

Age: 33	<p>CARLOS GARZA, Father, is Petitioner.</p> <p>PUBLIC GUARDIAN was appointed Conservator of the Person and Estate of Elva Garza on 5-14-08.</p> <p>Petitioner states his daughter (33) is developmentally disabled, is a CVRC client, and resides in an assisted living facility. He was actively involved in the proceedings for conservatorship, and at the conclusion of the proceedings on 5-2-08, the Court encouraged visits.</p> <p>Until December 2011, Petitioner was receiving supervised visits with his daughter. On 12-5-11, however, he received his last visit and no family has been able to visit since.</p> <p>Petitioner has called the Public Guardian's office multiple times and has been told that his daughter cannot decide if she wants to visit and therefore they are not setting up visits at this time.</p> <p>Petitioner does admit that his daughter has a history of one day saying one thing and the next day saying something else. She probably has said on occasion that she does not want to visit; however, she suffers from mental disabilities that should be taken into account.</p> <p>There have been no incidents during visitation that would cause the Public Guardian concern or to cease visitation.</p> <p>Ms. Garza's family wants to be able to visit, especially Petitioner, and it has become apparent that this will not occur without additional assistance from the Court.</p> <p>Petitioner requests this Court order that:</p> <ol style="list-style-type: none"> 1. Petitioner receive reasonable visitation with the Conservatee; and 2. Any other orders the Court deems necessary. 	<p>NEEDS/PROBLEMS/COMMENTS: <u>Continued from 6-19-12, 7-19-12. The following issues remain:</u></p> <ol style="list-style-type: none"> 1. The Court may also require proof of service of Notice of Hearing on: <ul style="list-style-type: none"> - Daniel Escandon (brother) - Gloria Ramos (aunt) - Any other interested parties as the Court may require.
DOB: 1-7-79		
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Reviewed by: skc

Reviewed on: 8-27-12

Updates:

Recommendation:

File 1 - Garza

(1) First and Final Account and Report of Administrator, (2) Petition for Its Settlement, for (3) Ratification of Acts for (4) Allowance of Statutory Attorney and Administrator Fees, for Allowance of Surcharge Order and Sanctions Under 12205, for (5) Final Distribution and (6) Petition for Order Transferring Real Property to Successor Trustee Pursuant to Probate Code 850(a)(2)(C) and Estate of Heggstad (1993) 16 Cal.app.4th 943 (Prob. C. 160 et seq, 10810, 10900, 10951, 12205, 11640 et seq & 850 et seq, CRC 7.651 & 7.705 and Local Rules 8.65, 8.82 & 8.83)

DOD: 5/10/2007		MARK HARRISON , Administrator, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 8/21/07 – 7/10/12	
		Accounting - \$322,000.00	
Cont. from		Beginning POH - \$322,000.00	
<input type="checkbox"/>	Aff.Sub.Wit.	Ending POH - \$290,000.00	
<input checked="" type="checkbox"/>	Verified	Administrator - \$4,720.00 (1/2 of statutory)	
<input checked="" type="checkbox"/>	Inventory	Attorney - \$9,440.00 (statutory, payable \$7,190.00 to attorney Sanoian and \$2,250.00 to attorney Lucich, per agreement).	
<input checked="" type="checkbox"/>	PTC	Petitioner states this court removed Marla Ketchum as Co-Administrator of the estate. She was removed for cause in that she had taken in excess of \$80,000 from an account held in the name of the Edward E. Harrison and Ruby L. Harrison Revocable Trust without Petitioner's knowledge or consent. Petitioner submits that Marla should not be awarded any sums for her services as Co-Administrator.	
<input checked="" type="checkbox"/>	Not.Cred.	Petitioner states the household furniture and furnishings were distributed to Petitioner and Marla Ketchum. Marla Ketchum also received the 2006 Saturn. Petitioner requests that these acts be ratified, in that Marla Ketchum has been entirely uncooperative during this proceeding, not responding to a citation compelling her to show cause for her removal, Petitioner respectfully requests that the requirements Local Rule 7.12.3 be waived in this instance.	
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Please see additional page			Reviewed by: KT
			Reviewed on: 8/28/12
			Updates:
			Recommendation:
			File 2 - Harrison

Petitioner states the decedent's real property located at 1297 E. Vartikian in Fresno should be distributed to Mark E. Harrison, Successor Trustee of the Edward E. Harrison and Ruby L. Harrison Revocable Trust pursuant to Probate Code §850 and Estate of Heggstad on the following grounds:

- a. On 10/22/03, Petitioner's parents, Edward E. Harrison and Ruby L. Harrison executed the Edward E. Harrison and Ruby L. Harrison Revocable Trust.
- b. On or about 11/10/2003 Edward and Ruby transferred the real property located at 1297 E. Vartikian into the trust.
- c. On 10/19/2005 Edward died.
- d. On 8/31/06 Ruby executed a Grant Deed transferring the real property from the Revocable trust for the purpose of obtaining a reverse mortgage.
- e. At the time of Ruby's death the property had not been transferred back into the trust.

Petitioner requests the authority to ask for a court order under Probate Code §850 and principals set forth in the Heggstad case, this court find that the real property specifically listed in the trust is an asset of the Edward E. Harrison and Ruby L. Harrison Revocable Trust.

Proposed distribution is to Mark E. Harrison as Successor Trustee of the Edward E. Harrison and Ruby L. Harrison Revocable Trust – 100% interest in real property located at 1297 E. Vartikian in Fresno.

