



## ATTENTION

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

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

Thank you for your patience.

**Amended First and Final Account and Report of Executor, Petition for Allowance of Compensation to His Attorney, and Reimbursement to Executor for Funeral Expenses and Closing of Estate Due to Exhaustion of Assets**

<b>DOD: 10-29-08</b>	<b>BRIAN FRY</b> , Executor with Full IAEA without bond, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from: 071714</b>	<b>Account period: 1-27-09 through 11-30-13</b>	<b>Continued from 7-17-14.</b>
	Accounting: \$9,607.98	
	Beginning POH: \$9,607.98	
	Ending POH: \$8,211.77 (cash)	<b>As of 8-25-14, nothing further has been filed.</b>
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Executor (Statutory): Waives	<b>SEE PAGE 2</b>
<input checked="" type="checkbox"/> <b>Verified</b>	<b>Executor: \$6,276.77</b> (Partial reimbursement for funeral costs and costs of administration totaling \$8,250.00, per Exhibit "A")	
<input checked="" type="checkbox"/> <b>Inventory</b>	<b>Attorney (Statutory): \$384.32</b>	
<input checked="" type="checkbox"/> <b>PTC</b>	<b>Attorney (Extraordinary): \$1,115.68</b>	
<input checked="" type="checkbox"/> <b>Not.Cred.</b>	Attorney LeVan states that after reviewing the information presented to the attorney for the accounting, she found out that other assets were marshaled and sold without being included on the I&A. Attorney LeVan therefore had to prepare a corrected I&A and amend the accounting.	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	<b>Costs: \$435.00 (filing fee for this petition)</b>	
<input checked="" type="checkbox"/> <b>Aff.Mail</b> <span style="float: right;">w</span>	<b>Petitioner lists the five Creditor's Claims filed against the estate at Exhibit A.</b>	
<input type="checkbox"/> <b>Aff.Pub.</b>	<b>Petitioner requests that:</b>	
<input type="checkbox"/> <b>Sp.Ntc.</b>	1. Notice of Hearing of this account, report, and petition be given as required by law;	<b>Reviewed by: skc</b>
<input type="checkbox"/> <b>Pers.Serv.</b>	2. The Court make an order approving, allowing, and settling the account and report of the conservator [sic] in all respects as filed;	<b>Reviewed on: 8-25-14</b>
<input type="checkbox"/> <b>Conf. Screen</b>	3. The Court authorize Petitioner to pay his attorney \$1,500.00 as ordinary and extraordinary compensation for her services during the period of this accounting;	<b>Updates:</b>
<input checked="" type="checkbox"/> <b>Letters</b>	4. The Court authorize partial reimbursement for funeral expenses to Petitioner in the amount of \$6,276.77;	<b>Recommendation:</b>
<input type="checkbox"/> <b>Duties/Supp</b>	5. The Court authorize the Petitioner to close this estate due to exhaustion of all assets; and	<b>File 1 – Fry</b>
<input type="checkbox"/> <b>Objections</b>	6. Any other orders that the Court considers proper.	
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input checked="" type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input checked="" type="checkbox"/> <b>FTB Notice</b>		

## Page 2 - NEEDS/PROBLEMS/COMMENTS:

1. The Court may require clarification regarding the assets of the estate:

The original I&A filed 12-24-08 (prior to appointment) reflected one line item, \$4,727.19 cash, as of the Decedent's date of death, which was 10-29-08.

Except for notice of administration to creditors and agencies, and the filing of claims totaling \$16,537.21 by various creditors, there was no further activity in the estate until the Court set a status hearing for failure to file a petition for final distribution, which was due in January 2010 pursuant to Probate Code §12200.

In January 2014, Petitioner filed a verified accounting based on the \$4,727.19, which included a statement that the Property On Hand as of 11-30-13 (five years later) was that exact same amount \$4,727.19, except that the POH Schedule indicated that it was actually \$3,452.98 cash and \$1,274.21 "American Century Investments."

Examiner Notes for that petition noted that if cash, and especially investments, had been kept untouched in interest-bearing accounts for 5 years, pursuant to the Duties and Liabilities of Personal Representative filed 12-24-08, interest would have been earned.

Petitioner has now filed a Corrected I&A, which corrects the date of death estate value to include cash of \$3,452.98 only, and adds a vehicle and misc. personal property.

This amended petition is based on the Corrected I&A, and now, contrary to the information provided in the prior petition, states that the POH as of 11-30-13 was actually \$8,211.77, which appears to represent the \$3,452.98 cash plus \$1,800.00 from the sale of the vehicle plus \$2,958.79 from the sale of the misc. personal property.

However, again, Examiner notes that it does not appear that estate funds have been held in an interest-bearing account pursuant to the Duties and Liabilities of Personal Representative.

