Kimberly Bird (paternal grandmother) shall continue to have visitation with the minor on alternating weekends beginning after school on Friday (11:40 a.m.) until delivery to school on Monday morning at 8:10 a.m.

Father, Seth Bird, shall have visitation with the minor, every Tuesday after school (11:40 a.m.) until delivery to school on Wednesday morning at 8:10 a.m.

Father, Seth Bird is to be added to the emergency contact list along with Kimberly Bird with Kimberly Bird and Seth Bird given priority over all others.

All remaining orders not changed remained in full force and effect.

<b>DOD: 05/25/10</b>		<p><b>JANET PICARD</b>, was appointed Executor with full IAEA authority and Letters were issued on 02/16/11.</p> <p><b>Notice of Status Hearing filed 10/05/11</b> set this matter for status. The Clerk's Certificate of Mailing shows that the Notice of Status Hearing was mailed to Nancy Oehler, the Executor's counsel, on 10/05/11.</p> <p><b>Status Report of Executor and Petition to Continue Estate Administration</b> was filed 10/31/11 by Executor, and states: The Estate is not ready for distribution nor in a condition to be closed. The Petitioner has had some difficulty in ascertaining the assets of the decedent, however, an inventory of assets has now been prepared and submitted to the Probate Referee for valuation. The Petitioner estimates that it will need one year to close the administration of the estate and requests a continuance until November 2012.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p style="text-align: center;"><b><u>OFF CALENDAR</u></b> Inventory &amp; Appraisal was filed 12/22/11.</p> <p><b>Note:</b> A status hearing for filing of the Account and Petition for Final Distribution will be set on:</p> <ul style="list-style-type: none"> <li>• <b>Friday, November 2, 2012 at 9:00 am in Dept. 303</b></li> </ul>
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		<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 08/14/12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 9 – Picard</b></p>	

Status Hearing Re: Filing of the First Account

Age:		<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b><u>OFF CALENDAR.</u></b> 1 <sup>st</sup> account filed and set for hearing on 8/28/12.
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Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 8/15/12
		Updates:
		Recommendation:
		File 10 - Fulcher

**Status Re: Accounting**

<b>DOD: 6-5-09</b>	<b>ROCKY BUCCI</b> was appointed Administrator with full IAEA and without bond on 7/28/09.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>Continued from 4-30-12., 6-11-12, 7-23-12.</b>
	I & A filed 8/5/2009 reflects a total estate value of \$64,650.00, consisting of real property (house and mobile home), miscellaneous household furniture, and two vehicles.	<b>Minute Order 4-30-12:</b> Mr. Bucci advises the Court that the house has a principle of \$67,778.87. Matter continued to 6-11-12. The Court orders Joanne Sanoian and Rocky Bucci to be present on 6-11-12. A copy of the minute order was mailed to Joanne Sanoian on 5-4-12.
<b>Cont. from 043012, 061112, 072312</b>	The first account or petition for final distribution was due 7/28/2010.	<b>Note:</b> The Administrator was previously represented by Attorney JoAnn Sanoian; however, pursuant to Substitution of Attorney filed 3-7-12, the Administrator is now self-represented. Attorney Sanoian has filed a Request for Special Notice in this proceeding.
<b>Aff.Sub.Wit.</b>	The Court set a status hearing for the filing of the first account or petition for final distribution on 3/5/12.	<b>Minute Order 7-23-12:</b> Matter continued to 8-20-12
<b>Verified</b>		<b>The following issue remains:</b>
<b>Inventory</b>		<b>1. Need first account or petition for final distribution pursuant to Probate Code §12200.</b>
<b>PTC</b>		<b>Note:</b> According to the prior status report, the Administrator does not want to sell the property until the market improves. The Court may require information regarding the current status of the assets including the real property, cash and vehicles. For instance, is the real property occupied or vacant? Is rent being collected? How does this benefit the estate?
<b>Not.Cred.</b>		<b>Declaration of June Waara (Document preparer) filed 7-20-12 states she has been working with Mr. Bucci to finalize the estate but is still going through all of the documents to determine what needs to be in the account. Ms. Waara requests 30 days.</b>
<b>Notice of Hrg</b>		<b>- Declaration is not verified by the fiduciary.</b>
<b>Aff.Mail</b>		<b>Reviewed by:</b> KT / skc
<b>Aff.Pub.</b>		<b>Reviewed on:</b> 8-15-12
<b>Sp.Ntc.</b>		<b>Updates:</b>
<b>Pers.Serv.</b>		<b>Recommendation:</b>
<b>Conf. Screen</b>		<b>File 11 - Bucci</b>
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>	Rocky Bucci and his two brothers, Dino Bucci and Anthony Bucci are the three heirs of the estate. Rocky Bucci had hoped to purchase the property from the estate, or reach an agreement with his brothers whereby he would receive distribution of the real property of the estate.	
<b>Aff. Posting</b>		
<b>Status Rpt</b>	X	
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>	Efforts to reach an agreement with the other heirs failed. Rocky Bucci has advised his attorney that he wants to wait until the real estate market improved to market the property for sale. He does not want to sell the real property.	

