

Status of Petition for Final Distribution

Age:		NEEDS/PROBLEMS/COMMENTS:  <b>OFF CALENDAR.</b> Petition for Final Distribution filed and set for hearing on 10/16/13
DOD:		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 9/23/13
		Updates:
		Recommendation:
		File 1 – Cloud

Probate Status Hearing Re: Filing Final Account / Petition for Final Distribution

Age:				<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>OFF CALENDAR.</b> Order for Final Distribution was signed on 8/7/13.
DOD:				
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
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<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		Reviewed by: KT		
		Reviewed on: 9/23/13		
		Updates:		
		Recommendation:		
		File 2 – Johnson		

**Probate Status Hearing Re: Filing Final Account / Petition for Final Distribution**

<b>DOD: 8/18/2007</b>	<b>PUBLIC ADMINISTRATOR</b> was appointed as Administrator of the Estate on 1/29/2008.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>OFF CALENDAR.</b> Petition for Final Distribution filed and set for hearing on 10/30/13.</p>	
	Letters issued on 1/30/2008.		
<b>Cont. from</b>	Inventory and Appraisal filed on 4/2/2008 shows the estate valued at \$203,000.00		
<b>Aff.Sub.Wit.</b>	<p><b>Creditor's Claims filed:</b></p> <ul style="list-style-type: none"> <li>• Department of Health Services - \$24,900.00</li> <li>• Department of Health Services - \$5,189.35</li> </ul>		
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>			
<b>Aff.Mail</b>			
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>			
<b>Conf. Screen</b>	First Account or Petition for Final Distribution was due 1/30/2009.		
<b>Letters</b>			
<b>Duties/Supp</b>			
<b>Objections</b>			
<b>Video Receipt</b>			
<b>CI Report</b>			
<b>9202</b>			
<b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
			<b>Reviewed by: KT</b>
			<b>Reviewed on: 9/23/13</b>
		<b>Updates: 9/24/13</b>	
		<b>Recommendation:</b>	
		<b>File 3 - Taylor</b>	

<b>DOD: 1/8/2009</b>	<p><b>JAMES L. ELDER</b> was appointed Executor with Full IAEA without bond and Letters issued on 3-3-09.</p> <p><b>Final Inventory and Appraisal filed 2-22-11 reflects a total estate value of \$205,337.78</b>, including \$66,337.78 cash and real property in Fresno and Tulare Counties.</p> <p><b>MANUEL N. VIERRA</b>, former attorney for Executor James L. Elder petitioned the court to be relieved as counsel. On 12/11/12 the court granted attorney Vierra's request and set a status hearing for the possible removal of the executor for failure to proceed timely with the estate.</p> <p><b>Minute Order dated 1/15/13</b> states disclosure given by the Court regarding Fresno State University. Mr. Elder informs the Court that he has been unable to obtain counsel. The court accepts James Elder's resignation and appoints the Public Administrator.</p> <p><b>Letters issued to the Public Administrator on 1/31/13.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>OFF CALENDAR.</b> Petition for Final Distribution filed and set for hearing on 10/30/13</p>		
<b>Cont. from 030113, 032913, 062813</b>				
<b>Aff.Sub.Wit.</b>				
<b>Verified</b>				
<b>Inventory</b>				
<b>PTC</b>				
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<b>Status Rpt</b>				
<b>UCCJEA</b>				
<b>Citation</b>				
<b>FTB Notice</b>				
				<b>Reviewed by: KT</b>
				<b>Reviewed on: 9/23/2013</b>
				<b>Updates:</b>
		<b>Recommendation:</b>		
		<b>File 4 - Jaquay</b>		

Atty Waite, Richard R.

Atty Barron, Richard B.

Probate Status Hearing Re: Filing Third Account

Age:		NEEDS/PROBLEMS/COMMENTS:  <b>OFF CALENDAR.</b> Order settling the third account was filed on 8/28/13.
DOD:		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
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Objections		
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9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 9/23/13
		Updates:
		Recommendation:
		File 5 – Herzog

**6A In the Matter of the Verni Family Trust**

**Case No. 10CEPR00639**

- Atty** Marchini, Joseph; Fashing, Peter; of Baker Manock & Jensen (for Petitioner Carmela DeSantis, daughter and Trust Beneficiary)
- Atty** Baldwin, Kenneth A.; Thompson, Timothy; Cunningham, Nikole; of McCormick Barstow (for Co-Trustees Antonietta "Rosa" Verni, daughter, and Nicola "Nick" Verni, son)
- Atty** Armo, Lance, sole practitioner (for Leonard "Dino" Verni, son)
- Atty** Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