Atty Milnes, Michael A (for Christopher Brian Little – Former Executor – Petitioner)

Atty Keeler, William (of Garvey Schubert Barer, for Norma Little – Objector)

(1) First and Final Account and Report of Former Executor (2) Petition for Allowance of Attorney's Fees and Executor's Commissions for Ordinary Services for Allowance of Fees, for Extraordinary Services for (3) Discharge of Surety and for (4) Final Distribution

DOD: 7-4-08		<p>CHRISTOPHER BRIAN LITTLE, Former Executor with full IAEA and bond of \$400,000.00, is Petitioner.</p> <p><i>Note: Petitioner was removed as Executor in the AZ estate and this Court accepted his resignation as Executor on 4-23-12 and instructed him to file an accounting.</i></p> <p>Account period: 11-12-08 through 6-8-12</p> <p>Accounting: \$356,265.00 Beginning POH: \$356,265.00 (Real property in Reedley, CA and 11 vehicles – no cash)</p> <p>Ending POH: \$210,765.00 (8 vehicles – no cash)</p> <p>Executor (Statutory): \$10,125.00</p> <p>Attorney (Statutory): \$10,125.30</p> <p>Attorney (Extraordinary): \$19,250.00 (Need declaration)</p> <p>Costs: \$1,819.76 (Filing, Probate Referee fees) (Amount amended to include additional filing fees incurred 8-10-12)</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGE</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 8-2-12: Petition for Court Approval of Further Settlement Agreement, for Order Instructing Personal Representative to Distribute and to Remove or Terminate Personal Representative in Accordance with Settlement Agreement was taken off calendar on 4/23/12. This agreement was settled in Arizona and this court is ready to also settle. The court signs order for this petition nun pro tunc as of 4/23/12 and files 8/2/12. Mr. Milnes is ordered to file a declaration including additional briefing in response to objection by 8/10/12. Mr. Keller is ordered to file further response by 8/20/12. Parties are to include Ms. Hoangs' office on service. Set on 8/30/12 @ 9:00 a.m. Dept. 303 for: Status Re: First and Final Accounting</p> <p>Note: Although this 8-30-12 hearing was set on 8-2-12 as a "status" hearing, these Examiner notes review the matter as a "continued" matter. The notes are carried over, with new additions for recent filings.</p> <p>Note: The office of Executor is currently vacant pursuant to the Court's acceptance of Petitioner's resignation on 4-23-12 and distribution of the Reedley residence to Norma Little. This accounting filed by the former Executor requests distribution of the remaining assets (11 vehicles) to Childers and Berg, the successor personal representative of the AZ estate, statutory and extraordinary compensation, and discharge of Petitioner's surety in this estate.</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p> <p>Reviewed by: skc</p> <p>Reviewed on: 8-28-12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 3 - Little</p>	
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Petitioner states: Decedent's will (admitted to probate 11-3-08) was signed in 2001 prior to his marriage to Objector Norma Little (2004) and nominates Petitioner as Executor and devises his estate to his disabled son and his grandson. The will was not amended after his marriage, but Decedent had entered into an "Antenuptial Agreement" with Objector that purported to deal with significant separate property owned by Decedent and provide distribution to her on his death. Proceedings were established in Pinal County, AZ pursuant to substantial assets there. Objector commenced proceedings in Fresno County, CA, and in response, Petitioner filed for appointment here as well. On 11-3-08, Petitioner was appointed as Executor here.

The CA proceeding was necessary to take control of the Reedley residence and the valuable vehicles that Objector had commenced taking possession of. Upon his appointment, Petitioner took possession of all vehicles for the term of his administration and except for the three (3) vehicles transferred to Objector pursuant to court order 4-23-12, retains possession of the vehicles.

In 2009, Objector filed petitions in this court for family allowance, probate homestead and to determine entitlement to distribution rights, claiming that the Antenuptial Agreement was not valid, and that she was an omitted spouse under California law and thereby claimed a significant portion of the Decedent's estate.

A Settlement was reached 8-4-09 contingent on court approval in AZ and CA provided that property would be provided to Objector and she would withdraw her creditor's claims. The Fresno Court approved the settlement in December 2009; however, the AZ court-appointed guardian for James Little, Decedent's disabled son, objected to the settlement there and the parties took over two years to negotiate and finalize a settlement.

The settlement is between Norma Little (Objector), James D. Little and Jeremy Little (Decedent's heirs under the will) regarding distribution of the AZ and CA estates, and provide for appointment of Childers and Berg in place of Petitioner in the AZ estate. Pursuant to the settlement, on 4-30-12, Petitioner distributed the Reedley residence and three (3) vehicles to Objector.

Petitioner states he retains possession of the remaining eight (8) vehicles. POH Schedule reflects the eight (8) vehicles as the only assets on hand. This CA probate estate never had any cash – all cash was/is being handled by the AZ probate estate.

Petitioner states the only creditor's claims filed are the claims in uncertain amounts filed by Objector, which were all waived and released under the provisions of the settlement.

Petitioner requests to sell as much of the POH (8 vehicles) as necessary to pay the statutory and extraordinary fees, commissions, and costs, and to distribute the remaining vehicles to Childers and Berg for further administration in AZ pursuant to the Settlement Agreement.

NORMA LITTLE, Surviving Spouse, filed an Objection on 7-16-12.

SEE ADDITIONAL PAGE

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Objector states:

- **Petitioner is deceiving the Court in a deliberate effort to overcharge the estate.** The only asset of the California probate estate is the Reedley property valued at \$115,000.00. The 11 vehicles, which account for \$241,265.00 of the \$356,265.00 total inventory value, were previously inventoried in the AZ probate, which is the primary place of administration. A declaration by Roger T. Coventry of Childers and Berg (attached) describes a conversation with Petitioner in which Petitioner disclosed that the vehicles were moved to California during administration, and one of the purposes for that was to increase the total value of assets on which the fiduciary and legal fees would be based.
- **Objector objects to any award of fees to Attorney Milnes.** Petitioner previously agreed in settlement agreements to bear his own attorney's fees and costs. On 9-21-09, a Settlement Agreement executed by Petitioner and Objector states: "settling parties hereto shall bear their own respective costs and attorneys' fees incurred in connection with the agreement and all disputes identified above." (attached). This agreement was addressed by the AZ court on 10-19-10 and Petitioner and his AZ attorney were present when this provision was read.

Additionally, Mr. Milnes has waived any right to \$19,250.00 extraordinary fees by his failure to file the declaration promised in the Final Account. Objector has not been served with any declaration and a review of the docket shows that none was filed. Objector contacted the attorney regarding the declaration, but the attorney has not responded.

Therefore, Objector has no choice but to treat this request as waived. Objector reserves the right to object to such fees should Mr. Milnes ever provide her or the Court with a declaration.

- **Objector objects to any release of Mr. Little as fiduciary before both he and his attorney are surcharged for their continued delay in administering the estate pursuant to Probate Code §§ 8804, 9600 et seq, and 12200 et seq.** Mr. Little has failed to make timely payments on the Reedley residence prompting a notice of default from PNC Mortgage (attached).

The Settlement Agreement as well as the minute orders of this court clearly contemplate Mr. Little's resignation as effective upon the transfer of the residence, which has now occurred. Any additional tasks performed by Mr. Little after this date are void and he cannot in the future seek additional compensation for any acts.