Petition for Appointment of Probate Conservator of the Person  
(Prob. C. 1820, 1821,2680-2682)

Age: 20 years	<p style="text-align: center;"><b>TEMPORARY EXPIRES 8/20/12</b></p> <p><b>NADINE CANNADY</b>, mother, is Petitioner and requests appointment as Conservator of the Person with medical consent powers.</p> <p><b>Need Capacity Declaration to support request for medical consent powers.</b></p> <p><b>Petitioner states</b> the proposed Conservatee has non-verbal Autism and needs assistance with all activities of daily living including bathing, feeding, and administering his medications, and he is unable to communicate with anyone.</p> <p><b>Court Investigator Jennifer Young's Report was filed on 6/28/2012.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Continued from 7/5/12. Minute Order states the court on its own motion grants a temporary conservatorship without medical consent powers to Nadine Cannady. The temporary expires on 8/20/12. The Court directs the Petitioner to submit a declaration by the doctor by 8/20/12. As of 8/15/12 the capacity declaration has not been filed.</b></p> <p><b>Court Investigator Advised Rights on 6/26/2012.</b></p> <p><b>Voting Rights Affected – Need Minute Order.</b></p> <p>1. <i>Petition</i> requests medical consent powers. Need <i>Medical Capacity Declaration</i> (Judicial Council form GC-335) in support of Petitioner's request.</p>
DOD: 9/1/1991		
Cont. from 070512		
Aff.Sub.Wit.		
✓ Verified		
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✓ Citation		
FTB Notice		
<p><b>Reviewed by:</b> LEG / KT</p> <p><b>Reviewed on:</b> 8/15/12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 12 - Ali</b></p>		

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

Age: 3 months DOB: 05/10/2012		<b>TEMPORARY EXPIRES 08/20/2012</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>SHERRY D. RYAN</b> , Maternal Grandmother, is Petitioner.		<p><u>Continued from 07/23/2012</u>  <b>Minute order states: The Court is informed that there may be a paternity issue. Matter continued to 08/20/2012. The temporary is extended to 08/20/2012. The Court orders that a court investigator contact Mr. Sanchez.</b></p> <p>1. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:</p> <ul style="list-style-type: none"> <li>• Paternal grandparents (Unknown)</li> <li>• Don Tatum (Maternal grandfather)</li> </ul> <p>Court Investigator Julie Negrete to provide:</p> <ul style="list-style-type: none"> <li>• Supplemental CI report</li> </ul>	
		Father: <b>TOBIAS SANCHEZ</b> , personally served on 06/05/2012			
Cont. from 072312		Mother: <b>SABRINA TATUM</b> , Deceased			
<input type="checkbox"/>	Aff.Sub.Wit.	Paternal Grandparents: Unknown			
<input checked="" type="checkbox"/>	Verified	Maternal Grandfather: Don Tatum			
<input type="checkbox"/>	Inventory	<b>Petitioner alleges:</b> the mother passed away on 5-20-12. Petitioner states the child needs to be seen by a doctor and doctors won't see him without something from the Court.			
<input type="checkbox"/>	PTC	<b>Court Investigator Julie Negrete's report filed 07/11/2012.</b>			
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				<b>Reviewed by:</b> KT / LV	
				<b>Reviewed on:</b> 07/19/2012	
				<b>Updates:</b>	
				<b>Recommendation:</b>	
				<b>File 13 - Tatum</b>	

