

Status Hearing for the Filing of the Ninth and Final Account of Trustee.

Beneficiary age: 48	<p>SUZANNE DURAN KELPSAS, former Trustee without bond filed her Eighth Account and Report of Trustee.</p> <p>Supplemental Order following the hearing on the Eighth Account ordered in relevant part:</p> <ol style="list-style-type: none"> 1. The resignation of Suzanne Duran Kelpsas, as Trustee, was accepted, effective 7/20/2011, and Bruce Bickel was appointed Successor Trustee effective that same date; 2. Suzanne Duran Kelpsas was ordered and directed to file her Ninth and Final Account for the period 1/1/11 through 7/20/11, no later than 15 days prior to the hearing set by the court on 9/14/11. In her accounting petitioner shall disclose the mileage on the Suburban owned by the Trust to allow the Court to determine whether a new vehicle should be purchased by the Trust. 	NEEDS/PROBLEMS/COMMENTS:		
Cont. from		<p>1. Need ninth account or current status report.</p>		
Aff.Sub.Wit.				
Verified				
Inventory				
PTC				
Not.Cred.				
Notice of Hrg				
Aff.Mail				
Aff.Pub.				
Sp.Ntc.				
Pers.Serv.				
Conf. Screen				
Letters				
Duties/Supp				
Objections				
Video Receipt				
CI Report				
9202				
Order				
Aff. Posting				
Status Rpt				
UCCJEA				
Citation				
FTB Notice				
			Updates:	
			Contacts: faxed atty 9/7/11	
			Recommendation:	
			Reviewed by: KT	
		File 1 - Duran		

Probate Status Hearing Re: (1) Status Report of Administration of Estate and (2) Petition to Approve First Account (Prob. C. 12201 and 10950)

		NAGLAA K. ALAMELDIN , sister / Administrator with full IAEA with bond of \$190,000.00, is Petitioner. (Appointed 1-2-07)	NEEDS/PROBLEMS/COMMENTS: (Page 1 of 3)
DOD: 11-6-06		Account period: 11-6-06 through 9-20-10	<u>Note: Page 2B is Attorney McCloskey's (former attorneys for Administrator) Petition for Ordinary and Extraordinary Attorney's Fees and Costs.</u>
Cont. from: 110110, 120610, 012711, 042811, 070711, 081811		Accounting: \$ 507,501.26 Beginning POH: \$ 477,653.43 Ending POH: \$ 105,275.67	<u>Note: Roli Elsotari (Decedent's ex-wife) filed a petition to remove Administrator on 2-3-10, which was denied on 7-13-10. On that date, the minute order states Atty Rindlisbacher will file an interim accounting; status hearing set for 9-21-10. This Status Report and Account (the interim accounting) was filed 9-21-10 and heard on 11-1-10, and was continued to 12-6-10, 1-27-11, 4-28-11, and 7-7-11.</u>
	Aff.Sub.Wit.	Administrator: \$ 5,944.34 (Note: Petition does not appear to request statutory commissions at this time.)	<u>Minute Order 4-28-11: Atty Rindlisbacher represents to the court that the TD Ameritrade money market account was properly accounted for. The court will accept the sale of the washing machine that was not listed separately as a miscellaneous sale. The court further accepts the advancement by administrator listed as wages on attachment 1 vs. attachment 2. Atty Rindlisbacher represents to the court that the real property was foreclosed on and therefore it is appropriate for the bond to be reduced. The bank has accepted \$37,000.00 for the \$45,000.00 debt. Matter continued to 7-7-11.</u>
✓	Verified	Administrator: \$ 11,424.99 (Reimburse for costs of administration and repairs to residence – This amount is included in the Ending POH figure as a Note Payable.)	<u>Minute Order 8-18-11: Counsel advises the Court that the Bank of America claim has been settled, but satisfaction of that claim has not been received however, a letter has been received. Counsel requests a continuance for the purpose of resolving the other issues. Matter continued to 9-14-11.</u>
✓	Inventory	Attorney: \$ 5,944.34 *	<u>The following issues remain regarding this matter: See Page 2, 3.</u>
✓	PTC	*Petitioner proposes to split statutory attorney fees between current attorneys and former attorneys Tuttle & McCloskey, who have filed a Creditor's Claim for \$2,140.00, which has not yet been approved by the court or paid, and \$3,500.00 estimated statutory fees. This split has not yet been agreed upon yet. Petition does not appear to request payment of these fees.	Contacts: emailed, faxed atty 7-1-11
✓	Not.Cred.	Petitioner states the estate is <u>not</u> in a position to be closed because Petitioner has not been able to collect the amounts owed to the estate by Roli Elsotari and the estate is insolvent.	Recommendation:
✓	Notice of Hrg	Petitioner requests that the administration of the estate continue until Roli Elsotari has repaid the sums owed to the estate or other satisfactory arrangements approved by the Court are made for repayment of those sums.	Reviewed by: skc
✓	Aff.Mail		File 2A - Alameldin
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
✓	9202		
	Order		
	Aff. Posting	Petitioner prays for an Order: 1. Confirming and approving all acts of Petitioner; 2. Settling and approving the First account; 3. Authorizing reimbursement to Petitioner for costs of \$11,424.99 4. Continuing administration of the estate until Roli Elsotari has repaid the sums owed to the estate or other satisfactory arrangements approved by the Court are made for repayment of those sums; and 5. Such further orders as the court deems appropriate.	
	Status Rpt	Declaration filed 8-18-11 addresses the Bank of America creditor's claim.	
	UCCJEA	Minute Order 8-18-11: Counsel requests a continuance to resolve the other issues.	
	Citation		
N/A	FTB Notice		

NEEDS/PROBLEMS/COMMENTS (Continued) (Page 2 of 3):

1. Inventory and Appraisal filed 3-23-10 appears to contain items appraised by Petitioner on Attachment 1 that should have been appraised by Probate Referee on Attachment 2 per Probate Code §8901:

- Warrant dated 11-15-06 valued at \$13,618.19

- Warrant dated 5-21-07 valued at \$232.61

- Warrant dated 7-3-07 valued at \$18.41

Note: Descriptions of warrants state:

“paid to Roli Elsotari (per Order of Fresno County Superior Court, sustained on appeal, this asset belongs to estate).”

Note: Petition addresses the warrants at #3 and #5, as judgments and states interest is accruing and Petitioner plans to levy Ms. Elsotari’s wages to enforce the judgment.

2. Petition assumes Decedent’s ex-wife Roli Elsotari received funds from two small bank accounts (total \$106.79) inventoried in the estate because she was the joint owner and treats the amounts as disbursements. Petitioner states they were included on the I&A because of court decree of divorce. The court may require further clarification.

3. Inventory and Appraisal filed 3-23-10 includes “TD Ameritrade Investment Account” valued at \$108,013.63 by Administrator on Attachment 1. Petition states this is a money market account, which means that appraisal on Attachment 1 is appropriate per Probate Code §8901(d); however, the Petition further states that Decedent had “shorted” a number of stocks against this account and Administrator repaid the loan by purchasing the stocks that had been shorted by Decedent and selling them the same day at a gain of \$29,394.36. The court may require further information regarding whether appraisal of this item as a cash asset (including loan and repayment) is appropriate or whether the loan within the asset warrants appraisal by Probate Referee.

Note: Minute Order 4-28-11 states Atty Rindlisbacher represents the account was properly accounted for; however, the minute order does not reflect action by the court on the representation. The item remains noted.