Objector prays for an Order:

1. Deny the account.
2. Deny compensation to Petitioner for statutory commissions in connection with defending his petition for removal (\$10,125.30)
3. Deny attorney fees and costs to Mr. Milnes for services in connection with his services to the estate (\$10,125.30)
4. Deny extraordinary fees to Mr. Milnes (\$19,250.00)
5. Surcharge Petitioner and his attorney for their delay in administering the California estate in direct violations of court orders;
6. Formally accept Petitioner's resignation and require a final account within 30 days of removal;
7. Any and all other relief as the Court deems appropriate.

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Petitioner's reply to Objections filed 8-10-12 states:

- Petitioner admits and denies various statements in the objection, including:
- Petitioner denies that Mr. Milnes applied for attorney's fees in Arizona. Attorney Milnes has never applied for attorney fees to be paid in either this Court or Arizona prior to the application contained in this Petition. Mr. Milnes never appeared in the Arizona case as Petitioner had employed separate Arizona counsel to assist him with the Arizona estate administration, and does not claim any fees as a result of the Arizona proceeding.
- Petitioner states the terms of the agreement, similar to the 2009 agreement, require the transfer of the Reedley property and four automobiles to Norma Little, except this time, the transfer of the residence was subject to the outstanding secured mortgage debt.
- **Petitioner states the fee base used to calculate ordinary executor's commissions and ordinary attorney's fees is correct.** Objector contends the calculation is wrong to the extent that it includes the automobiles. This objection is based on the Arizona Court allegedly also inventorying the automobiles and by flat out accusing Petitioner of "deceiving this court in a deliberate effort to overcharge the estate" by increasing the amount of the estate accounting for by the value of the automobiles allegedly moved from Arizona to California.

Petitioner states this factual allegation is false and Ms. Little, her counsel, William Keeler, as well as Roger Coventry, an attorney licensed in Arizona and an employee of Childers and Berg, all know the statement is false.

All vehicles were and have remained in Fresno County throughout the entire period of administration, and except for the four vehicles transferred to Ms. Little in May 2012, remain to this date. Petitioner has good recollection of the telephone conversation with Mr. Coventry. Petitioner states that in that conversation he was referencing a collection of "model" automobiles that Decedent owned at the time of his death that were stored in several boxes in Arizona. Petitioner was not referring to Decedent's collection of vintage automobiles which were in Fresno County already. Petitioner told Mr. Coventry that he had moved these model automobiles to California to take possession of them and to prevent theft or other loss. They were brought to Fresno County and stored. Petitioner deemed this collection to be of negligible value and it was not inventoried in either probate proceeding.

Ms. Little and her attorney William Keeler have knowledge that Decedent's automobiles were in Fresno county because:

- The 8-27-08 petition for probate filed by Ms. Little stated there was \$150,000.00 on non-income producing personal property in the estate, which must be referencing the automobiles. Both of them signed the petition.
- Petitioner's 9-22-08 petition for probate stated there was \$350,000.00 of non-income producing personal property in the estate, which references the automobiles.
- Ms. Little requested \$400,000.00 bond for Petitioner despite the waiver of bond in the will. The reason for the bond was to cover the value of Decedent's vintage automobile collection.

SEE ADDITIONAL PAGE

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- Petitioner states after Decedent's death, Ms. Little took possession of several vehicles in the vintage automobile collection and had them stored with Horatio's Towing in Fresno County. After Petitioner was appointed in Arizona, he attempted to take possession of these vehicles from Horatio, but was told that his Arizona Letters did not authorize transfer to him until he was appointed here.

Petitioner specifically denies that any of the Decedent's vintage automobiles were moved from AZ to Fresno on or after 7-4-08 as that would have been impossible as they were already in Fresno County as of that date.

Petitioner has taken care of these automobiles since taking possession of them after his appointment, with the exception of those transferred to Ms. Little in May 2012.

- Petitioner states that Objector presents pages from an AZ accounting as proof that the vintage automobiles were inventoried there and subject to AZ jurisdiction. That is not what the account document represents and not what it says. The document shows the entirety of the estate and includes assets located outside AZ and does not purport to be in any way a representation of the jurisdiction of the AZ Court.

On the first page of the document is the Reedley residence, which Objector apparently has no objection to fees being calculated on the appraised value of this property. Similarly, the account recites real property in Texas which is likewise not subject to the AZ proceedings. Reference is made on the third page to "automobiles" which are the same as inventoried here. No mention is made of the location of these vehicles.

Objector is incorrect in her contention that this exhibit is inconsistent with the manner in which the vintage automobiles and the Reedley residence have been inventoried. The California inventories are correct and ordinary fees should be calculated thereon.

- Petitioner states Objector goes to great lengths to attempt to discern a basis for denial of ordinary compensation, none of which are applicable for the following reasons:
 - No waiver of attorney fees in settlement agreements. The only Settlement Agreement signed by Petitioner was the agreement made as a result of the settlement on 8-4-09 of the pending litigation between the CA probate estate and Ms. Little. Petitioner did not sign any settlement agreement in the AZ proceedings. The CA settlement was expressly conditional on approval by both courts. The CA court approved; the AZ court did not. The AZ court approved a subsequent agreement between Ms. Little and the other heirs. That agreement significantly altered the property to be distributed to Ms. Little from property that she was to receive under the CA agreement. The condition of the AZ court for CA settlement was never satisfied therefore any provisions concerning the payment of attorneys fees must fail for failure of condition.
 - The CA settlement was made and signed by Petitioner solely in his capacity as Executor and not personally. It was not meant to mean that Petitioner in his individual capacity would bear all attorney fees and costs because he did not participate in the settlement as an individual. To have the result that Objector contends is appropriate, Petitioner would have to personally assume the obligation of the estate to pay attorney fees, which has not happened. That language simply means the estate will bear its own attorney fees and not seek recovery from Ms. Little. It has no effect on the present proceedings for which Petitioner and his attorney are seeking compensation for their services.
 - The AZ order of 2-2-12 contemplates that there will be further proceedings in CA re fees and provides that AZ does not preclude such action.

SEE ADDITIONAL PAGE

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Petitioner states there is no basis for any contention that Decedent's California Probate estate is not responsible for payment of Mr. Milnes attorney fees.