**Petition for Visitation**

Age: 1 ½ years DOB: 10/9/2010	<b>DANIELLE MUNIZ</b> , mother, is petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>See page 14B – Petition for Appointment of Guardian filed by maternal grandmother, Gina Muniz.</b></p> <p>Continued from 7/26/12. Minute Order states Ms. Muniz advises the court that the temporary guardian is evading her and also has made numerous completes and requests for wellness checks with law enforcement/CPS which have been determined to be unfounded. Ms. Muniz provides her contact information. As of 8/14/12 the following issues remain:</p> <ol style="list-style-type: none"> <li>1. Need Notice of Hearing.</li> <li>2. Need proof of service of the Notice of Hearing on:             <ol style="list-style-type: none"> <li>a. Gina Muniz (temporary guardian/maternal grandmother)</li> </ol> </li> </ol>
	<b>GINA MUNIZ</b> , maternal grandmother, was appointed temporary guardian on 6/21/12.	
	Father: Unknown (Tony Padilla per CI report)	
<b>Cont. from 072612</b>	Paternal grandparents: Unknown	
Aff.Sub.Wit.	Maternal grandfather: Daniel Muniz	
✓ Verified	<b>Petitioner states</b> her baby was removed from her by the guardian on 6/22/12 and she has had no contact with her baby since then. She was not noticed of the hearing. Petitioner states her mother [petitioner] lied about her reasons to take the baby. Mom states she cannot be without her baby until the next hearing on 8/20/12. She saw her mother on July 2, 2012 at the Selma welfare already applying for benefits. Petitioner states her mother told the court that she couldn't find her to serve her with the papers but she had no problems finding her to take the baby from her.	
Inventory		
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Letters		
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Video Receipt		
CI Report		
9202		
Order	X	
Aff. Posting		
Status Rpt		
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		<b>Reviewed by:</b> KT
		<b>Reviewed on:</b> 8/14/2012
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 14A- Padilla</b>

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

<b>Age:</b> 1 ½ years		<p align="center"><u>Temporary Expires for 8/20/12.</u></p> <p><b>GINA MUNIZ</b>, maternal grandmother, is petitioner.</p> <p>Father: <b>UNKNOWN</b> (Tony Padilla per CI report)</p> <p>Mother: <b>DANIELLE MUNIZ</b></p> <p>Paternal grandparents: Unknown          Maternal grandfather: Daniel Muniz – Declaration of Due Diligence filed on 6/6/12 states Mr. Muniz is homeless and Petitioner has not seen him for 10-12 years.</p> <p><b>Petitioner states</b> the mother is running around homeless and is on “meth.” She leaves the baby with whoever will watch her. She uses her welfare money on drugs, sells her food stamps and the baby goes without.</p> <p><b>Objections of Danielle Muniz, mother, filed on 7/3/12</b> states she believes her mother is doing this for the benefits because she is no longer working and her husband has cancer. Mom states she is not an unfit mother and she has a home for the minor. Mom states her mother has hardly been there for her until this past month. Mom alleges that the reason her mother wants custody is because she has been allowing the minor to get to know her father and her other family.</p> <p><b>Court Investigator Dina Calvillo’s Report filed on 8/13/12.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need Notice of Hearing.</li> <li>2. Need proof of personal service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on:             <ol style="list-style-type: none"> <li>a. Tony Padilla (father)</li> <li>b. Danielle Muniz (mother)</li> </ol> </li> <li>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:             <ol style="list-style-type: none"> <li>a. Paternal grandparents</li> <li>b. Daniel Muniz (maternal grandfather) – unless court dispenses with notice.</li> </ol> </li> <li>4. UCCJEA is incomplete. Need minor’s residence information from 10/9/10 to 6/2/12.</li> </ol>	
<b>Cont. from</b>				
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<b>Reviewed by:</b> KT
<b>Reviewed on:</b> 8/14/12
<b>Updates:</b>
<b>Recommendation:</b>
<b>File 14B - Padilla</b>