4. If Inventory and Appraisals are not correct per the above items, this First Account cannot be accurately reviewed.

5. Need Allowance or Rejection of Creditor’s Claims:

- Tuttle & McCloskey (former attorneys for Administrator) (filed 6-5-07) \$2,140.00 for Extraordinary Fees and \$3,500.00 estimated Statutory Fees (Total \$5,640.00).

- Bank of America \$311.50 (filed 8-27-07)

- Bank of America \$40,978.89 (filed 8-27-07)

Note: Itemization attached for the \$2,140.00 includes 9.25 attorney hours @ \$220.00/hour and 1.5 paralegal hours @ \$70.00/hour. Page 2B is a separate petition for these fees.

Note: Petition states Bank of America was paid \$37,000.00; however, no Allowance or Satisfaction has been filed.

Note: Petition states Bank of America claim for \$311.50 is still pending.

Note: Declaration filed 8-18-11 provides a letter from Bank of America indicating settlement and receipt of \$37,000.00; however, the account number referenced on the letter does not match the account number referenced on either B of A creditor’s claim. Need clarification.

6. Petition appears to use net figures instead of gross figures for calculation of gains and losses (vehicles, personal property). This affects the balance of the account.

7. Petition states the Guaranty Bank balance was transferred to the California State Controller’s Office and Petitioner is submitting paperwork to collect this amount. Court may require additional information.

SEE PAGE 3

Dept. 303, 9:00 a.m. Wednesday, September 14, 2011

2A Tarek K. Alameldin (Estate)

Case No. 06CEPR01226

Atty Rindlisbacher, Curtis D. (for Naglaa K. Alameldin – Sister – Administrator)

Atty Shahbazian, Steven L. (for Roli Elotari)

(1) Status Report of Administration of Estate and (2) Petition to Approve First Account (Prob. C. 12201 and 10950)

NEEDS/PROBLEMS/COMMENTS (Continued) (Page 3 of 3):

8. Petition states Attorney Fees are to be split between Administrator's current and former attorneys however, Petition does not indicate the allocation of the split, and further states this has not yet been agreed upon. Need clarification.

Note: Petition does not appear to request payment of fees at this time.

9. Need Order.

Note: Based on the above items, the Court may require amended or corrected Inventory and Appraisals and/or Account.

Atty McCloskey, Daniel T. (of Tuttle & McCloskey, former attorney of Naglaa K. Alameldin, Administrator)
 Atty Rindlisbacher, Curtis D. (current attorney for Naglaa K. Alameldin, Administrator)

Petition for Ordinary and Extraordinary Attorney's Fees and Costs

		<p>DANIEL T. MCCLOSKEY, shareholder of Tuttle & McCloskey, previous attorneys for Naglaa K. Alameldin, Administrator, is Petitioner.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> Page 2A is the 7th continued hearing on the first account and status report of the Administrator, who is currently represented by Attorney Curtis Rindlisbacher.</p> <p><u>Note:</u> Examiner notes that the amount requested for statutory fees is approx. 27% of the statutory fees based on the inventoried estate value.</p> <p><u>Note:</u> Probate Code §10814 states: If there are two or more attorneys for the personal representative, the attorney's compensation shall be apportioned among the attorneys by the court according to the services actually rendered by each attorney or as agreed to by the attorneys.</p>
<p>DOD: 11-6-06</p>			
		<p>Tuttle & McCloskey represented Administrator until replaced by the current attorney. <i>(Substitution of Attorney was filed 2-6-07.)</i></p>	
		<p>Petitioner previously filed a creditor's claim and request for special notice in this case on 6-5-07, and now requests court authorization of the following extraordinary and statutory fees and costs:</p>	
Aff.Sub.Wit.			
✓ Verified		<p>- \$2,540.00 in extraordinary fees (9.25 attorney hours @ \$220.00/hr and 1.5 staff hours @ \$70.000/hr, itemized)</p>	
Inventory			
PTC		<p>- \$3,500.00 in statutory fees (15 attorney hours and 7.75 staff hours, plus \$385.00 in costs for filing fees, itemized)</p>	
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			
		<p>Updates:</p>	
		<p>Contacts: Reviewed 9-9-11</p>	
		<p>Recommendation:</p>	
		<p>Reviewed by: skc</p>	
		<p>File 2B - Alameldin</p>	

Atty Keeler, William J./Katy McCully (of DAK, for Norma G. Little – Petitioner)
 Atty Milnes, Michael A (for Christopher Brian Little – Executor/Respondent)

Petition to Remove Executor, for an Accounting, for Appointment of Successor Personal Representative, for Surcharge, and to Enforce Settlement AGREEMENT
 (Prob. C. 8500, 8501, 8502, 8520 et seq., 8540 et seq., 10952, 12200, 12204, 12205, and CCP 664.6)

DOD: 7/4/08	NORMA G. LITTLE, surviving spouse, is Petitioner.	NEEDS/PROBLEMS/COMMENTS
	Petition states:	
	<ul style="list-style-type: none"> Petitioner Norma Little ("Petitioner") is the surviving spouse of Decedent; they were married on 5/22/04 and were married at the time of Decedent's death; On 7/18/08, Respondent Christopher Little ("Respondent"), who is Decedent's brother, was appointed personal representative of Decedent's estate by the Pinal County Superior Court, state of Arizona ("Arizona court"); On 11/12/08, the Fresno County Superior Court ("Fresno court") appointed Respondent as the California Executor with bond of \$400,000.00; Thomas McCarville ("T. McCarville") and David McCarville ("D. McCarville") are Arizona attorneys who represent Respondent in the Arizona proceedings; Petitioner previously filed 3 petitions in this matter: 1) <i>Petition to Determine Distribution Rights</i>; 2) <i>Petition for an Order Setting Apart Probate Homestead</i>; and 3) <i>Petition for Payment of Family Allowance</i>, and the matters were set for trial; Prior to trial, the parties agreed to settle all of Petitioner's claims subject to approval from the Fresno and Arizona courts (Settlement AGREEMENT and Mutual General Release ("AGREEMENT") attached to Petition as Exhibit A); The AGREEMENT states in part: <ul style="list-style-type: none"> Respondent is to file petitions for approval of the AGREEMENT in each court no later than 8/21/09; upon approval by both courts, Respondent is to distribute property to Petitioner pursuant to said AGREEMENT; Settling parties are to execute or deliver any instrument, furnish any information, or perform any other act necessary to carry out the AGREEMENT's provisions without undue delay or expense, including appearing at court hearings concerning the status of disputes (<i>emphasis added in Petition</i>); Prevailing party in an action to enforce terms of AGREEMENT is entitled to costs and reasonable attorneys' fees; AGREEMENT is enforceable pursuant to CCP section 664.6. On 9/22/09, Respondent petitioned the Fresno court to approve the AGREEMENT; on 9/29/09 he similarly petitioned the Arizona court for approval; on 12/14/09, the Fresno court approved the AGREEMENT; On 5/17/10, the Arizona court ordered Respondent's attorney, D. McCarville, to provide all parties with an updated accounting no later than 7/16/10; in disregard of said order, D. McCarville provided the parties with a "First Supplemental Inventory and Appraisalment," instead of the court-ordered updated accounting (<i>note: per Declaration of Petitioner, filed 9/9/10, this Inventory filed by Respondent shows values for Decedent's property that are significantly less than the date of death values</i>); 	<p>Minute Order 8-3-11 states: Ms. Burnside advises the Court that they have been unable to make any progress in Arizona with regards to getting this matter resolved. The Court continues the matter to 9/14/11 and orders Mr. Milnes to be present at the next hearing. Ms. Burnside is directed to establish contact with Mr. Milnes.</p> <p>**STATUS RPT FILED 9/13/11 BY ATTY MILNES; SEE LAST PAGE OF NOTES</p>
Cont. from: 091310, 100410, 102710, 120810, 021611, 033011, 051811, 080311		
Aff.Sub.Wit		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
✓ Notice of Hrg		
✓ Aff.Mail	W	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	<u>SEE ATTACHED PAGE-</u>	
		Updates: 9/13/11
		Reviewed: 9-9-11
		Recommendation:
		Reviewed by: NRN/skc/NRN
		File: 3 - Little