- **Regarding surcharges:** Petitioner states Objector fails to allege facts to support surcharge. Any delays in administration of the CA probate were solely the result of acts and conduct of Norma Little and the estate heirs in resolving their differences in the AZ probate proceedings. Objector fails to describe any activity by Petitioner or his attorney that would be payable by Petitioner's surety so there is no real reason why the surety cannot be discharged at this time.
- **Mortgage:** The Reedley residence was acquired by Decedent as his separate property in his name only and prior to his marriage to Ms. Little. It was his primary residence on his date of death, along with Ms. Little. On that date, 7-4-08, the residence was subject to a secured mortgage debt.

Prior to their marriage, Decedent and Ms. Little executed an antenuptial agreement whereby in the event of Decedent's death, the residence would be transferred to Ms. Little free and clear from debt. Subsequent to his appointment, Petitioner honored this agreement and continued to pay the mortgage from the cash in the AZ estate (because there was no cash in the CA estate).

On 2-20-09, Ms. Little filed a Petition to Determine Distribution Rights in the CA probate and simultaneously filed a Petition for Order Setting Apart Probate Homestead. She sought to have the antenuptial agreement rescinded and of no legal effect. Despite her position that it was invalid Petitioner disputed that contention and contended that it was valid and therefore continued to perform the provisions requirement payment of the mortgage debt from the estate. Subsequently she filed a Petition for Spousal Support and creditors claims.

On 8-4-09, her claims to probate homestead and to the Reedley residence were resolved in a settlement (the CA Settlement) subject to approval by both courts whereby she would receive the residence free and clear of the mortgage and four vehicles; however, that settlement was never approved by the AZ court.

What was subsequently approved in AZ was a different settlement among the heirs, which provided Ms. Little with the residence, but subject to the mortgage debt.

Subsequent to the CA settlement, Petitioner continued to make payments consistent with his obligation under the CA settlement.

Petitioner agreed to resign in AZ after the AZ settlement was approved. Once funds were turned over to Childers & Berg, Petitioner no longer had any control over the funds of the AZ probate to continue making the payments. Further, in light of the AZ settlement, the estate no longer had any obligation to do so. Petitioner had nothing to do with that decision.

In this connection Petitioner alleges that throughout the entire course of administration of Decedent's estate, with the exception of a brief 2-week period in 2009, Ms. Little has been in possession of the Reedley residence and all mortgage debt has been paid from the AZ probate.

However, Petitioner alleges that during this same time period Ms. Little has rented and collected rents from tenants of the Reedley residence and she has lived primarily in Texas and North Carolina.

- **Finally, resignation does not terminate California Probate Estate's Obligation to Pay Petitioner's compensation.**

Additional declarations re extraordinary fees were filed concurrently with itemization and explanation of the services and time incurred.

Petitioner prays that the Objections be denied, that the report be approved, and that his surety be exonerated.

SEE ADDITIONAL PAGE

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Response of American Contractors Indemnity Company to Norma Little's Objection to the Executor's First and Final Accounting and Petition for Fees and Commissions:

- Executor is entitled to commissions for his work as Administrator.
- Norma Little has failed to allege any basis for surcharge.
- Executor's accounting should be approved.

Norma Little's Response to Reply:

- Executor's and Mr. Milnes' disregard for court-ordered deadlines and attempts to increase statutory compensation through fraud support reduction in compensation and sanctions under Probate Code § 12205.
- Mr. Milnes cannot collect ordinary or extraordinary attorney fees from the estate. Norma objects to Petitioner's assertion that he does not have to bear his own attorney fees because he signed the settlement agreement in his capacity as executor.
- The AZ court has ruled on fees and only reserved Petitioner's right to seek statutory compensation – not Mr. Milnes' right.
- The fee base used to calculate the commissions is incorrectly based on assets not subject to this court's jurisdiction. The same automobiles were inventoried in AZ. Petitioner cannot be rewarded commissions for which he has already sought compensation. The fees must be recalculated using the Reedley residence only.

Objector prays that the Court strike the numerous untimely pleadings submitted by Petitioner and Mr. Milnes, deny the Reply to Objections, Deny the Account and Petition for Ordinary and Extraordinary fees, Deny compensation to Executor and his attorney for statutory commissions in connection with defending his services to the estate, Deny attorney fees and costs to Mr. Milnes for extraordinary services, Surcharge Executor and Mr. Milnes, Formally accept Executor's resignation as Executor, and dispense any further requirement to file amended final account.

Atty Iversen, Judy K
 Atty PEDERSEN, KRIS B
 Atty G., Thomas Fleming III
 Atty Marderosian, Michael G.

Notice of Motion for Jury Trial

Age:		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: No Examiner notes are provided for this matter.</p>
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		File 4 - Iversen

Petition for Commissions and Fees for the Public Guardian and Her Attorney (Prob. C. 2640, 2902)

Age: 84 years DOB: 6/14/1928	<p>PUBLIC GUARDIAN, Conservator, is petitioner.</p> <p>Petitioner states they were appointed temporary conservator of the person and estate by minute order on 3/30/2011. The Public Guardian was appointed general conservator of the person only on June 21/2011 and Letters issued on 3/22/11.</p> <p>Petitioner states services were provided for which they seek payment. There is no conservatorship of the estate. The conservatee's wife was to apply for medical on his behalf, and to handle all community assets. It is petitioner's understanding that anything that was not covered by medical would be paid from community assets of the wife.</p> <p>Petitioner seeks payment as follows:</p> <p>Conservator - \$1,220.00 (per declaration and itemization, 11.55 deputy hours @\$96.00 per hour and 1.50 staff hours @ \$76.00 per hour)</p> <p>Attorney - \$945.00(per declaration and itemization, 6.3 hours @ \$150.00 per hour)</p> <p>Petitioner prays for an order that Beverly Hodgkiss, conservatee's spouse, pay all fees approved herein.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 8/2/12. Minute order states this petition was pre-approved and order signed. Beverly Hodgkiss informed the court later that she objects to the petition and does not feel she should be paying the fees. The Court revokes the order previously signed and continues the matter to 8/30/12. (Minute order was mailed to Heather Kruthers and Stanley Teixeira on 8/2/12.)</p> <p>As of 8/28/12 there are no additional documents.</p> <p>1. Need Order</p>	
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FTB Notice			
Reviewed by: KT			
Reviewed on: 8/28/12			
Updates:			
Recommendation:			
File 5 - Hodgkiss			