Further, the \$1,274.21 "American Century Investments" is now not included. The Court may require clarification regarding why this asset is now not considered an asset of the estate.

## 2. Petitioner does not itemize the costs for which he is requesting reimbursement. The petition refers to Exhibit "A" however, that is the list of Creditor's Claims. Need itemization.

## 3. Attorney requests compensation totaling \$1,500.00, including the full statutory compensation of \$384.22 based on the amended I&amp;A plus \$1,115.68 in extraordinary fees.

First, need clarification as to how correcting the I&A and amending the accounting to more accurately reflect the acts of the executor during administration constitutes extraordinary services. See Cal. Rules of Court 7.702 and 7.703.

Second, need itemization for extraordinary services pursuant to Cal. Rules of Court 7.702 Local Rule 7.18. (The attorney states she performed 16+ hours of work totaling \$3,200, but does not provide itemization.)

Third, pursuant to Probate Code §12205, the Court may reduce compensation due to the delinquency in closing this estate.

## 4. Need order. The Court may strike any language confirming and approving the acts of the personal representative during administration. The order should also include a provision for payment of creditors in the event of discovery of assets.

Note: Unpaid creditors include Hinds Hospice, Bank of America, Fresno Credit Bureau, and West Asset Management for Citibank. All were given notice of this hearing.

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

DOD: 7/26/2000	MARY MCGEE, RITA JONES, EARL LOCKHART, JR., EVERLENER SMITH, JACKIE LOCKHART, ARTHUR LOCKHART, DAVID LOCKHART, RICKY LOCKHART, JAMES LOCKHART, grandchildren, are petitioners.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. A Petition to Determine Succession to Real Property was previously filed for this decedent (that petition was denied on 1/31/13). In the previously filed petition the petitioners were requesting a 50% interest pass to petitioners. (This decedent had a 25% interest in the real property and her sister had another 25% interest. The petition alleged that decedent's sister's 25% interest belonged to this decedent because the sister had died and decedent was her sole heir). The Inventory and Appraisal in the first filed petition listed the value of the property (50%) at \$110,000.00. This petition includes a copy of the same inventory and appraisal valued (25%) at \$110,000. How can the 50% interest alleged in the first filed petition and 25% interest as alleged in this petition both be valued at \$110,000? – <b>Declaration of Attorney states</b> the property is appraised at 100% therefore a 25% interest would be \$27,500.00. This petition only concerns a 25% interest in the estate. <b>Examiner note:</b> Pursuant to Probate Code 13152(b) and Probate Code §8802 the property listed shall state the fair market value of the property at the time of the decedent's death. <b>Therefore need amended inventory and appraisal showing the value of decedent's interest in the property as of her date of death.</b>
Cont. from 010714	40 days since DOD.	
Aff.Sub.Wit.	No other proceedings.	
✓ Verified	Decedent died intestate.	
Inventory	I & A - \$110,000.00	
PTC	<b>Petitioners request</b> court confirmation that Decedent's 25% interest in real property located at 962 75 <sup>th</sup> Ave Oakland, CA pass to 1/9 to each of them pursuant to intestate succession.	
Not.Cred.		
✓ Notice of Hrg		
✓ Aff.Mail w/		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: LV/KT
		Reviewed on: 8/26/14
		Updates:
		Recommendation:
		File 6 – Raymond

2. Decedent was also survived by a 10<sup>th</sup> grandchild, Opal White. Opal White died on 5/25/05 (after this decedent) therefore her estate is entitled to a 1/10 share of this estate. Petition states her son, Danny Brown has filed an Affidavit Re: Real Property of Small Value to pass Opal's interest in the real property to him. However, Opal's interest must first pass to her. In addition, someone (a special administrator?) will need to sign this petition on her behalf. Note: A special administrator cannot be appointed in this estate for Opal. A special administrator will need to be appointed in a new case for Opal's estate. – Petitioner contends that the issue of the 2.5% interest passing to the heirs of Opal White is not before the Court. Danny Brown has filed an Affidavit Re: Real Property of Small Value to claim the final 2.5% interest from the estate of Opal White. Danny Brown is not a petitioner herein, and seeks no relief in this petition. – **Examiner note:** The problem is that before the property can pass to Danny Brown the property must first pass to Opal White's estate. Therefore a Special Administrator would need to be appointed (in a separate proceeding) to be able to sign this Petition to Determine Succession on Opal's behalf in order to pass Opal's interest in this estate to her estate. After the property is in Opal's estate then Danny Brown can file the Affidavit Re: Real Property of Small Value.