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

Age: 5 years DOB: 5/28/2007		<p><b>ROSA YOLANDA COMACHO</b>, non-relative, is petitioner.</p> <p>Father: <b>UNKNOWN</b> (CI report identifies the alleged father as <b>Jose Ramirez</b>, declaration of mother states she does not know who the father is as she had several partners during that time.)</p> <p>Mother: <b>FRANCES E. NIETO</b> – consents and waives notice.</p> <p>Paternal grandparents: Not listed. Maternal grandparents: Not listed.</p> <p><b>Petitioner states</b> she has had the minor in her care since July 2009. Mom left the minor in Petitioner's care because she was unable to care for him.</p> <p><b>DSS Social Worker Jennifer Cooper's Report filed on 8/14/12.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need Notice of Hearing.</li> <li>2. Need proof of personal service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on:             <ol style="list-style-type: none"> <li>a. Jose Ramirez (alleged father, unless the court dispenses with notice.)</li> </ol> </li> <li>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:             <ol style="list-style-type: none"> <li>a. Paternal grandparents</li> <li>b. Maternal grandparents</li> </ol> </li> <li>4. UCCJEA is incomplete. Need minor's residence information for 2007 to July 2009.</li> </ol>	
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		Reviewed by: KT		
		Reviewed on: 8/15/12		
		Updates:		
		Recommendation:		
		File 15 - Ramirez		

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

Tieray, 13 DOB: 11/30/1998		<p align="center"><b><u>TEMPORARY EXPIRES 08/20/2012</u></b></p> <p><b>PAMELA WILLAMS</b>, maternal grandmother, and <b>JOHN HINES</b> maternal grandmother's boyfriend are co-petitioners.</p> <p>Father: <b>AARON PRINCE</b> - Declaration of Due Diligence filed 06/26/2012</p> <p>Mother: <b>TIERAYSHA L. JACKSON</b> - deceased</p> <p>Paternal grandfather: UNKNOWN – Declaration of Due Diligence filed 06/26/12</p> <p>Paternal grandmother: UNKNOWN – Declaration of Due Diligence filed 06/26/12</p> <p>Maternal grandfather: TOMMY R. JACKSON - deceased</p> <p>Tieray D. Prince and Kieray D. Prince, wards, signed the Consent to Appointment of Guardian and Waiver of Notice filed 06/26/2012.</p> <p><b>Petitioner alleges:</b> social security is requesting that she seek guardianship. Co-Petitioner John Hines is requesting guardianship in case of an emergency he can act on behalf of the children.</p> <p><b>Court Investigator Charlotte Bien filed a report on 08/01/12.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> Temporary guardianship was granted to Pamela Williams only on 07/03/12. Per CI report, co-petitioner John Hines no longer wishes to be appointed as a co-guardian.</p> <ol style="list-style-type: none"> <li>1. Need Notice of Hearing.</li> <li>2. Declaration of Due Diligence filed 06/26/12 states that the father's current whereabouts are unknown. If diligence is not found, need proof of personal service at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person or Consent and Waiver of Notice for: - Aaron Prince (father)</li> <li>3. Declaration of Due Diligence filed 06/26/12 states that the paternal grandparents are unknown. If diligence is not found, need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person or Consent and Waiver of Notice for: - paternal grandparents (unknown)</li> </ol>	
Kieray, 12 DOB: 11/23/1999				
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input type="checkbox"/>	Notice of Hrg			x
<input type="checkbox"/>	Aff.Mail			n/a
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<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			x
<input checked="" type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input checked="" type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input checked="" type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 08/15/12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 16 - Prince</b></p>		