- Nearly a year has passed since the AGREEMENT was executed, and 7 months have passed since the Fresno court approved it;
- Respondent has failed to obtain the Arizona court's approval of the AGREEMENT, has failed to respond to objections filed in Arizona, and has failed to timely administer Decedent's estate, all in violation of the AGREEMENT and his fiduciary duties;
- Respondent's failure to secure Arizona court approval is due in part to D. McCarville's conflicts of interest and Respondent's failure to retain counsel without such conflicts;
 - Specifically, on 11/13/09, Respondent's attorney D. McCarville petitioned the Arizona court for instructions relating to several conflicts of interests, including:
 - D. McCarville's brother and in-laws have an ownership interest in estate assets;
 - Prior to Decedent's death, D. McCarville's brother took out a loan to improve the assets he apparently owns with the estate and is apparently owed money by the estate for this loan;
 - D. McCarville's father, T. McCarville, was previously a partner with the attorney who prepared Decedent's ante nuptial AGREEMENT and who now faces potential malpractice claims by the estate relating to the ante nuptial AGREEMENT; and
 - D. McCarville represents (in other matters) the fiduciary company, East Valley Fiduciary Services/James C. Clark, that has been appointed as guardian and conservator of Jeremy R. Little, who is Decedent's grandson and the only party objecting to the AGREEMENT with claims adverse to Executor and Petitioner.
 - The Arizona court never issued instructions on these conflicts of interests.
- D. McCarville is delaying Respondent from timely administering Decedent's estate, in part because of conflicts of interest;
- Due to the failures of Respondent and D. McCarville, Petitioner has received none of the property to which she is entitled;
- Petitioner has sought approval from the Arizona court through her counsel, but has been unsuccessful.

Petitioner Requests an order:

1. Removing Respondent as personal representative (Executor) and revoking Letters;
2. That Respondent file an accounting within 60 days of his removal as personal representative;
3. Denying appointment of Thomas McCarville as nominated Successor Executor;
4. Appointing Petitioner Norma Little as successor personal representative, or in the alternative, appointing a neutral third party as successor personal representative;
5. Surcharging Respondent's compensation as Executor pursuant to PrC 12205;
6. Enforcing the AGREEMENT by requiring Respondent or successor personal representative to vigorously prosecute the enforcement of the AGREEMENT in the Arizona court and defend objections thereto at the expense of Decedent's estate, requiring Respondent or successor personal representative to obtain counsel who does not represent a conflict of interest with regard to the estate, and by requiring that Respondent or successor personal representative to do all acts necessary to perform the obligations of the AGREEMENT without undue delay;
7. For attorneys' fees and costs and for such other orders as the Court deems proper.

Response to Petition, filed by Respondent Christopher Little on 9/27/10, states:

- The sole heirs under Decedent's Will are Decedent's son James D. Little and his grandson Jeremy Little;
- Petitioner Norma G. Little ("Petitioner) and Decedent entered into a written agreement prior to their marriage; included in this agreement was a waiver by Petitioner of any right to inherit property from Decedent's estate;
- Currently, the Arizona court has not approved the parties' 8/4/09 AGREEMENT; as such, there is no enforceable settlement of the matters and issues between Petitioner and Respondent in this Court, as the terms of the AGREEMENT are expressly conditioned upon the approval of the AGREEMENT's terms by both the Fresno Court and the Arizona Court and without both court's approval, the AGREEMENT has no force and effect.

SEE ATTACHED PAGE

- On 10/5/09, the Arizona court held a status review hearing regarding the AGREEMENT; at that hearing, Petitioner, Jim Little, and the guardian of Jeremy Little stated their objections to the AGREEMENT; a further status review was scheduled for 11/16/09;
 - a. Between 11/16/09 and 4/19/10, the court held several status hearings on matters relating to the administration of the estate and petition to approve the AGREEMENT;
 - b. On 5/17/10, the Arizona court ordered Respondent to provide an updated accounting by 7/16/10, with objections to the AGREEMENT to be filed by 8/20/10, and responses to the objections filed by 9/17/10;
 - c. Respondent filed a 1st Supplemental Inventory with the Arizona court on 7/16/10; and thereafter filed a Petition for Approval of 1st Interim Accounting on 7/30/10;
 - d. On 8/9/10, counsel for Jim Little's conservator filed an objection to Respondent's petition to approve the AGREEMENT; objections were also filed by counsel for Jeremy Little's guardian on 8/19/10, to which Jim Little filed a joinder;
 - e. Jim and Jeremy Little's primary objections to the AGREEMENT focus on Petitioner's status as an omitted spouse and the reduced value of assets of Decedent's estate;
 - f. The Arizona court set a settlement conference for 10/19/10;
 - g. Petitioner also filed and MSJ in the Arizona court to compel the court to approve the AGREEMENT and the matter is currently before that court;
 - h. The Arizona court has also set a status review hearing on 11/1/10.
 - i. Petitioner has attended all proceedings before the Arizona court.
- Petitioner has a significant conflict of interest disqualifying her from serving as personal representative because she has pending creditor's claims and Petitions now pending before this court; though a settlement has been reached through the AGREEMENT, the AGREEMENT has not been approved by the Arizona court and the matter is currently pending;
- Petitioner has not filed a petition in the Arizona court for removal of Respondent as personal representative; as such, appointment of Petitioner in the Fresno court would provide an unworkable and inconsistent administration of the Decedent's estate, and only further delay the ultimate resolution of this case;
- Finally, the hearing on David McCarville's Petition for instructions on the conflicts of interest has been continued by the Arizona court each time, and Petitioner's attorney has not objected to any such continuance;
- **Respondent requests:** An evidentiary hearing; that Petitioner Norma Little's Petition be dismissed with prejudice, and that Petitioner be required to pay Respondent's reasonable attorneys' fees and the costs of this proceeding.

STATUS REPORT, FILED 10/25/10 BY ATTORNEY MILNES, STATES: A mediation was conducted on 10/19/10 and a complete settlement agreement was reached between all parties, and Atty Keeler has undertaken to reduce the settlement agreement to writing as recited on the record.