**(1) First Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and her Attorney; and (3) for Dispensation of Further Accounts**

		<b>PUBLIC GUARDIAN</b> , Conservator of the Estate, is Petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> If further accountings are not dispensed with, a status hearing will be set as follows:</p> <ul style="list-style-type: none"> <li>• <b>Thursday, October 29, 2015 at 9:00am in Dept. 303</b> if a one year accounting is due; and</li> <li>• <b>Thursday, October 27, 2016 at 9:00am in Dept. 303</b> if a two year accounting is due.</li> </ul> <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter, the status hearing will come off calendar and no appearance will be required.</p>
		Account period: 05/23/13 – 07/01/14	
<b>Cont. from</b>		Accounting - \$91,124.37	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	Beginning POH - \$42,758.50	
<input checked="" type="checkbox"/>	<b>Verified</b>	Ending POH - \$3,413.21	
<input type="checkbox"/>	<b>Inventory</b>	Conservator - \$4,348.52 (14.75 staff hours @ \$76/hr. and 33.62 deputy hours \$96.hr.)	
<input type="checkbox"/>	<b>PTC</b>	Attorney - \$2,500.00 (ok Per Local Rule)	
<input type="checkbox"/>	<b>Not.Cred.</b>	Bond fee - \$25,000.00	
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>	Petitioner requests that due to the insufficiency of the estate to pay the fees and commissions that a lien be imposed on the estate for any unpaid balances of the authorized fees and commissions.	
<input checked="" type="checkbox"/>	<b>Aff.Mail</b> w/	Petitioner states that the conservatorship estate meets the requirements of Probate Code § 2628(b) to dispense with further accountings. Petitioner requests that the court dispense with further accountings as long as the conservatorship estate continues to meet the requirements of Probate Code § 2628(b).	
<input type="checkbox"/>	<b>Aff.Pub.</b>	<b>Petitioner prays for an Order:</b>	
<input type="checkbox"/>	<b>Sp.Ntc.</b>	1. Approving, allowing and settling the first account;	
<input type="checkbox"/>	<b>Pers.Serv.</b>	2. Authorizing the conservator and attorney fees and commissions;	
<input type="checkbox"/>	<b>Conf. Screen</b>	3. Authorizing payment of the bond fee;	
<input type="checkbox"/>	<b>Letters</b>	4. Authorizing petitioner to impose a lien on any unpaid balances of authorized fees and commissions; and	
<input type="checkbox"/>	<b>Duties/Supp</b>	5. Dispensing with further accounts.	
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input checked="" type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>2620(c)</b> n/a		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		

**Reviewed by:** JF  
**Reviewed on:** 08/25/14  
**Updates:**  
**Recommendation:**  
**File 3 - Nelson**

**4 Patricia Lujan (Estate)**

**Case No. 13CEPR00596**

**Atty Fanucchi, Edward L. (for Administrator Isabel Diaz-Casillas)**

**(1) First and Final Account and Report of Personal Representative, Petition for Settlement (2) for Allowance of Attorneys' Fees for Ordinary Services, (3) Waiver of Commission, Costs, Reserve and (4) for Final Distribution to Verbal Testamentary Trust**

<b>DOD: 1-17-13</b>	<b>ISABEL DIAZ-CASILLAS</b> , Sister and Administrator with Full IAEA without bond, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<b>Account period: 1-18-13 through 6-30-14</b>	<u>SEE ADDITIONAL PAGES</u>
	Accounting: \$155,082.17	
	Beginning POH: \$155,082.17	
	Ending POH: \$119,894.35 (cash)	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	
<input checked="" type="checkbox"/>	<b>Verified</b>	
<input checked="" type="checkbox"/>	<b>Inventory</b>	
<input type="checkbox"/>	<b>PTC</b> X	
<input checked="" type="checkbox"/>	<b>Not.Cred.</b>	
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>	
<input checked="" type="checkbox"/>	<b>Aff.Mail</b> W	
<input type="checkbox"/>	<b>Aff.Pub.</b>	
<input type="checkbox"/>	<b>Sp.Ntc.</b>	
<input type="checkbox"/>	<b>Pers.Serv.</b>	
<input type="checkbox"/>	<b>Conf. Screen</b>	
<input checked="" type="checkbox"/>	<b>Letters</b>	
<input type="checkbox"/>	<b>Duties/Supp</b>	
<input type="checkbox"/>	<b>Objections</b>	
<input type="checkbox"/>	<b>Video Receipt</b>	
<input type="checkbox"/>	<b>CI Report</b>	
<input type="checkbox"/>	<b>9202</b> X	
<input checked="" type="checkbox"/>	<b>Order</b>	
<input type="checkbox"/>	<b>Aff. Posting</b>	
<input type="checkbox"/>	<b>Status Rpt</b>	
<input type="checkbox"/>	<b>UCCJEA</b>	
<input type="checkbox"/>	<b>Citation</b>	
<input checked="" type="checkbox"/>	<b>FTB Notice</b>	
	<b>Administrator (Statutory): Waived</b>	
	<b>Attorney (Statutory): \$5,652.47</b>	
	<b>Closing: \$5,000.00</b>	
	<b>Petitioner states</b> that pursuant to the wishes of the decedent prior to her death, it was her intention that the following assets be held in trust by Petitioner for the benefit of her two children and that funds be disbursed in the discretion of the trustee for the benefit of each child in an amount in the discretion of the trustee for the general welfare of said children and for payment of any debts owed by the decedent as a result of her death:	
	a. Pension benefits payable to Gina Diaz (sister);	
	b. Supplemental Life Insurance Policy with Symetra Life Insurance Company payable to Gina Diaz	
	c. Basic Life Insurance Policy with Symetra Life Insurance Company payable to Isabel Diaz-Casillas	
	The funds referenced above are to be deposited in the trust account of Quinlan, Kershaw & Fanucchi, LLP, and funds are to be disbursed upon the authority of the trustee.	
	<b>Distribution pursuant to "Agreement Re Verbal Testamentary Trust" is to:</b>	
	<b>Isabel Diaz-Casillas, as Testamentary Trustee for Amando Montero: \$53,252.56</b>	
	<b>Isabel Diaz-Casillas, as Testamentary Trustee for Jessica Montero Hinojosa: \$54,692.82</b>	
		<b>Reviewed by:</b> skc
		<b>Reviewed on:</b> 8-25-14
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 4 – Lujan</b>