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

Daniel, 9 DOB: 05/05/03		<b>TEMPORARY EXPIRES 08/20/12</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
Joseph, 5 DOB: 10/06/06			
Cont. from		CHRISTINA M. CASTILLO, maternal aunt is petitioner	1. Need proof of personal service of <b>Notice of Hearing</b> with a copy of the <b>Petition for Appointment of Guardian of the Person</b> or Consent and Waiver of Notice for: - Daniel J. Galvan, III (father) * Proof of service filed 07/02/12 lists only the Petition for Appointment of <u>Temporary</u> Guardian of the Person.
Aff.Sub.Wit.			
✓ Verified		Father: DANIEL J. GALVAN III	
Inventory		Mother: ANNMARIE M. GALVAN - Deceased	
PTC		Paternal grandfather: DANIEL GALVAN – served by mail on 07/19/12	
Not.Cred.		Paternal grandmother: LINDA CORONADO – served by mail on 07/19/12	
✓ Notice of Hrg		Maternal grandfather: RUDY RIVAS - Deceased	
✓ Aff.Mail w/		Maternal grandmother: LYDIA RIOS – Consent & Waiver of Notice filed 07/02/12	
Aff.Pub.		Sibling: LEIGHANN CASTANON – Consent & Waiver of Notice filed 07/02/12	
Sp.Ntc.		<p><b>Petitioner alleges:</b> children's mother was murdered by their father on 06/18/2012. Mother was killed in the paternal grandmother's home. The children continued to reside in the home with their paternal grandmother until temporary guardianship was granted on 07/03/12. The Paternal grandmother is handicapped, in a wheelchair and is unable to care for the children. The youngest child, Joseph, has severe allergies and requires a lot of attention. Children have been allowed to appear on television and the Petitioner does not believe that this is in the best interest of the children. Petitioner states that the children and the mother resided with her from 11/2011 to 06/07/2012. Father is currently in jail.</p> <p><b>Court Investigator Julie Negrete filed a report on 08/09/12.</b></p>	
Pers.Serv. x			
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
9202			
✓ Order			
Aff. Posting		Reviewed by: JF	
Status Rpt		Reviewed on: 08/16/12	
✓ UCCJEA		Updates:	
Citation		Recommendation:	
FTB Notice		File 17 - Galvan	

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

Age: 18 years DOB: 8/18/1994	<p><b>ROBERT CHARLES WEHAGEN</b>, father, is petitioner and requests appointment as conservator of the person.</p> <p>Voting Rights Affected.</p> <p><b>Petitioner states</b> the proposed conservatee has Downs Syndrome and needs help with daily activities. He has been living with the petitioner since birth and Petitioner has been his primary caregiver since his mother passed away. The proposed conservatee cannot be left alone for long periods of time, He cannot read or write and is not capable of driving.</p> <p><b>Court Investigator Charlotte Bien's Report filed on 8/6/12</b> recommends that the Conservatorship be <b>GRANTED</b>.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Court Investigator Advised Rights on 7/23/12.</b></p> <p><b>Voting rights affected need Minute Order.</b></p> <p>1. The petition does not request any powers or controls over the limited conservatee. Probate Code §2351.5 states the limited conservator does not have any of the powers or controls over the limited conservatee unless those powers are specifically requested in the petition for appointment of the limited conservator and granted by the court in its order appointing the limited conservator:</p> <p>(1) To fix the residence or specific dwelling of the limited conservatee.          (2) Access to the confidential records and papers of the limited conservatee.          (3) To consent or withhold consent to the marriage of, or the entrance into a registered domestic partnership by, the limited conservatee.          (4) The right of the limited conservatee to contract.          (5) The power of the limited conservatee to give or withhold medical consent.          (6) The limited conservatee's right to control his or her own social and sexual contacts and relationships.          (7) Decisions concerning the education of the limited conservatee.</p> <p style="text-align: center;"><b>Please see additional page</b></p> <p><b>Reviewed by:</b> KT</p> <p><b>Reviewed on:</b> 8/16/12</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 18 - Wehagen</b></p>	
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			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation	X		
FTB Notice			