Status Report, filed 3/25/11 by Counsel for Norma Little, states:

- *The 10/19/10 mediation (as referenced above) resulted in a complete settlement of all matters existing between the parties; and was confirmed by the Pinal County, Arizona Superior Court ("the settlement agreement");*
- *A draft of the settlement agreement was originally prepared in 11/10 and since then the parties have been negotiating the agreement amongst themselves;*
- *At the last status conference on 2/16/11, the agreement was still being negotiated and the Court continued the matter to 3/10/11;*
- *To date, the parties have not been able to agree upon the agreement's provisions relating to primary jurisdiction of this matter; Norma Little contends that as Decedent died in Fresno County, jurisdiction is proper in Fresno County; respondents contend jurisdiction should be set in either Pinal County, AZ or a neighboring AZ county;*
- **THEREFORE, NORMA LITTLE REQUESTS A FURTHER CONTINUANCE TO ALLOW PARTIES ADD'L TIME TO AGREE ON A SETTLEMENT AGREEMENT AND/OR PETITION THE PINAL CTY SUPERIOR COURT FOR ENFORCEMENT OF THE 11/10 SETTLEMENT AGREEMENT.**

SEE ATTACHED PAGE

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Status Report, filed 9/13/11 by Attorney Michael Milnes (for Executor/Respondent Christopher Little) states:

- Disputes regarding the AZ Settlement are still ongoing;
- Attorney Milnes has not been involved in the AZ settlement discussions, as what is ultimately resolved in AZ will have to return to this Court for approval (AZ court minute orders attached to Status Report and shows the case's activity for the past 3 months);
- The personal representative has also recently filed an accounting of his activities in AZ and petitions for fees, to be heard in AZ on 10/3/11, and parties to this AZ probate case have until 9/23/11 to file their objections to the accounting and/or petitions for fees;
- As such, future AZ proceedings are dependent upon what occurs as a result of these filings;
- The AZ parties have agreed that Christopher Little shall remain as Executor in both the AZ and CA probate matters;
- **Attorney Milnes suggests this matter be set for a further status hearing in 60-90 days.**

		TAMMIE OXFORD , Trustee, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Need Order. – Order submitted. However, the order does not comply with Local Rule 7.6.1C. Orders distributing property and orders settling accounts shall contain a statement as to the balance of the estate on hand, specifically noting the amount of cash included in the balance.
		Account period: 7/21/10 – 5/31/11	
Cont. from 080311		Accounting - \$229,641.28	
<input checked="" type="checkbox"/>	Aff.Sub.Wit.	Beginning POH - \$229,543.74	
<input checked="" type="checkbox"/>	Verified	Ending POH - \$225,599.89	
	Inventory	Trustee - not addressed	
	PTC	Attorney - not addressed	
	Not.Cred.	The Public Guardian was appointed as Successor Trustee on 8/3/11.	
<input checked="" type="checkbox"/>	Notice of Hrg	Petitioner Prays for an Order:	
<input checked="" type="checkbox"/>	Aff.Mail W/	1. The trust estate be turned over to the Public Guardian;	
	Aff.Pub.	2. Petitioner's first and final account as filed herein be settled allowed and approved.	
	Sp.Ntc.	3. All acts, transactions, sales and investments of the Trustee be ratified, approved and confirmed.	
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order X		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: KT
			Reviewed on: 9/7/11
			Updates: 9/13/11
			Recommendation:
			File 4 - Rossi

Atty Hurlbutt, James P., sole practitioner of Visalia (for Petitioner John Hernandez, Administrator)

(1) First and Final Account and Report of Administrator; Petition for Approval of Final Account and Report; (2) for Allowance of Statutory Fees Rendered by Administrator and Administrator's Attorney and (3) for Final Distribution

DOD: 1/31/2009		JOHN HERNANDEZ , brother and Administrator with Will Annexed, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Paragraphs 10 and 26 of the <i>Petition</i> and the <i>Declaration</i> attached as <i>Exhibit D</i> request reimbursement of costs of \$1,356.48 advanced by the attorney; however, the following costs are either not reimbursable costs because they are considered costs of doing business, or are only allowable in the Court's discretion in limited circumstances, pursuant to Local Rule 7.17(B) and (C): <ul style="list-style-type: none"> • \$29.81 for postage; and • \$26.41 for photocopies; both of which are costs allowable in the Court's discretion only when more than 10 people are entitled to notice, which does not apply in this case as two persons are entitled to notice in this matter. Therefore, amount of allowable costs to be reimbursed should be reduced to <u>\$1,300.26</u> . ~Please see additional page~
		Account period: 12/2/2009 – 6/20/2011	
Cont. from		Accounting - \$561,222.00	
<input type="checkbox"/>	Aff.Sub.Wit	Beginning POH - \$561,222.00	
<input type="checkbox"/>	Verified	Ending POH - \$561,195.23	
<input checked="" type="checkbox"/>	Inventory	(No cash; right to annuity payments)	
<input checked="" type="checkbox"/>	PTC		
<input checked="" type="checkbox"/>	Not.Cred.	Administrator - \$14,224.44 (statutory; fee base calculated using total annuity value;)	
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	Attorney - \$14,224.44 (statutory; fee base calculated using total annuity value;)	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen	Costs - \$1,356.48 (please refer to Exhibit D; for postage, filing fees, photocopies, probate referee, publication, CourtCall;)	
<input type="checkbox"/>	Letters	120209	
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input checked="" 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 checked="" type="checkbox"/>	FTB Notice		
		Closing Reserve - \$3,229.41	
		Petitioner states:	
		<ul style="list-style-type: none"> • The estate consists of all beneficial interest in AVIVA Life Insurance Co. fixed annuity valued at \$561,222.00, in the form of 228 monthly payments of \$2,461.50 each, to be made until 2/15/2028; this annuity cannot be accelerated, liquidated or otherwise altered; 	
		~Please see additional page~	
		Updates: 9/13/11	
		Reviewed: 9/8/11	
		Reviewed by: LEG	
		Recommendation:	
		File 5 – Rivera	

Petitioner states, continued:

- Prior to Decedent's death, a personal injury action on behalf of Decedent in Case #06CECG00436 resulted in creation of the **MARY LOU RIVERA IRREVOCABLE TRUST dated 12/19/2007**, which was a special needs trust contained in Case #10CEPR00595, and of which Petitioner was the Trustee; the Trust was to hold and administer the proceeds of the settlement in compliance with state and federal law while preserving Ms. Rivera's existing Medi-Cal and other benefits; *[Trust case is now closed; see next bullet point]*;
- The State of CA, Department of Health Care Services (DOH) asserted a claim *[in ~2009]* against the **MARY LOU RIVERA IRREVOCABLE TRUST dated 12/19/2007**, and this Court's *Order Approving Amended First and Final Account and Report of Trustee and Petition for Full and Final Distribution of Trust Assets on Hand* signed 11/10/2010 in that case ordered the DOH to be paid by the Trust in the sum of **\$123,250.16 plus interest [totaling \$123,255.96]** against the total DOH claim of **\$304,344.82**; *(please refer to Exhibits A through C attached)*;
- As a result of the partial payment of the DOH claim, a balance in the sum of **\$181,088.[86]** remains unpaid to the State of CA DOH; however, Petitioner asserts that no monies whatsoever should be paid to the State of CA DOH from the assets of Decedent's estate because the State of CA DOH has failed to comply with the requirements of Probate Code § 9100 et seq., pursuant to which the State of CA DOH had a limited period to file a creditor's claim of four months from the date *Letters* were issued or 60 days after date of mailing the *Notice to Creditor*, which was served in the case on 12/17/2009 such that 4/2/2010 was the expiration date of this limited period; pursuant to Probate Code § 9002, any claim against the Decedent's estate is barred in the event that a timely creditor's claim is not filed, and because the State of CA DOH did not file a creditor's claim as required, no monies should be paid to the State of CA DOH from Decedent's estate;
- In the alternative, if the Court determines that the State of CA DOH still has a viable claim against Decedent's estate, the full amount of the claim should be limited to **\$181,088.[86]**, in the form of partial cash payment and an assignment of annuity payments (58 payments @ **\$2,461.50** each, totaling **\$142,767.00**) to the State of CA DOH *(please refer to Lines 21 through 28 on Page 3 and Lines 1 through 18 on Page 4 of Petition for calculations)*;

Petitioner requests Decedent's estate be distributed 100% to the Petitioner John Hernandez pursuant to Decedent's Will.