1. Petitioner states that prior to the decedent's death, the decedent stated that it was her intention that certain assets be held in trust for her two children (who are adults), including:

a. Pension benefits payable to Gina Diaz (the decedent's sister) in the net amount of \$8,853.55, after deduction of \$2,770.10 for federal income taxes withheld, and in the net amount of \$2,770.10, after deduction of \$692.52 for federal income taxes withheld;

b. Supplemental Life Insurance Policy with Symetra Life Insurance Company payable to Gina Diaz (the decedent's sister) in the amount of \$60,093.70; and

c. Basic Life Insurance Policy with Symetra Life Insurance Company payable to Isabel Diaz-Casillas (Petitioner) in the amount of \$75,117.12.

These cash assets were inventoried by the Administrator as assets of the estate on the I&A filed 9-4-13 pursuant to Probate Code §8901; however, these accounts had beneficiary designations.

Petitioner is the designated beneficiary of the Symetra Basic Life Insurance Policy. Is it correct to assume that by this petition, Petitioner consents to the probate of this asset as an asset of the estate?

Gina Diaz, the decedent's other sister, however, is the designated beneficiary of the Symetra Supplemental Life Insurance Policy and the EOC Pension benefits. Gina Diaz has not signed any consent to include these assets as assets of the estate, or to the "Agreement" that would allow these accounts to be probated and distributed ultimately to other beneficiaries.

Need authority for including the assets that designate Gina Diaz as beneficiary as assets of the estate.

2. Petitioner titles her declaration regarding the decedent's intent as "Agreement Re Verbal Testamentary Trust," and requests distribution pursuant thereto.

However, there is no such thing as a "verbal testamentary trust." A testamentary trust is a trust created by a will. See §17300. The decedent died intestate. Therefore, any distribution of estate assets would be pursuant to intestate succession, or beneficiary designation, pursuant to clarification of #1 above.

Further, the "Agreement" is signed only by Petitioner and although it includes a statement that the decedent verbally stated certain wishes, it does not provide details that would be relevant to the establishment of an oral trust in accordance with Probate Code §15207, and this petition has not been brought under that section. For example, no information is provided regarding the specific circumstances of how or when the decedent verbally made these statements, which appear to be very specific, yet contrary to the beneficiary designations that were previously in existence.

If Petitioner is alleging that an oral trust was created by the decedent prior to her death, it would need to be separately established under proper authority by clear and convincing evidence, and then Petitioner could theoretically request distribution of the estate pursuant to such previously established trust.

Alternatively, if the beneficiaries (Isabel Diaz-Casillas and Gina Diaz) and intestate heirs (Armando Montero and Jessica Montero Hinojosa) wish to make an agreement regarding the inclusion of certain assets in this probate estate and distribution pursuant to such agreement, an amended petition may be appropriate; however, whatever form such agreement takes, it would not be considered a "verbal testamentary trust."

SEE ADDITIONAL PAGES

3. Bank of America filed a creditor's claim \$32,911.04, which was rejected per Rejection filed 9-23-13. However, Petitioner does not state whether any lawsuit resulted from the claim/rejection pursuant to Cal. Rules of Court 7.403.