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

DOD: 4/6/12		<p>RALPH KNAPP and NOLAN KNAPP, sons, are petitioners.</p> <p>40 days since DOD.</p> <p>No other proceedings.</p> <p>Decedent died intestate.</p> <p>I & A - \$55,000.00</p> <p>Petitioners request court confirmation that Decedent's real property located in Fresno County pass to them in equals shares pursuant to Intestate succession.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>	
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	Conf. Screen			
	Letters			
	Duties/Supp			
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	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			Reviewed by: KT	
			Reviewed on: 8/28/12	
			Updates:	
			Recommendation: SUBMITTED	
			File 6 - Knapp	

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

DOD: 10/24/2011		<p>ELIZABETH R. LUDVICKSON, step daughter/named executor without bond, is petitioner.</p> <p>Full IAEA – o.k.</p> <p>Will dated: 06/29/1989</p> <p>Residence: Pinedale Publication: The Business Journal</p> <p>Estimated valued of the estate: Personal property - \$7,000.00 Real property - \$100,000.00 Total: - \$107,000.00</p> <p>Probate Referee: Steven Diebert</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: If the petition is granted status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Friday, 02/1/2013 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal and • Friday, 10/25/2013 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. <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		
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<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
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<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
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<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		
		<p>Reviewed by: KT / LV</p> <p>Reviewed on: 08/28/2012</p> <p>Updates:</p> <p>Recommendation: Submitted</p> <p>File 7 – Goss</p>	

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

DOD:		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>Continued to 10/3/2012</u> <u>at request of Attorney Jennifer Skinner</u></p>
Cont. from		
<input type="checkbox"/>	Aff.Sub.Wit.	
<input type="checkbox"/>	Verified	
<input type="checkbox"/>	Inventory	
<input type="checkbox"/>	PTC	
<input type="checkbox"/>	Not.Cred.	
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<input type="checkbox"/>	Sp.Ntc.	
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<input type="checkbox"/>	Objections	
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<input type="checkbox"/>	CI Report	
<input type="checkbox"/>	9202	
<input type="checkbox"/>	Order	
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<input type="checkbox"/>	Status Rpt	
<input type="checkbox"/>	UCCJEA	
<input type="checkbox"/>	Citation	
<input type="checkbox"/>	FTB Notice	
		Reviewed by: LV
		Reviewed on: 08/28/2012
		Updates:
		Recommendation:
		File 8 - Lopez

Age: 3 1/2	<p>GENERAL HEARING 10-2-12</p> <p>DALE and CARMEN MARTINEZ, Paternal Grandparents, are Petitioners.</p> <p>Father: MATTHEW MARTINEZ - Deceased</p> <p>Mother: APRIL CARPENTER</p> <p>Maternal Grandfather: Unknown Maternal Grandmother: Janet Carpenter</p> <p>Petitioners state Noah resided with them from birth until 7-29-12. Both parents resided with Petitioners until September 2009, when the father was deployed to Iraq. In October 2009, the mother left Noah with Petitioners and executed a medical authorization. The father was discharged in August 2010, but died in June 2011 as a result of an injury while on deployment. Noah continued to reside with Petitioners following the father's death and was enrolled in preschool in December 2011.</p> <p>On 7-29-12, the mother picked Noah up for a visit and later told Petitioners that she did not intend to return him. On 7-31-12, Petitioners inquired at the preschool to ensure that the mother was taking him, but she was not. Petitioners went to the mother's residence to inquire about Noah, but the mother threatened to call the cops.</p> <p>Petitioners state that for Noah's entire life, the mother would come and go and was never a permanent and stable person for Noah to rely on. She visited once a week as convenient for her, all facilitated by Petitioners. She has only attended one of Noah's baseball games and has made no effort to be a part of the extracurricular activities that he enjoys.</p> <p>Petitioners state it is clear that Noah should continue to reside with them on a temporary basis until an investigation can be completed as this is the only home he has resided since birth. It would be in Noah's best interest to continue to reside with Petitioners so that the status quo may be maintained and he does not suffer detriment by further loss and disruption in his life.</p> <p>Points and Authorities state Petitioners are Noah's <i>de facto</i> parents pursuant to Family Code §3041 and refer to Probate Code §§ 2250 and 15100 regarding good cause.</p> <p>Petitioners filed 11 declarations in support on 8-28-12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 8-16-12.</u></p> <p><u>As of 8-27-12, the following issues remain:</u></p> <ol style="list-style-type: none"> 1. Need proof of personal service of Notice of Hearing at least five (5) Court days prior to the hearing per Probate Code §2250(e) on: - April Carpenter (Mother) 2. The Court may require further information with reference to Probate Code §1513(c). (If there are allegations that a parent is unfit, an additional report will be required with reference to potential dependencies for the hearing on general guardianship in October.) 	
DOB: 2-20-09			
Cont. from 081612			
<input type="checkbox"/> Aff.Sub.Wit.			
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<input type="checkbox"/> FTB Notice			
		<p>Reviewed by: skc</p> <p>Reviewed on: 8-27-12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 9 - Martinez</p>	

10 Oscar Martinez, Joseph Martinez, Jacob Olivas, Ivan Olivas, & Aminadab Olivas (GUARD/P)

Atty Olivas, Maria (pro per – maternal grandmother/Petitioner)

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

Ivan, 4 DOB: 06/05/08	MARIA OLIVAS , maternal grandmother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>This Petition pertains to Ivan & Aminadab only. Petitioner was previously appointed guardian of Oscar, Joseph & Jacob on 04/21/07.</u> 1. Declarations of Due Diligence filed 08/28/12 state that the fathers of the children are unknown. If diligence is not found, need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> or <i>Consent & Waiver of Notice</i> for: - Father(s) (unknown) 2. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> or <i>Consent & Waiver of Notice</i> or <i>Declaration of Due Diligence</i> for: - Joel Barrientos (maternal grandfather) - Oscar Martinez (sibling) - Joseph Martinez (sibling) - Paternal grandparents (unknown)* Unless diligence is found, per Declarations of Due Diligence filed 08/28/12, the fathers and paternal grandparents are all unknown.
Aminadab, 22 mos. DOB: 10/18/10	Father(s): UNKNOWN – <i>Declarations of Due Diligence</i> filed 08/28/12	
Cont. from	Mother: NYDIA BARRIENTOS – <i>personally served</i> on 07/26/12	
<input type="checkbox"/> Aff.Sub.Wit.	Paternal grandparents: UNKNOWN – <i>Declarations of Due Diligence</i> filed 08/28/12	
<input checked="" type="checkbox"/> Verified	Maternal grandfather: JOEL BARRIENTOS	
<input type="checkbox"/> Inventory	Petitioner states that the mother is homeless and using meth. The father of both children is unknown. Petitioner states that she has cared for the children since birth.	
<input type="checkbox"/> PTC	Court Investigator Julie Negrete filed a report on 08/21/12.	
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
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<input type="checkbox"/> Status Rpt		
<input checked="" type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: JF
		Reviewed on: 08/28/12
		Updates: 08/29/12
		Recommendation:
		File 10 – Martinez & Olivas