NEEDS/PROBLEMS/COMMENTS, continued:

2. *Order Approving Amended First and Final Account and Report of Trustee and Petition for Full and Final Distribution of Trust Assets on Hand* signed on 11/10/2010 finds in Paragraph 17 that "to the extent that the claim of the California Department of Health Services is not satisfied in full by the distribution of the trust assets on hand, the California Department of Health Services will obtain payment from the separate Estate of Mary Lou Rivera, Deceased, which is now subject to pending probate administration in the matter of the Estate of MaryLou Rivera aka Mary Lou Rivera, bearing Fresno County Superior Court Case No. 09CEPR00851" *[emphasis added]*. Further, the Court's 11/10/2010 *Order* states at Lines 8 through 9 on Page 9 that "the interests of the California Department of Health Services are fully protected," and per the *Notice of Hearing* filed on 7/14/2010 the Department of Health Care Services was sent notice by mail on 7/13/2010 with a copy of the *First and Final Account of the Trustee* containing the information regarding payment of the remaining balance of the claim to DOH. It appears based upon the Court's 11/10/2010 *Order* and the other facts involved that payment to the DOH is expected as ordered, and that no alternative is available for distributing the entire estate to Petitioner without first satisfying the DOH claim. It appears that because the Court's 11/10/2010 *Order* created an expectation on the part of DOH for payment of the balance due on the claim, the *Order* obviated the need for the DOH to have filed a formal creditor's claim in this estate within the deadline as alleged by the Petitioner.

NOTE: Petitioner has submitted two proposed Orders to the Court, one distributing the entire estate to the Petitioner, the other distributing partially to the DOH and to Petitioner (the Court to sign one of the Orders based on its finding).

Amended Petition to Determine Succession to Real Property

DOD: 12/29/09		<p>BOBBY J. ABBOTT, JERRY ABBOTT, and KATHRYN ASHER, decedent's children, are Petitioner.</p> <p>40 days since DOD.</p> <p>No other proceedings.</p> <p>I & A - \$84,600.00</p> <p>Decedent died intestate.</p> <p>Petitioner requests Court determination that decedent's 100% interest in real property located at 3213 E. Simpson, Fresno and personal property pass to them pursuant to intestate succession.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> Item 1 of the Petition only lists Bobby J. Abbott as Petitioner. All Petitioners should be listed. A Disclaimer of Interest was filed by Petitioner Jerry W. Abbott on 08/08/11. However, this examiner knows of no authority that authorizes the use of disclaimers in summary proceedings. Probate Code § 13000 et seq. Also, disclaimers pursuant to Probate Code 282 have the effect as if the person disclaiming interest had predeceased the decedent. Petition does not state whether Jerry Abbott has issue. Item 9(a) of the Order does not state the personal property to be distributed to the Petitioners. Item 9(b) of the Order does not state each petitioner's name and specific property interest in the property (real & personal) that is to be passed with this Petition.
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
✓ Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
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Aff.Pub.			
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Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p>Updates:</p> <p>Contacts: e-mailed 09/09/11</p> <p>Recommendation:</p> <p>Reviewed by: JF</p> <p>File 6 - Snapp</p>	

Petition for Compensation for Representation of Conservatee [Prob. C. 1470 & 1472 (a)]

Age: 87 years DOB: 9/13/1924	<p>GARY BAGDASARIAN, petitioner, was Court appointed to represent the Conservatee on 7/28/11.</p> <p>CAROL M. SMILEY was appointed Conservator of the Person and Estate on 8/8/11.</p> <p>Petitioner requests fees in connection with the representation of the Conservatee for Carol M. Smiley's petition to appoint a conservator.</p> <p>Petitioner asks that he be paid from the conservatorship estate for 6 hours @ \$250.00 per hour for a total of \$1,500.00.</p> <p>Services are itemized by date and include review of documents, visits with client, and court appearances.</p> <p>Petitioner further request that he be discharged as attorney for the conservatee.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>	
Cont. from			
<input type="checkbox"/> Aff.Sub.Wit.			
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<input type="checkbox"/> Inventory			
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<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
		Updates:	
		Contacts:	
		Recommendation:	
		Reviewed by: KT	
		File 7 – Williams	

Petition to Terminate the Helen M. Garabedian Irrevocable Insurance Trust and for Final Distribution of Trust Assets, and for Allowance of Attorneys' Fees and Costs [Prob. C. 15403(a) and 17200(b)(13)]

		SAUNDRA H. JORDON and MARTIN W. ARNOLD, JR. , beneficiaries, are petitioners.	NEEDS/PROBLEMS/COMMENT S:
		Petitioners state HELEN M. GARABEDIAN , as Trustor, created an irrevocable insurance trust entitled the HELEN M. GARABEDIAN IRREVOCABLE INSURANCE TRUST on 5/6/1981.	
Cont. from			
	Aff.Sub.Wit.		
✓	Verified	Pursuant to the terms of the Trust, Ben Kirkorian is now serving as Trustee.	
	Inventory		
	PTC		
	Not.Cred.	The Trustor, Helen M. Garabedian died on 2/25/11.	
✓	Notice of Hrg	The sole trust asset is a bank account containing the proceeds from two life insurance policies. The funds remaining from the policies total approximately \$305,000.	
✓	Aff.Mail	W/	
	Aff.Pub.	Petitioners state when the trust was created in order to take advantage of tax planning strategies available to reduce or avoid estate tax upon the trustor's death.	
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen	According to the terms of the trust, the beneficiaries are the Trustor's children, petitioners herein. The contingent beneficiaries would be the issue of any deceased child of the Trustor. The Trustor does not have any deceased children.	
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt	The trust provides that upon the Trustor's death the trust is to divide into two equal shares, one for each child or the Trustor. Section 11.1 of the trust provides that after the passage of 5 years from the date of death of Trustor, the trust was to be distributed to the beneficiaries, outright and free of trust.	
	CI Report 9202		
✓	Order	In reviewing the document after execution, the Trustor became "concerned" about the five-year waiting period to distribute the trust corpus to the beneficiaries and wrote the Trustee regarding the same. In a letter dated 10/28/1982, she wrote that she "would prefer that the remaining funds be distributed to them [her children] as soon as possible," instead of five years after her death. The Trustee responded in a letter dated 11/19/1992, in which he assured her that he would contact the beneficiaries and receive their permission to release "part or all of the remaining proceeds to them" after a "contingency period" in which the Trustee would pay estate taxes and estate expenses.	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
<i>Please see additional page</i>			Updates: Contacts: Recommendation: Reviewed by: KT File 8 - Garabedian

Petitioners seek to terminate the Irrevocable Trust pursuant to Probate Code Section 15403(a), as all beneficiaries of the Irrevocable Trust have consented to the termination and the circumstances have changed surrounding the reasons for why the Trust was established, namely the tax exemption amount is such that there is no need for the continuation of the trust in order to reduce or avoid estate taxes.

Additionally all contingent beneficiaries (the currently living grandchildren and great grandchildren of trustor) have consented to the termination, either personally for those who have attained the age of 18 or, for those who have not attained the age of 18, consent was obtained by via their parent or guardian.

Pursuant to Probate Code Section 16247, the law firm of Dowling, Aaron and Keeler has been retained to perform legal services in connection with the termination of the trust, which unpaid fees to date total \$3,215.00. It is anticipated that an additional 2 hours of attorney time will be spent totaling \$400.00. Therefore, the legal fees requested hereunder total \$3,615.00. In addition, DAK has advanced \$395.00 in out of pocket costs for the filing fee for this petition.