In the petition, Petitioner states that this claim was for a second deed of trust on real property "which was lost to foreclosure." However, the petition does not state when the property was lost to foreclosure. Was it was prior to or after the decedent's death in January 2013? In the "Agreement" signed by Petitioner in June 2013, Petitioner states the residence "is currently in proceedings for a Trustee's sale," which indicates that the real property was not yet foreclosed, and was owned by the decedent at her death and therefore should have been inventoried as an asset on the I&A.

Need verified statement regarding whether any action was taken by the creditor upon rejection of the claim, and clarification re the real property. If the property was not foreclosed, what actions were taken, if any, with regard to the property?

4. Petitioner did not answer #5 on the I&A re Property Tax Certificate. Need verified statement regarding the requirements of R&T Code §480.
5. The disbursements schedule indicates that Petitioner made numerous "advances" to the decedent's two children as trustee of the "trust" without Court authorization in violation of Probate Code §11620. Jessica Hinojosa has received \$10,559.74 and Armando Montero has received \$10,000.00, plus \$2,116.68 for funeral expenses (not itemized) plus \$2,000.00 paid to McCormick Barstow on Armando Montero's behalf (without explanation).
6. Petitioner does not address whether notice was required to the Director of the California Victim Compensation and Government Claims Board pursuant to Probate Code §9202(b).

Note: Based on the above issues, the Court may strike any language approving the acts and transactions of the personal representative.

7. Petitioner requests to retain a reserve amount of \$5,000.00 for closing expenses; however, Petitioner does not indicate what liabilities may be determined to be due. It appears from the disbursements schedule that the decedent's final taxes have been completed. The Court may require clarification regarding the purpose of the reserve, and, consistent with the Court's recent practice, if Court determines an informal accounting of the closing reserve is warranted, Court will set a Status Hearing as follows:

- Thursday, February 26, 2015 at 9:00 a.m. in Dept. 303 for an Informal Accounting of the \$5,000.00 Closing Reserve.

Pursuant Local Rule 7.5, if the document noted above is filed 10 days prior to the date listed, the hearing will be taken off calendar and no appearance will be required. Filing of the informal accounting of closing reserve will not generate a new hearing date.

**Petition for Letters of Administration; Authorization to Administer Under IAEA with Limited Authority (Prob. C. 8002, 10450)**

<b>DOD: 3/19/2014</b>	<b>RAY BERGMAN</b> , creditor, is petitioner and requests appointment as Administrator without bond.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>Petition states the decedent died intestate. However, a Will of Warren Barigian dated 1/27/1998 was deposited with the Court on 8/19/2014.</li> <li>Ray Bergman, proposed Administrator, was not listed on attachment 8 as required.</li> <li>Need affidavit of publication.</li> <li>Need order</li> <li>Need Letter</li> </ol>
	Limited IAEA – ??????	
	Decedent died intestate (see note #1)	
<b>Cont. from</b>	Residence: Fresno	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Publication: <b>NEED</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 type="checkbox"/> <b>Notice of Hrg</b>	<b>Estimated value of the Estate:</b>	
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	Personal property - unknown	
<input type="checkbox"/> <b>Aff.Pub.</b>	Annual income - unknown	
<input type="checkbox"/> <b>Sp.Ntc.</b>	Real property - \$530,000.00	
<input type="checkbox"/> <b>Pers.Serv.</b>	<b>Probate Referee: Rick Smith</b>	
<input type="checkbox"/> <b>Conf. Screen</b>		
<input type="checkbox"/> <b>Letters</b>		
<input checked="" type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
		<b>Reviewed by: KT</b>
		<b>Reviewed on: 8/25/14</b>
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 5 - Barigan</b>