Petition to Fix Residence Outside the State of California

Age: 10 years DOB: 5/28/02		<p>DONALD W. SHIREY and SHARON L. SHIREY, maternal grandparents/guardians, are petitioners.</p> <p>Petitioners were appointed guardians on 7/2/2009.</p> <p>Father: ADRIAN RODRIGUEZ – consents and waives notice.</p> <p>Mother: AMBER SHIREY – consents and waives notice.</p> <p>Paternal grandfather: Francisco Rodriguez- consents and waives notice.</p> <p>Paternal grandmother: Susan Harrington – declaration of due diligence.</p> <p>Petitioners state Donald W. Shirey received a job promotion and is required to move to the Clark County, Washington area and Sharon L. Shirey is transferring her employment there as well.</p> <p>It is expected that the duration of the out of state move is more than four months and the guardianship will be commenced in the place of the new residence.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: A status hearing will be set for the filing of documents showing proof that a guardianship has been established in Washington State, as follows:</p> <ul style="list-style-type: none"> Friday, January 4, 2013 at 9:00 a.m. in Department 303 <p>Pursuant to Local Rule 7.5 if proof that a guardianship has been established in Washington State is filed 10 days prior the date set, the status hearing will come off calendar and no appearance will be required.</p>	
Cont. from				
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<input type="checkbox"/>	Letters			
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<input type="checkbox"/>	FTB Notice			
		<p>Reviewed by: KT</p> <p>Reviewed on: 8/28/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 11 - Shirey</p>		

Atty O'Connell, Colleen (Pro Per – Petitioner – Mother)
 Petition for Termination of Guardianship

Shawn O'Connell Age: 8 DOB: 09/15/2003	COLLEEN O'CONNELL, mother, is petitioner.	NEEDS/PROBLEMS/COMMENTS:			
Andrew Hernandez Age: 4 DOB: 11/14/2007	NANCY O'CONNELL and GARY O'CONNELL, maternal grandparents were appointed guardians on 12/08/2009.				
	Father: John Hefferden Paternal Grandparents: Unknown	1. Need proof of service fifteen days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Termination of Guardianship or declaration of due diligence for: <ul style="list-style-type: none"> • Paternal Grandparents (Unknown) • John Hernandez (Paternal Grandfather) • Pearl Hernandez (Paternal Grandmother) 			
Cont. from	Father: Andrew Ralph Hernandez Sr. Paternal Grandfather: John Hernandez Paternal Grandmother: Pearl Hernandez				
<table border="1"> <tr> <td data-bbox="82 548 131 594"></td> <td data-bbox="131 548 321 594">Aff.Sub.Wit.</td> <td data-bbox="321 548 386 594"></td> </tr> </table>			Aff.Sub.Wit.		Petitioner states: she has completed all of the requirements that were set before her by Child Protective Services and Probation. She has not had any poor results on a drug test and has completed a 52 week parenting course. Her life is a great place for her children to come home to, she is in a place of supervision with her employer of five years and she knows she is ready for the positive change now.
	Aff.Sub.Wit.				
<table border="1"> <tr> <td data-bbox="82 594 131 640">✓</td> <td data-bbox="131 594 321 640">Verified</td> <td data-bbox="321 594 386 640"></td> </tr> </table>	✓		Verified		
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	Sp.Ntc.				
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	Pers.Serv.				
<table border="1"> <tr> <td data-bbox="82 1008 131 1054"></td> <td data-bbox="131 1008 321 1054">Conf. Screen</td> <td data-bbox="321 1008 386 1054"></td> </tr> </table>		Conf. Screen		Court Investigator Julie Negrete's report filed 08/23/2012.	
	Conf. Screen				
<table border="1"> <tr> <td data-bbox="82 1054 131 1100"></td> <td data-bbox="131 1054 321 1100">Letters</td> <td data-bbox="321 1054 386 1100"></td> </tr> </table>		Letters		Reviewed by: KT / LV	
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✓	CI Report				
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	FTB Notice				

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

Cynthia Age: 8		<p>GENERAL HEARING 10/17/2012</p> <p>BRENDA CUETO, maternal grandmother, is petitioner.</p> <p>Father (of Cynthia): FERNANDO CASAS</p> <p>Mother: LAURA TAYLOR, consents and waives notice</p> <p>Paternal Grandfather: Circiaco Casas Paternal Grandmother: Nancy Casas</p> <p>Maternal Grandfather: Michael Raley</p> <p>Father (of Manuel): MANUEL NAVA Mother: LAURA TAYLOR, consents and waives notice</p> <p>Paternal Grandparents: Not Listed</p> <p>Maternal Grandfather: Michael Raley</p> <p>Petitioner states: each of the fathers are incarcerated, the mother has a case pending. The parents are a danger to the children. CPS released the children into the Petitioner's care.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> Petitioner's Fee Waiver was denied on 08/20/2012. Filing fee of \$285 is due (\$60 for temporary and \$225 for general petition). The Guardianship Petition – Child Information Attachment pertaining to Cynthia Casas has conflicting information regarding who is seeking guardianship. Please clarify who is seeking guardianship of Cynthia Casas. Need Notice of Hearing. Need proof of personal service five (5) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for: <ul style="list-style-type: none"> Fernando Casas (Father of Cynthia) Manuel Nava (Father of Manuel) Need Duties of Guardian
Manuel Age: 1			
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	X		
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.	X		
✓ Conf. Screen			
✓ Letters			
Duties/Supp	X		
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
		Reviewed by: KT / LV	
		Reviewed on: 08/29/2012	
		Updates:	
		Recommendation:	
		File 13 – Casas & Nava	