Petitioners request the Court make an Order:

1. Terminating the Helen M. Garabedian Irrevocable Insurance Trust;
2. Approving the attorney's fees paid to Dowling, Aaron and Keeler in the amount of \$3,615.00, and costs in the amount of \$395.00, for legal services for the benefit of the trust.
3. Ordering full and final distribution of the trust assets, after payment of closing expenses, including Trustee compensation and attorney fees, to the trust beneficiaries; Sandra H. Jordon and Martin W. Arnold, Jr., in the manner set forth in the Trust instrument.
4. Discharging the Trustee of the trust upon distribution of the assets to the trust beneficiaries.

Atty Herold, Kim M., of Bolen Fransen (for Petitioner Cherie L. Medina, daughter)

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

DOD: 1/9/2009		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>CONTINUED TO 10/20/2011 Per Attorney Request</p>
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
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Notice of Hrg		
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Sp.Ntc.		
Pers.Serv.		
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Duties/Supp		
Objections		
Video Receipt		
CI Report		
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Aff. Posting		
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UCCJEA		
Citation		
FTB Notice		
		Updates:
		Reviewed: 9/7/11
		Reviewed by: LEG
		Recommendation:
		File 10 - Conway

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

Age: 90 years DOB: 1/13/1921	<u>TEMPORARY EXPIRES on 9/14/11.</u>	NEEDS/PROBLEMS/COMMENTS:
	PUBLIC GUARDIAN is petitioner and requests appointment as Conservator of the person and estate with medical consent and dementia powers for placement and the administration of dementia medications.	Court Investigator Advised Rights on 8/23/11
		Voting Rights Affected need Minute Order.
Cont. from		
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified	<u>Estimated value of the Estate:</u>	
<input type="checkbox"/> Inventory	Personal property - \$13,385.11	
<input type="checkbox"/> PTC	Annual income - \$47,412.00	
<input type="checkbox"/> Not.Cred.	Total - \$60,797.11	
<input checked="" type="checkbox"/> Notice of Hrg	Capacity Declaration of Mary Hill M.D. filed on 8/10/11	
<input checked="" type="checkbox"/> Aff.Mail W/	Voting Rights Affected.	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.	Petitioner states the proposed conservatee was living alone with a part time caregiver.	
<input type="checkbox"/> Pers.Serv.	Proposed conservatee has been diagnosed with dementia and suffers moderate to major impairment in short and long term memory. It has been alleged that one of the proposed conservatee's caregivers was financially abusing him.	
<input type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters	Court Investigator Charlotte Bien's Report filed on 8/26/11.	
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
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<input type="checkbox"/> FTB Notice		
		Reviewed by: KT
		Reviewed on: 9/8/11
		Updates:
		Recommendation:
		File 13 - Slater

Atty Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)
 Atty Childs, Jerry F., sole practitioner (also for Erlinda M. Verni, surviving spouse)
 Atty Baldwin, Kenneth, of McCormick Barstow (for Nicola Verni, son, and Antonietta R. Verni, daughter, Trustees)
 Atty Jaech, Jeffrey A., of Baker Manock & Jensen (for Carmela DeSantis, daughter and beneficiary)
 Atty Franco, Paul C., of Caswell Bell & Hillison (formerly for Carmela DeSantis, daughter and beneficiary)

Status Conference Re: Trial Setting

<p>DOD: 5/25/2009</p>	<p>ERLINDA M. VERNI, spouse, filed on 5/13/2010 a <i>Petition to Set Aside the Non-Probate Transfer of Community Property on Death, by Married Person Without Consent of Spouse</i>; an <i>Amended Petition</i> was filed on 7/30/2010; <i>Second Amended Petition</i> was filed on 10/29/2010.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Related Case #10CEPR00639 is the Matter of the VERNI FAMILY TRUST in which the First Account Current and Report of Trustees and Petition for it Settlement was last heard on 3/15/2011, and was continued for Court Trial on 11/9/2011.</p>
<p>Cont. from</p> <p>Aff.Sub.Wit.</p> <p>Verified</p> <p>Inventory</p> <p>PTC</p> <p>Not.Cred.</p> <p>Notice of Hrg</p> <p>Aff.Mail</p> <p>Aff.Pub.</p> <p>Sp.Ntc.</p> <p>Pers.Serv.</p> <p>Conf. Screen</p> <p>Letters</p> <p>Duties/Supp</p> <p>Objections</p> <p>Video Receipt</p> <p>CI Report</p> <p>9202</p> <p>Order</p> <p>Aff. Posting</p> <p>Status Rpt</p> <p>UCCJEA</p> <p>Citation</p> <p>FTB Notice</p>	<p>ANTONIETTA ROSA VERNI, daughter and Successor Trustee of the VERNI FAMILY TRUST and the VERNI MARITAL TRUST, and NICOLA VERNI, son and Successor Trustee of the VERNI SURVIVOR'S TRUST, filed on 9/3/2010 a <i>Response to Amended Petition to Set Aside the Non-Probate Transfer of Community Property, etc.</i>; <i>Response to Second Amended Petition</i> was filed on 2/18/2011.</p> <p><i>Minute Order</i> dated 3/15/2011 from the last hearing on the <i>Second Amended Petition</i> states the matter is set for Settlement Conference on 4/12/2011 at 10:30 a.m. in Dept. 303. The Trial is set for 10/11/2011 at 8:30 a.m. in Dept. 303 with a five day estimate.</p> <p><i>Minute Order</i> dated 4/12/2011 [Judge Nunez] from the <i>Settlement Conference</i> states the matter is set for status hearing on 6/13/2011. Pleadings to be filed.</p> <p><i>Objector Erlinda Verni's Status Conference Brief</i> was filed on 6/9/2011 (summarized on additional page).</p> <p><i>Minute Order</i> dated 6/13/2011 [Judge Gallagher] from a status hearing set by the Court states an amended pleading may be needed. The Court sets another status hearing on 7/25/2011 in which an amended pleading can be addressed at that time.</p> <p><i>Minute Order</i> dated 7/25/2011 from the status hearing on amended pleadings states Mr. [Jerry] Childs is appearing on behalf of the Office of Jeffrey Bohn. Mr. [Timothy] Thompson [of McCormick Barstow] requests a settlement conference. The matter is set for Settlement Conference on 8/19/2011. The Court directs both counsel to submit their settlement conference statements one week prior to the hearing.</p> <p><i>Minute Order</i> dated 8/19/2011 from the Settlement Conference states the matter is not settled. The Court notes for the record that Mr. Childs still needs to do some discovery. The Court vacates the trial date of 10/11/2011. Matter set on 9/14/2011 for status conference re: trial setting.</p> <p align="center">~Please see additional page~</p>	<p>Reviewed by: LEG</p> <p>Reviewed: 9/7/11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 14 - Verni</p>

Objector Erlinda Verni's Status Conference Brief filed on 6/9/2011 states:

- Objector Erlinda Verni submits this brief to the Court outlining the issues of law regarding this dispute;
- On 11/7/2001, Decedent and Erlinda were married after Decedent contacted her after the death of his previous wife and offered marriage to her after a brief international courtship; on or about the date of marriage, Erlinda immigrated from the Phillipines to join her new husband; Decedent and Erlinda were married as of the date of Decedent's death;
- Prior to the marriage, Decedent had owned and operated as sole proprietor a family farming business known as **VERNI FARMS** and acquired significant assets over a period of decades; Decedent was in the process of incorporating the business at the time of his death;
- Apparently, ½ of the assets owned by Decedent were transferred into trust beginning 7/31/2000, the date of prior wife **LEONARDA VERNI'S** death; said ownership is alleged by Trustees to have been in common with the Trust;
- Subsequent to Decedent and Erlinda's marriage, Decedent had the firm of McCormick Barstow prepare a post-nuptial agreement, which was prepared and signed by Decedent on 2/21/2001, as alleged by the Trustees in their response to the *Second Amended Petition*;
- The [post-nuptial] agreement was also alleged to have been signed by Erlinda on 3/4/2002; according to the Notary Stamp and Acknowledgment, Erlinda's signature was notarized on 3/4/2002 in the Philippines, County of Angeles City, by "Erlinda Marciano;" Erlinda does not question that her signature is on the document;
- The post-nuptial agreement also contained what was alleged to be a "schedule of assets and liabilities of Saverio Verni as of July 31, 2000;"
- The nature of the post-marital agreement is that the separate property of each should be considered separate property throughout the marriage, and states that any increases in the value of the property that occur during the marriage shall be considered separate property and subject to disposition "as if no marriage had been entered into;"
- The earnings and income of either party during marriage should be considered separate property and all marital rights to separate property would be released;
- The post-marital agreement contained an Exhibit, which putatively set forth and disclosed the assets and liabilities of Decedent; these consisted of 15 lines generally described;
- The Trusts were variously amended throughout the course of the marriage; the 8th Amendment to the Survivor's Trust of 7/31/2000 amended the Trust in its entirety; Paragraph B.5 of the 8th Amendment "intentionally omitted Erlinda Marciano Verni in this Trust Agreement;" the 8th Amendment did provide the sum of **\$200,000.00** to Decedent [*appears that this should state "to Erlinda"*];
- The 8th Amendment was executed on 5/12/2009 while Decedent was in the hospital; Decedent died 13 days later on 5/25/2009; Notification by Trustee of the Death of the Settlor was accomplished by mail on 2/25/2010;
- At the last court hearing for Settlement Conference it was reflected that a significant issue with any hopes of settling this matter is the prospective tax liabilities estimated in the millions that are faced with regard to the trust administration;
- The issues in this matter are as follows, [*in brief sum*]:
 1. Determination of the Community Interest in the Assets and Debts;
 2. The Validity of the Post-Marital Agreement;
 3. This matter is controlled by Family Law Presumptions;
- More discovery must be completed before serious settlement discussions may occur, including Trustees identifying each asset or debt and identifying a date of acquisition, identifying the value at the time of marriage or acquisition, and the value at the time of Decedent's death; once a schedule of assets and debts and valuations are performed, there can be serious negotiations with regard to a distribution.

Petition for Final Distribution on Waiver of Accounting

DOD: 4/29/07		<p>DALE SMITH and CLARICE COPPLEDGE, Administrators, are petitioners.</p> <p>Accounting is waived.</p> <p>I & A - \$226,000.00</p> <p>Administrators - waive</p> <p>Proposed distribution, pursuant to intestate succession and disclaimers of interest is to:</p> <p>Dale Smith - 1/2 interest in real property and 1/2 interest in personal property.</p> <p>Clarice Coppedge - 1/2 interest in real property and 1/2 interest in personal property.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Intestate heirs Richard Smith and Lucinda Smith have both disclaimed their interest in this estate. Disclaimers act as if the disclaiming party pre-deceased the decedent. Therefore, if the disclaiming party has issue, the issue would be entitled to the share of the estate the beneficiary disclaimed. Probate Code §275 et seq. Therefore, the Court will need to know Richard Smith or Lucinda Smith have issue.</p>
Cont. from			
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<input type="checkbox"/>	Video Receipt		
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<input checked="" type="checkbox"/>	Order		
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<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
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		<p>Reviewed by: KT</p> <p>Reviewed on: 9/8/11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 15 - Smith</p>	

DOD: 7/19/10	<p>CHRISTINA R. PIERCY, surviving spouse, is petitioner.</p> <p>No other proceedings</p> <p>Decedent died intestate.</p> <p>Petitioner states she and the decedent were married on 12/16/2006.</p> <p>All of the property in the petition was acquired during the marriage and paid for using funds earned during the marriage.</p> <p>Petitioner requests court confirmation that 1/2 interest in a 2008 Ford Escape and 1/2 interest in a 2010 Ford Truck belongs to her and that 1/2 interest in the above property passes to her.</p>	NEEDS/PROBLEMS/COMMENTS:
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		Reviewed by: KT
		Reviewed on: 9/8/11
		Updates:
		Recommendation: SUBMITTED
		File 17 - Piercy

<p>Shawnt'e age: 13 years DOB: 5/4/1998</p> <hr/> <p>Deondre age: 12 years DOB: 3/4/99</p> <hr/> <p>Cont. from</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 5%;"></td> <td style="width: 85%;">Aff.Sub.Wit.</td> <td style="width: 10%;"></td> </tr> <tr> <td style="text-align: center;">✓</td> <td>Verified</td> <td></td> </tr> <tr> <td></td> <td>Inventory</td> <td></td> </tr> <tr> <td></td> <td>PTC</td> <td></td> </tr> <tr> <td></td> <td>Not.Cred.</td> <td></td> </tr> <tr> <td></td> <td>Notice of Hrg</td> <td style="text-align: center;">X</td> </tr> <tr> <td></td> <td>Aff.Mail</td> <td></td> </tr> <tr> <td></td> <td>Aff.Pub.</td> <td></td> </tr> <tr> <td></td> <td>Sp.Ntc.</td> <td></td> </tr> <tr> <td></td> <td>Pers.Serv.</td> <td style="text-align: center;">X</td> </tr> <tr> <td style="text-align: center;">✓</td> <td>Conf. Screen</td> <td></td> </tr> <tr> <td style="text-align: center;">✓</td> <td>Letters</td> <td></td> </tr> <tr> <td style="text-align: center;">✓</td> <td>Duties/Supp</td> <td></td> </tr> <tr> <td></td> <td>Objections</td> <td></td> </tr> <tr> <td></td> <td>Video Receipt</td> <td></td> </tr> <tr> <td></td> <td>CI Report</td> <td></td> </tr> <tr> <td></td> <td>9202</td> <td></td> </tr> <tr> <td style="text-align: center;">✓</td> <td>Order</td> <td></td> </tr> <tr> <td></td> <td>Aff. Posting</td> <td></td> </tr> <tr> <td></td> <td>Status Rpt</td> <td></td> </tr> <tr> <td style="text-align: center;">✓</td> <td>UCCJEA</td> <td></td> </tr> <tr> <td></td> <td>Citation</td> <td></td> </tr> <tr> <td></td> <td>FTB Notice</td> <td></td> </tr> </table>		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			Objections			Video Receipt			CI Report			9202		✓	Order			Aff. Posting			Status Rpt		✓	UCCJEA			Citation			FTB Notice		<p style="text-align: center;"><u>GENERAL HEARING: 11/1/11</u></p> <p>LILLIAN WADE, maternal grandmother, is petitioner.</p> <p>Shawnt'e's father: Deceased Deondre's father: unknown</p> <p>Mother: Deceased</p> <p>Shawnt'e's paternal grandparents: not listed Deondre's paternal grandparents: not listed Maternal grandfather: not listed.</p> <p>Petitioner states mom was killed in 2009. The children have lived with her ever since. They have no one else.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of personal service, 15 days prior to the hearing, of the Notice of Hearing along with a copy of the petition or consent and waiver of notice or declaration of due diligence on: <ol style="list-style-type: none"> a. Shawnt'e Russell (minor, age 13) b. Deondre Taylor (minor, age 12) c. Deondre's father (unknown) 3. UCCJEA does not include the minors' residence information for the past 5 years. Need residence information for 2006-2007. 4. UCCJEA is incomplete at question #4, Petitioner's knowledge of another court case or custody or visitation proceedings concerning a child subject to this proceeding. 5. UCCJEA is incomplete at question 6 Petitioner's knowledge of any person who is not a party to this proceeding who has physical custody or visitation rights with any child in this case. 6. Confidential Guardianship Screening form is incomplete. Petitioner failed to answer question 6 and questions 13-19. And failed to give the minor's contact information, questions 20-21. <hr/> <p>Reviewed by: KT</p> <hr/> <p>Reviewed on: 9/8/11</p> <hr/> <p>Updates:</p> <hr/> <p>Recommendation:</p> <hr/> <p>File 18 – Russell & Taylor</p>
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Opposition to Petitions for Appointment of Probate Conservator of the Person and for Appointment of Temporary Conservator of the Person filed by Benjamin Smith on 8/12/11. Opposition states under Probate Code §1800.3, no conservatorship may be established unless the court finds both (a) the need for the conservatorship, and (b) the conservatorship would be the “least restrictive alternative needed for the protection” of the proposed conservatee. Neither of these prerequisites is present here.