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

<b>Age: 74</b>		<b><u>TEMPORARY EXPIRES 08/28/14</u></b>		<p><b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>See page 20 for related petition</u>  <b>Court Investigator advised rights on 08/18/14.</b>  <u>Note:</u> Declaration of Hoyle Leigh, M.D. states that Mr. Toscano lacks capacity to give informed medical consent and supports dementia powers, however Petitioner did not request medical consent or dementia powers.  <b>Note: If the petition is granted status hearings will be set as follows:</b>  <ul style="list-style-type: none"> <li>• <b>Thursday, January 8, 2015 at 9:00a.m. in Dept. 303</b> for the filing of the inventory and appraisal <b>and</b></li> <li>• <b>Thursday, October 29, 2015 at 9:00a.m. in Dept. 303</b> for the filing of the first account</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.  <u>Note:</u> The Order/Letters do not include medical consent or dementia powers.</p>
		<p><b>PUBLIC GUARDIAN</b>, is Petitioner and requests appointment as Conservator of the Person and Estate without bond.</p>		
<b>Cont. from</b>		<p><b>Estimated Value of the Estate:</b>  Annual income - \$17,436.00</p>		
<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>			
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	w/		
<input type="checkbox"/>	<b>Aff.Pub.</b>			
<input type="checkbox"/>	<b>Sp.Ntc.</b>			
<input checked="" type="checkbox"/>	<b>Pers.Serv.</b>	w/		
<input type="checkbox"/>	<b>Conf. Screen</b>	n/a		
<input checked="" type="checkbox"/>	<b>Letters</b>			
<input type="checkbox"/>	<b>Duties/Supp</b>	n/a		
<input type="checkbox"/>	<b>Objections</b>			
<input type="checkbox"/>	<b>Video Receipt</b>	n/a		
<input checked="" type="checkbox"/>	<b>CI Report</b>			
<input type="checkbox"/>	<b>9202</b>			
<input checked="" type="checkbox"/>	<b>Order</b>			
<input type="checkbox"/>	<b>Aff. Posting</b>			
<input type="checkbox"/>	<b>Status Rpt</b>			
<input type="checkbox"/>	<b>UCCJEA</b>			
<input checked="" type="checkbox"/>	<b>Citation</b>			
<input type="checkbox"/>	<b>FTB Notice</b>			
		<p><b>Petitioner states:</b> the proposed conservatee is non-ambulatory and uses a wheelchair or travels on his knees where he needs to go. He exhibits poor judgment and cognitive deficits when it comes to his safety. His residence is in very bad condition. The floors and walls are filthy and thou house is infested with cockroaches. There is a very strong odor of urine and feces and many flies. The proposed conservatee claims one of his sons took his Social Security check and he had no food. Adult Protective Services and the Fresno Police have been called to the home numerous times. Conservatorship will ensure that Mr. Toscano's physical and personal needs are continuously met and that his resources are managed for his benefit.</p>		
		<p><b>Petitioner requests</b> the authority to sell the proposed Conservatee's <b>50%</b> interest in his home located at 1310 N. Thorne Ave., Fresno, and authority to retain the services of a licensed real estate broker to assist in the sale of the real property (Note: See page 20 for similar request re: Mr. Toscano's wife who owns the other 50% interest in the home).</p>		
		<p><b>Court Investigator Dina Calvillo filed a report on 08/25/14.</b></p>		
		<p><b>Reviewed by:</b> JF</p>		
		<p><b>Reviewed on:</b> 08/25/14</p>		
		<p><b>Updates:</b></p>		
		<p><b>Recommendation:</b></p>		
		<p><b>File 6 - Toscano</b></p>		

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

<b>DOD: 4-15-14</b>		<p><b>JOSEPH W. HAYS, JR.</b>, Father, is Petitioner and requests appointment as Administrator with Will Annexed with Full IAEA with bond of \$182,004.00.</p> <p>Full IAEA: ok</p> <p>Holographic Will dated 4-7-14</p> <p>Residence: Clovis          Publication: Fresno Business Journal</p> <p>Estimated value of estate:          Personal property: \$ 57,004.00          Real property: \$125,000.00          Total: \$182,004.00</p> <p>Probate Referee: Rick Smith</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. <u>Need Proof of Holographic Instrument (Mandatory Judicial Council Form DE-135) regarding the 4-7-14 Will. (Note: Although various declarations in support of the holographic will have been filed, this form is mandatory and contains mandatory language and provisions, including the requirement that a copy of the specific instrument be attached.)</u></p> <p>2. Notice was mailed to the decedent's minor son Joseph Hayes IV; however, it does not appear that a copy was sent separately to the adult with whom he resides pursuant to Cal. Rules of Court 7.51(d). <u>Need notice.</u> Continuance may be required.</p> <p>3. Notice was mailed to the decedent's minor son Garrett Hayes at the address of Tracy Ballard, the decedent's sister. However, Court records indicate that this minor is currently a ward of the Juvenile Court and is not in Ms. Ballard's custody. <u>Need notice to Fresno County DSS and custodial person with whom this minor resides.</u></p> <p><u>Note:</u> If granted, the Court will set the following status hearings:</p> <ul style="list-style-type: none"> <li>• Thurs 10-16-14 for filing of bond</li> <li>• Thurs 1-29-15 for filing inventory and appraisal</li> <li>• Thurs 1-28-16 for filing the first account or petition for final distribution</li> </ul> <p>If the proper items are on file per local rules, the status hearing may be taken off calendar.</p>	
<input type="checkbox"/>	Proof Holo Instrument			X
<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 checked="" type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input 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 type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		Reviewed by: skc		
		Reviewed on: 8-26-14		
		Updates:		
		Recommendation:		
		File 8 - Hayes		