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

Sonny, 7 DOB: 08/08/05		<u>GENERAL HEARING 10/17/12</u>	NEEDS/PROBLEMS/COMMENTS: 1. Need Notice of Hearing . 2. Need proof of personal service at least 5 court days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Temporary Guardian of the Person or Consent & Waiver of Notice or Declaration of Due Diligence for: - Toby Phachansai (Toby's father) - Juan Martinez (Sonny's father) - Natalie Hernandez (mother) – Declaration of Due Diligence filed 08/17/12 states that she left the home on 08/11/12 and has not been seen or heard from since.
Toby, 4 DOB: 02/28/08			
Cont. from		DIANA HERNANDEZ , maternal grandmother, is Petitioner.	
<input type="checkbox"/> Aff.Sub.Wit.		Father (Toby): TOBY PHACHANSAI Father (Sonny): JUAN MARTINEZ	
<input checked="" type="checkbox"/> Verified		Mother: NATALIE HERNANDEZ – Declaration of Due Diligence filed 08/17/12	
<input type="checkbox"/> Inventory		Paternal grandparents: NOT LISTED	
<input type="checkbox"/> PTC		Maternal grandfather: SERGIO HERNANDEZ	
<input type="checkbox"/> Not.Cred.		Petitioner states that the mother is unable to care for the children and is a threat to the children due to drugs (meth). Petitioner further states that Sonny's father was deported to Mexico several years ago and his current whereabouts are unknown. Toby's father's whereabouts are also unknown and he is a known heroin addict.	
<input type="checkbox"/> Notice of Hrg	x		
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<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
Reviewed by: JF			
Reviewed on: 08/28/12			
Updates:			
Recommendation:			
File 14 – Martinez & Phachansai			

Ex Parte Application for Order Administrator Linda L. Smith Obtain Bond

DOD: 02/27/11	CYNTHIA REYNOLDS , daughter of decedent, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Need <i>Notice of Hearing</i> . 2. Need proof of service at least 5 days prior to the hearing per Order of the Court filed 08/23/12.
Cont. from	LINDA L. SMITH , surviving spouse, was appointed Administrator and Letters were issued on 05/01/12.	
<input type="checkbox"/> Aff.Sub.Wit.	Petitioner states:	
<input checked="" type="checkbox"/> Verified	1. Decedent is Petitioner's father and Linda Smith (Administrator) is her mother.	
<input type="checkbox"/> Inventory	2. At the time her mother was appointed as Administrator, her attorney requested all beneficiaries waive bond. At that time, Petitioner was unrepresented by counsel and agreed to waive the requirement of bond.	
<input type="checkbox"/> PTC	3. Since being appointed as Administrator, the Administrator has taken a number of actions that have caused Petitioner to question her trustworthiness and her ability to administer the decedent's estate in a manner consistent with her fiduciary duties and obligations.	
<input type="checkbox"/> Not.Cred.	4. The Administrator has concealed information regarding the decedent's assets going as far as to deny the existence of an IRA account which named herself and her siblings as beneficiaries. She has also denied the existence of a Charitable Remainder Trust, and then, once confronted with the existence of the Charitable Remainder Trust, refused to provide a copy of the trust to Petitioner's brother even though she was not a trustee of said trust and had no authority to support her actions.	
<input type="checkbox"/> Notice of Hrg <input checked="" type="checkbox"/>	5. The Administrator has stated that assets of the estate are "mine" and "it is all my money" even though the estate is far from being closed and the majority of the estate assets were titled in the decedent's name individually. Petitioner states that the Administrator lacks impartiality in dealing with the estate heirs.	
<input type="checkbox"/> Aff.Mail <input checked="" type="checkbox"/>	6. Since the decedent created a Charitable Remainder Trust. Despite this advanced estate planning, no will has been found and the decedent's estate is being administered intestate. Given that the decedent engaged in some estate planning, it would be prudent for the Administrator to conduct some sort of investigation to confirm that he died without a will.	
<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		

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7. Prior to the decedent's death, the Administrator hired a locksmith to crack his personal safe without the decedent's permission and to his dismay. Only the Administrator can confirm the contents of the safe.
8. After his death, the Administrator refused to allow Petitioner or any of her siblings to assist her in going through the decedent's office and personal effects. After going through his home office and personal effects, the Administrator ceased communicating with Petitioner and has refused to discuss the estate.
9. Petitioner is concerned that the decedent's will may have been lost or destroyed. She is currently engaging in a search to ascertain whether the decedent retained an attorney in connection with his testamentary wishes.
10. Given the foregoing, Petitioner feels that the Administrator needs to obtain a bond to ensure the estate is protected.

Points and Authorities attached to the Petition state:

1. The Court is empowered to require an individual appointed personal representative obtain a bond to ensure personal representative carries out his or her fiduciary duties. The purpose of the probate bond is to ensure that the personal representative faithfully carries out his or her fiduciary duties - Probate Code § 8480(b). The bond protects the state, heirs, legatees, and creditors by giving them security in the form of a promise by the surety to pay if the representative commits a breach of trust.
2. The bond in this case was waived by all beneficiaries under Probate Code § 8481 (b). Notwithstanding this waiver and in light of the new facts and circumstances, Petitioner fears the Administrator is not carrying out her fiduciary duties faithfully. The Administrator concealed information from Petitioner and appears unable to execute her duties as the personal representative. As such, Petitioner seeks to have this Court order a bond in an amount equal to the amount of assets listed on the Inventory & Appraisal, if filed, and if not, for at least \$3,000,000.00 or an amount the Court deems proper in its discretion.
3. No good reason exists to deny Petitioner's request. If Petitioner had not signed a waiver of bond at the outset, the Administrator would have been required to obtain a bond before letters were issued. There is no compelling reason to prevent Petitioner from revoking her waiver of bond and require the Administrator to obtain a bond. Particularly when the Administrator's actions have resulted in a lack of confidence in her abilities to carry out her fiduciary obligations and deal with the estate in a fair and impartial manner. Furthermore, requiring a bond is the least restrictive means of providing security for the estate.
4. Based on these reasons, Petitioner respectfully requests that her Ex Parte Application that the Administrator obtain a bond be granted.