Mr. Smith states that on July 4, 2011 he was moved to Autumn Ridge assisted living facility in Kerman. Previously, he had been residing with his wife, Petitioner Jean Smith at the home they shared. Mr. Smith states he did not like living at Autumn Ridge, and with the help of his grandson, Mike (“Butch”) Smith, Jr. he left about four days later. Since then Mr. Smith states he has been living with his sister, Grace McCarter at her home in Fresno.

Mr. Smith states he has an account at Community Bank. The money in this bank account was primarily from the sale of real property that he had inherited. In July, 2011 Mr. Smith discovered that his wife had become a co-signer on the account. With Butch’s help, Mr. Smith obtained copies of bank statements and some checks had been written on the account. Mr. Smith discovered that since 2009, as much as \$50,000 had been taken from the account without his authorization. It appears that most of the checks or transfers were for Mr. Smith’s son, Mike Smith, Sr., or his business, Paradise Cleaners. On or about July 11, 2011 Mr. Smith arranged with the bank that to remove his wife as a signer, so no more money could be taken without his authorization.

In August 2011, Mr. Smith states he created a trust. He now holds the revocable trust as his separate property. Mr. Smith also executed a Durable Power of Attorney, naming Butch as his attorney-in-fact. Previously, Mr. Smith states he had executed an Advance Health Care Directive naming Butch as his health care agent. Mr. Smith states if he were to become incapacitated, his affairs and health care can be managed by Butch, which is less restrictive than a conservatorship.

Mr. Smith states he has been told that a temporary conservatorship of his person has already been established pending the hearing scheduled for September 14, 2011. This ex parte order is improper for two reasons. One, the petitioner failed to show that proper to Mr. Smith should be excused to protect Mr. Smith from “immediate and substantial harm,” as required by Probate Code §2250(k) and California Rule of Court 7.1062.. Second, petitioner in her petition for an ex parte order of temporary conservatorship failed to disclose Mr. Smith’s opposition to the appointment of a conservator, which was known to her as shown by his attorney’s letter dated 7/25/11.

Accordingly, Mr. Smith requests the court deny the petition for appointment of a temporary conservator and dismiss the petition for appointment of a probate conservator.

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

Age: 6	<p align="center"><u>GENERAL HEARING 10/18/11</u></p> <p>HEIDI BRYANT, Step-Mother was appointed temporary guardian on 08/25/11; expires 10/18/11.</p> <p>PATRICIA ANNE BOYER, maternal grandmother, is Petitioner.</p> <p>Father: JOSHUA COLASANTI</p> <p>Mother: JENNA COLASANTI – <i>consent and waiver of notice filed 09/02/11</i></p> <p>Paternal grandfather: UNKNOWN Paternal grandmother: CHARLENE MASSERIA</p> <p>Maternal grandfather: DECEASED</p> <p>Siblings: DESIREE COLASANTI, ARIANNA, JAIDEN COLASANTI</p> <p>Petitioner states that the minor’s father was recently incarcerated and is facing 10 charges. Petitioner states that the minor has lived with her most of his life and the minor wants to come back home to live with her in Merced and to attend his former school. Petitioner states that the minor’s life has been turned upside down, he has been kept away from his mother and has been exposed to domestic violence. Petitioner states that the minor needs safety and security.</p> <p align="center"><u>See Attached Page</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i>. 2. Need proof of personal service at least 5 court days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Temporary Guardianship or Consent and Waiver of Notice or Declaration of Due Diligence</i> for: <ul style="list-style-type: none"> - Joshua Colasanti (father) - Heidi Bryant (step-mother/temporary guardian) 	
DOB: 06/12/05			
Cont. from			
Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			x
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			x
<input checked="" type="checkbox"/> Conf. Screen			
<input checked="" type="checkbox"/> Letters			
<input checked="" type="checkbox"/> Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
<input checked="" type="checkbox"/> Order			
Aff. Posting			
Status Rpt			
<input checked="" type="checkbox"/> UCCJEA			
Citation			
FTB Notice			
<p>Updates: 9/13/11</p> <p>Contacts: copy of notes in file</p> <p>Recommendation:</p> <p>Reviewed by: JF</p> <p>File 20 – Colasanti</p>			

Cont'd***Declaration of Current Guardian Heidi Bryant in Opposition to the Petition and filed 9/12/11, states:***

- Petitioner Boyer has lied about the minor's health and safety in her (guardian's) care, in order to gain custody of the minor;
- Guardian has friends and church family that can attest that Petitioner's accusations untrue;
- Petitioner is physically handicapped with in-home support services as she is incapable of taking care of herself, and she also takes controlled narcotics on a daily basis;
- The minor is a happy and active boy who never cries or asks for his family, and she (guardian) does encourage positive conversation with the minor regarding his family and allows him to call them whenever he wishes;
- Guardian allows the minor to have supervised visits with his mother per the Court order, but mother has not followed the Court orders, and will make plans with guardian to see the minor but then will not show up to the visits, and will later suddenly call and demand to see the minor which interferes with the guardian and minor's daily schedules;
- Guardian has supervised the phone conversations between mother and the minor due to mother's cussing at the minor and down-talking the current guardian and his father, and mother's questioning of the minor which makes the minor uncomfortable;
- Placement of the minor with Petitioner would be detrimental to the minor and unsafe, for the reasons that the minor was originally removed from Petitioner Boyer's care.

Declaration of Father Joshua Colasanti in Opposition to the Petition and filed 9/12/11, states:

- The minor is a very active, playful and loving 6 year-old boy who loves his school in Fresno, is actively involved in sports and has a stable home with his current guardian Ms. Bryant;
- Petitioner Boyer has not been truthful in the allegations made in her Petition; she is also permanently handicapped and receives assistance from I.H.S.S., and always under the influence of narcotics due to her disability;
- Petitioner did not intervene when the minor's mother was using drugs and had custody of the minor; furthermore, mother did not provide a hair follicle test;
- Declarant (father) has never kept the minor from his mother or grandmother and has always complied with supervised visits; Petitioner and his mother have only seen the minor 3 times in 7 months;
- Declarant (father) and guardian Bryant have never shown the minor violence or put him in any kind of danger;
- The minor is happy and loved in his current home with his current guardian Ms. Bryant and it would be detrimental to remove him from there.