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

DOD: 03/04/2014		<p><b>MARIA GUARDALUPE WARREN,</b> daughter/named Executor without bond, is petitioner.</p> <p>Full IAEA – o.k.</p> <p>Will dated: 08/29/1985</p> <p>Residence: Reedley Publication: The Business Journal</p> <p><b>Estimated value of the Estate:</b> Real property - \$280,000.00</p> <p>Probate Referee: Steven Diebert</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>Petition indicates decedent's residence at the time of death was Reedley, California, therefore the correct publication should be The Reedley Exponent. Petitioner published in The Business Journal.</li> <li>Need proof of service of the Notice of Petition to Administer Estate pursuant to Probate Code §8110 on Erica Georgina Reyes.</li> </ol> <p><b>Note: If the petition is granted status hearings will be set as follows:</b></p> <ul style="list-style-type: none"> <li><b>Thursday, 01/29/2015 at 9:00a.m. in Dept. 303</b> for the filing of the inventory and appraisal <u>and</u></li> <li><b>Thursday, 10/29/2015 at 9:00a.m. in Dept. 303</b> for the filing of the first account and final distribution.</li> </ul> <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit. s/p		
<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 checked="" type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input 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 type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
Reviewed by: LV			
Reviewed on: 08/26/2014			
Updates:			
Recommendation:			
File 9 - Reyes			

**Status Hearing Re: Filing of the Third Account**

	<p><b>JOYCE A. HENRY</b>, Mother of Trust Beneficiary, is the Successor Trustee of the Intervivos Trust of Charmaine Tyler, U/T/D/ 11-5-84.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>
<p><b>Cont. from: 062714</b></p>	<p>The first accounting covering the period 12-11-95 through 4-30-08 (a 13-year period) was settled on 11-3-08.</p>	<p><b><u>OFF CALENDAR. TRUSTEE'S THIRD ACCOUNTING FILED</u></b></p>
<p><b>Aff.Sub.Wit.</b></p>		<p><b><u>08/21/2014. HEARING SET FOR 10/06/2014.</u></b></p>
<p><b>Verified</b></p>		
<p><b>Inventory</b></p>	<p>The second accounting covering the period 05-01-2008 through 04-30-2012 was settled on 08-14-2012.</p>	
<p><b>PTC</b></p>		
<p><b>Not.Cred.</b></p>		
<p><b>Notice of Hrg</b></p>	<p>The minute order of 08-14-2012 set the status hearing for the filing of the 3<sup>rd</sup> account.</p>	
<p><b>Aff.Mail</b></p>		
<p><b>Aff.Pub.</b></p>	<p><b>Status Report filed 06/25/2014</b> states all of the funds of the conservatorship are in a blocked account with California Bank and Trust, with withdrawals allowed only upon court order. Pursuant to such court Order, the Trustee is allowed to withdraw the monthly settlement payments from AIGA, currently in the amount of \$39,000.00. On March 19, 2014, the Trustee filed an Ex Parte Petition for Withdrawal of Funds from Blocked Account, the Order for which was approved and filed on March 21, 2014. At the time, the Trustee filed a current Confidential Accounting Statement with the court showing a balance of \$154,800.53 in the blocked account as of January 31, 2014. Pursuant to court order, the Trustee's bond is filed in the amount of \$46,500.00. In gathering the information to enable to preparation of the third accounting, the Trustee has discovered that some of the bank statements are missing. She is currently in the process of obtaining copies from the bank, which she anticipates will take a minimum of two additional weeks. Attorney respectfully requests that the court allow at least an additional sixty (60) days for the Trustee to obtain the necessary documents and attorney to prepare and file the accounting.</p>	
<p><b>Sp.Ntc.</b></p>		
<p><b>Pers.Serv.</b></p>		
<p><b>Conf. Screen</b></p>		
<p><b>Letters</b></p>		
<p><b>Duties/Supp</b></p>		
<p><b>Objections</b></p>		
<p><b>Video Receipt</b></p>		
<p><b>CI Report</b></p>		
<p><b>9202</b></p>		
<p><b>Order</b></p>		
<p><b>Aff. Posting</b></p>		<p><b>Reviewed by:</b> LV</p>
<p><b>Status Rpt</b></p>		<p><b>Reviewed on:</b> 08/26/2014</p>
<p><b>UCCJEA</b></p>		<p><b>Updates:</b></p>
<p><b>Citation</b></p>		<p><b>Recommendation:</b></p>
<p><b>FTB Notice</b></p>		<p><b>File 11 - Tyler</b></p>

Atty Kruthers, Heather H., of County Counsel's Office (for Petitioner Public Guardian)  
 Atty LeVan, Nancy J., sole practitioner (Court-appointed for Conservatee)