Declaration of Ryan M. Janisse attached to the Petition states:

1. On 08/22/12 he provided the Administrator's counsel of record, Timothy Larson of Dowling, Aaron, Inc. with oral notice via voicemail that Petitioner is bringing an Ex Parte Application for an Order requiring the Administrator to obtain a bond. Later that morning, Mr. Larson returned declarant's call stating that he would be objecting to the Ex Parte Application.
2. On 08/22/12, he provided Scott Smith, son of decedent and heir of the estate, with oral notice that Petitioner is bringing an Ex Parte Application for an Order requiring the Administrator to obtain a bond. Mr. Smith stated to declarant that he would not be objecting to the Petition and indicate, and authorized declarant to communicate, that he supports this application and believes the Administrator should be required to obtain a bond.
3. On 08/22/12, he provided notice to John Barrus, counsel for Angela Smith, daughter of decedent and heir of the estate, with oral notice via voicemail that Petitioner is bringing an Ex Parte Application for an Order requiring the Administrator to obtain a bond.

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4. The estate is a large estate with assets estimated to be between \$3-5 million dollars. The Administrator is currently not bonded. Therefore, there is no way to ensure that the Administrator faithfully carries out her fiduciary duties and no security if she does not. Without a bond, the state, heirs, legatees, and creditors are not protected because there is no security in the form of a promise by the surety to pay if the representative commits a breach of trust.

Objection to Ex Parte Application for Order that Administrator Linda L. Smith Obtain Bond filed 08/28/12 admits and denies specific statements in the Petition as follows:

1. Respondent admits that Petitioner is the decedent's daughter. Respondent further admits that if decedent owned any separate property at the time of his death, Petitioner will qualify as an heir of the decedent's estate. Respondent denies that Petitioner is entitled to any community property that belonged to decedent at the time of his death pursuant to the provisions of California Probate Code § 44 and 6401. Because decedent died intestate, his one-half of the community property passes to Respondent as his surviving spouse.
2. Respondent denies making the statements that the estate is "mine" and "it is all my money" as Petitioner alleges; however, Petitioner admits that she is entitled to decedent's community property pursuant to Probate Code § 6401.
3. Respondent admits that the decedent created a Charitable Remainder Trust and that no Will of decedent has been located. Respondent further states that she diligently searched for a Will, but has not located one.

Additional Responsive Information

1. Following decedent's death on 02/27/12, Respondent examined all of decedent's files and papers in search of a will. To date she has been unable to locate an original or copy of a will signed by decedent. Respondent found other estate planning type documents signed by decedent, but has not found a will or revocable living trust instrument.
2. Additionally, Respondent and the decedent who were married for over 46 years, never prepared a joint estate plan or retained an attorney to provide them with estate planning services. In fact, decedent told Respondent that he did not plan on creating a Will. Respondent therefore is not surprised that she has been unable to locate one.
3. Respondent has never denied the existence of any IRA account created by decedent. To the contrary, prior to being appointed as Administrator, Respondent informed Petitioner and Petitioner's siblings that she thought they were beneficiaries of an IRA established by decedent. At the time, Respondent did not have any more specific details regarding the beneficiaries of the account. Only after she was appointed as Administrator did she gain access to information regarding the account. Notably, this account is not a probate asset subject to administration.
4. Respondent has never denied to Petitioner that decedent created a charitable remainder trust prior to his death. Said trust is entitled the "Brenton Robert Smith Charitable Remainder Unitrust." Respondent has never refused to provide a copy of the trust instrument to Petitioner's brother.
5. On 05/02/12 the day after the court appointed her as Administrator, Petitioner's brother, Scott Smith, entered Respondent's home at 10:00 pm without her knowledge using his key. Respondent was in bed and did not hear Scott until he was approaching in the hallway, yelling obscenities and demanding a copy of the trust. Respondent told Scott that she did not have a copy of the trust instrument and that he could obtain a copy from her attorney, David Fike. Respondent is not the trustee of the trust and has no authority whatsoever to participate in matters related to the administration of the trust. As with the IRA, the trust is completely unrelated to this probate proceeding.

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6. The allegation that Respondent hired a locksmith to crack decedent's safe "without his knowledge and to his dismay" are untrue. Decedent and Respondent had purchased a safe together, which they kept in their home. Between November 18 and 24, 2009, more than 2 years before decedent's death, and when he was in good health, decedent told Respondent that he had forgotten the combination to the lock. Respondent did not know the combination, so they contacted a locksmith for assistance. The locksmith instructed decedent and Respondent to contact the manufacturer of the safe. They did so, obtained the combination from the manufacturer and then opened the safe together.
7. Respondent denies that she refused assistance from Petitioner and her siblings. In fact, no such assistance was ever offered. Additionally, the "office" Petitioner is apparently referring to is a home office, which was used almost exclusively by Respondent, not decedent. Further, Respondent did not cease communication with Petitioner, to the contrary, Petitioner ceased communication with Respondent after 05/29/12 when Petitioner swore at Respondent in front of multiple employees at the medical practice where they both worked, after which Petitioner walked off the job.

Law and Argument

1. Petitioner has not established good cause. Once bond has been waived and letters have issued to the personal representative, the Court may require the administrator to post a bond on a showing of good cause. Here, Petitioner has failed to meet this threshold.
2. First, much of the Petition concerns allegations regarding non-estate assets, specifically decedent's IRA and a charitable remainder unitrust. Neither the IRA nor the trust is subject to probate administration. Respondent has no authority to administer, transfer, transact business upon, or distribute the retirement account or any assets of the trust. Thus even if Petitioner's allegations of concealment were true – and they are not – they are irrelevant to these proceedings and do not constitute good cause to require that Respondent post a bond.
3. Further, none of the allegations raised by Petitioner suggest any misconduct on the part of Respondent in her role as Administrator of decedent's estate. Petitioner does not allege that Respondent has improperly managed estate assets, wasted or disposed of assets, exceeded her authority, or prejudiced the interests of those entitled to share in Decedent's estate. Without more, Petitioner's request that a bond be required is not supported by good cause.
4. Petitioner has not alleged facts to support Ex Parte Relief. Nothing in the Petition suggests there is a need for immediate action by the Court in order to protect the assets of the estate. Petitioner alleges no threat of immediate harm or danger.

Respondent prays that the Court:

1. Deny Petitioner's Ex Parte Application for Order that Administrator Linda L. Smith Obtain Bond; and
2. Award costs incurred to Linda L. Smith, Administrator of the Estate of Brenton Robert Smith.