**NEEDS/PROBLEMS/COMMENTS (cont.):**

2. Need Notice of Hearing.
3. Need proof of service of the Notice of Hearing along with a copy of the petition on:
  - a. Kalen Wehagen (sister)
  - b. Courtny Wehagen (sister)
4. Need Citation
5. Need proof of personal service of the Citation along with a copy of the Petition on the proposed conservatee, Kyle Wehagen.
6. Need written report of the regional center pursuant to Probate Code §1827.5 (a)

**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.

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

Age: 9 years DOB: 5/5/2003	<p style="text-align: center;"><b>THERE IS NO TEMPORARY.</b> No temporary was requested.</p> <p><b>CHRISTINA CASTILLO</b>, maternal aunt, is petitioner and requests appointment as guardian of the estate without bond.</p> <p><b>Estimated value of the Estate:</b> Personal property - <b>\$68,750.00</b></p> <p>Father: DANIEL GALVAN, II – personally served on 8/3/12</p> <p>Mother: Annmarie Galvan – deceased</p> <p>Paternal grandfather: Daniel Galvan I – deceased</p> <p>Paternal grandmother: Linda Coronado – served 8/3/12</p> <p>Maternal grandfather: Rudy Rivas – deceased</p> <p>Maternal grandmother: Lydia Rios – consents and waives notice.</p> <p><b>Petitioner requests</b> authority to deposit all funds into a blocked account.</p> <p><b>Petitioner states</b> a guardianship of the estate is needed so that a claim be made under the life insurance policy of Metropolitan Life in which the minor is a 25% beneficiary.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> Status hearings will be set as follows:</p> <ul style="list-style-type: none"> <li>• <b>Friday, September 21, 2012</b> at 9:00 a.m. in Department 303 for the filing of the receipt for blocked account;</li> <li>• <b>Friday, December 21, 2012</b> at 9:00 a.m. in Department 303 for the filing of the inventory and appraisal, and;</li> <li>• <b>Friday, October 18, 2013</b> at 9:00 a.m. in Department 303 for the filing of the first account.</li> </ul> <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearing on the matter the status hearing will come off calendar and no appearance will be required.</p>
Cont. from		
Aff.Sub.Wit.		
✓ Verified		
Inventory		
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Objections		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		
	<p><b>Reviewed by: KT</b></p> <p><b>Reviewed on: 8/16/12</b></p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 19 – Galvan</b></p>	

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

Age: 6 years DOB: 10/6/2006	<p style="text-align: center;"><b>THERE IS NO TEMPORARY.</b> No temporary was requested.</p> <p><b>CHRISTINA CASTILLO</b>, maternal aunt, is petitioner and requests appointment as guardian of the estate without bond.</p> <p><b>Estimated value of the Estate:</b> Personal property - <b>\$68,750.00</b></p> <p>Father: DANIEL GALVAN, II – personally served on 8/3/12</p> <p>Mother: Annmarie Galvan – deceased</p> <p>Paternal grandfather: Daniel Galvan I – deceased</p> <p>Paternal grandmother: Linda Coronado – served 8/3/12</p> <p>Maternal grandfather: Rudy Rivas – deceased</p> <p>Maternal grandmother: Lydia Rios – consents and waives notice.</p> <p><b>Petitioner requests</b> authority to deposit all funds into a blocked account.</p> <p><b>Petitioner states</b> a guardianship of the estate is needed so that a claim be made under the life insurance policy of Metropolitan Life in which the minor is a 25% beneficiary.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> Status hearings will be set as follows:</p> <ul style="list-style-type: none"> <li>• <b>Friday, September 21, 2012</b> at 9:00 a.m. in Department 303 for the filing of the receipt for blocked account;</li> <li>• <b>Friday, December 21, 2012</b> at 9:00 a.m. in Department 303 for the filing of the inventory and appraisal, and;</li> <li>• <b>Friday, October 18, 2013</b> at 9:00 a.m. in Department 303 for the filing of the first account.</li> </ul> <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearing on the matter the status hearing will come off calendar and no appearance will be required.</p>
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✓ Verified		
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✓ Order		
Aff. Posting		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		
	<p><b>Reviewed by: KT</b></p> <p><b>Reviewed on: 8/16/12</b></p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 20 – Galvan</b></p>	