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

Age: 73 years	<b>TEMPORARY GRANTED EX PARTE EXPIRES 7/16/2014; extended to 8/18/2014; extended to 8/28/2014</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Page 6</b> is the related <i>Petition for Appointment of Probate Conservator</i> filed by the Public Guardian for <b>RESENDO TOSCANO</b> , the spouse of this proposed Conservatee (Case 14CEPR00641).  <b>Court Investigator Advised Rights on 8/1/2014.</b>  <b>Voting Rights Affected – Need Minute Order.</b>  <b>Continued from 8/18/2014.</b> Minute Order states all objectors need to file objections with the Court. David Toscano's address is [omitted]. Letters extended to 8/28/2014 with all powers and orders in full force and effect.  <b>The following issue from the last hearing remains:</b> 1. Need declaration regarding discussion with the proposed Conservatee for the sale of her residence, pursuant to Probate Code § 2540(b).  <b>Reviewed by:</b> LEG <b>Reviewed on:</b> 8/25/14 <b>Updates:</b> <b>Recommendation:</b> <b>File 20 – Toscano</b>
Cont. from: 081814	<b>PUBLIC GUARDIAN</b> is Petitioner and requests appointment as Conservator of the Person and Estate with medical consent and dementia powers to administer dementia medications, and for placement in a secured-perimeter facility.		
<input type="checkbox"/> Aff.Sub.Wit.	<b>Capacity Declaration of Hoyle Leigh, M.D. filed 7/2/2014.</b>		
<input checked="" type="checkbox"/> Verified	<b>Estimated Value of the Estate:</b>		
<input type="checkbox"/> Inventory	Personal property - <b>\$40,000.00</b>		
<input checked="" type="checkbox"/> Cap. Dec.	Annual income - <b>\$ 600.00</b>		
<input type="checkbox"/> Not.Cred.	<b>Total - \$40,600.00</b>		
<input checked="" type="checkbox"/> Notice of Hrg	<b>Voting Rights Affected</b>		
<input checked="" type="checkbox"/> Aff.Mail W/	<b>Petitioner states</b> the proposed Conservatee suffers from diabetes, hypertension and other medical conditions, and uses the assistance of a wheelchair due to hip and leg pain; in addition she has a history of depression and suffers from dementia. Petitioner states the proposed Conservatee has been married to <b>RESENDO TOSCANO</b> since 1962, they have 7 children, and there is a long history of domestic abuse between the proposed Conservatee and her husband, as well as financial abuse from some of their children. Petitioner states the family is well-known by several agencies including Adult Protective Services (APS) and the Police Department, the latter agency having received 39 calls in 12 months for physical abuse, financial abuse, warrants and various criminal activity;		
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.			
<input checked="" type="checkbox"/> Pers.Serv.			
<input type="checkbox"/> Conf. Screen			
<input checked="" type="checkbox"/> Letters			
<input 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 type="checkbox"/> UCCJEA			
<input checked="" type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			

~Please see additional page~

**Petitioner states, continued:**

- The APS referral indicates the proposed Conservatee was admitted to Community Regional Medical Center 10 times from January to June 2013 due to being a dependent adult unable to provide care for herself, she has been discharged 7 times to skilled nursing facilities and each time has returned home, and that her home is filthy and cockroach infested;
- The proposed Conservatee's Social Security benefits are allegedly taken by certain of her sons, rather than used for her needs.

**Petitioner requests** the authority to sell the proposed Conservatee's **50%** interest in her home located at 1310 N. Thorne Ave., Fresno, and authority to retain the services of a licensed real estate broker to assist in the sale of the real property (per Amendment filed 7/30/2014 to the *Petition for Appointment of Probate Conservator*; Amendment states it is also being requested in the *Petition* filed for the appointment of Conservator of **RESENDO TOSCANO** (Case 14CEPR00641), who holds joint tenancy in the home with proposed Conservatee, that sale of his **50%** interest in the home be authorized.)

**Note:** Order Appointing Temporary Conservator filed 7/21/2014 grants the following additional powers to the Public Guardian as Temporary Conservator:

- (1) Authority to make medical decisions;
- (2) Authority to keep the Conservatee's whereabouts confidential pending further order of the Court;
- (3) No visitation is allowed with the Conservatee by anyone other than the Conservator pending further order of the Court. (Please refer to Minute Order dated 7/16/2014.)

**Court Investigator Dina Calivillo's Report was filed on 8/12/2014.**

**Note:** If the *Petition* is granted, Court will set Status Hearings as follows:

- **Thursday, January 8, 2015 at 9:00 a.m. in Dept. 303** for the filing of the inventory and appraisal;
- and
- **Thursday, October 29, 2015 at 9:00 a.m. in Dept. 303** for the filing of the first account of the conservatorship.

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