**Status Hearing**

<p>Leonarda DOD: 7/31/2000</p> <p>Saverio DOD: 5/25/2009</p> <hr/> <p>Cont. from 120512, 010313, 022113, 032213, 052413, 062113, 062813, 083013</p>	<p><b>CARMELA DeSANTIS</b>, daughter and Trust Beneficiary, filed a <i>Petition to Remove Trustees; Appoint Receiver; Surcharge Trustees; Deny Trustees Compensation; Impose Constructive Trust on Assets; and Cause Proceedings to Trace and Recover Assets</i> on 7/26/2012. <b>CARMELA DeSANTIS</b> also filed on 7/26/2012 <i>Amended Objections to First Account Current of Trustee, and Objections to Second Account Current of Trustee</i>.</p> <p><b>NICOLA "NICK" VERNI</b>, son and Successor Trustee of the <b>SURVIVOR'S TRUST</b>, and <b>ANTONIETTA "ROSA" VERNI</b>, daughter and Trustee of the <b>MERGED FAMILY SUB-TRUST</b>, filed a <i>Response to Petition to Remove Trustees, etc.</i> on 9/27/2012.</p> <p><b>CARMELA DeSANTIS</b> filed a <i>Petition to Construe Trust Provision</i> on 7/26/2012; <b>NICK VERNI and ROSA VERNI</b> filed a <i>Response to Petition to Construe Trust Provision</i> on 9/27/2012.</p> <p><b>CARMELA DeSANTIS</b> filed a <i>Petition to Establish Claim of Ownership, in Favor of Trust, to Property and for Order Directing its Transfer to the Trustees to Hold in Trust</i> on 8/14/2012; <b>NICK VERNI and ROSA VERNI</b> filed a <i>Response to Petition to Establish Claim of Ownership</i> on 9/27/12.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Page 6B</b> is the <i>Petition to Remove Trustees, etc.</i></p> <p><b>Page 6C</b> is the <i>Petition to Construe Trust Provision</i>.</p> <p><b>Page 6D</b> is the <i>Petition to Establish Claim of Ownership in Favor of Trust to Property, etc.</i></p> <p><b>Continued from 8/30/2013.</b> Minute Order states Mr. Marchini and Ms. Cunningham are appearing via CourtCall. Mr. Marchini informs the Court that they are proceeding with discovery and there are no new developments to report. Parties waive any discovery cut-off dates. The court examiner is directed to review the file to verify if any documents requesting to bifurcate any issues has been received. The court examiner is directed to advise the parties if said documents have or have not been received by the Court.</p> <p><b>Note:</b> Matter is set for Court Trial on <b>12/6/2013 at 10:30 a.m. in Dept. 303.</b></p> <p style="text-align: center;"><b>~Please see additional page~</b></p>																																																			
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>Aff.Sub.Wit.</td><td></td></tr> <tr><td>Verified</td><td></td></tr> <tr><td>Inventory</td><td></td></tr> <tr><td>PTC</td><td></td></tr> <tr><td>Status Rep.</td><td style="text-align: center;">X</td></tr> <tr><td>Notice of Hrg</td><td></td></tr> <tr><td>Aff.Mail</td><td></td></tr> <tr><td>Aff.Pub.</td><td></td></tr> <tr><td>Sp.Ntc.</td><td></td></tr> <tr><td>Pers.Serv.</td><td></td></tr> <tr><td>Conf. Screen</td><td></td></tr> <tr><td>Letters</td><td></td></tr> <tr><td>Duties/Supp</td><td></td></tr> <tr><td>Objections</td><td></td></tr> <tr><td>Video Receipt</td><td></td></tr> <tr><td>CI Report</td><td></td></tr> <tr><td>9202</td><td></td></tr> <tr><td>Order</td><td></td></tr> <tr><td>Aff. Posting</td><td></td></tr> <tr><td>Status Rpt</td><td></td></tr> <tr><td>UCCJEA</td><td></td></tr> <tr><td>Citation</td><td></td></tr> <tr><td>FTB Notice</td><td></td></tr> </table>	Aff.Sub.Wit.		Verified		Inventory		PTC		Status Rep.	X	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		<p><b>~Please see additional page~</b></p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>Reviewed by: LEG</td></tr> <tr><td>Reviewed on: 9/25/13</td></tr> <tr><td>Updates:</td></tr> <tr><td>Recommendation:</td></tr> <tr><td>File 6A - Verni</td></tr> </table>	Reviewed by: LEG	Reviewed on: 9/25/13	Updates:	Recommendation:	File 6A - Verni
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**NEEDS/PROBLEMS/COMMENTS, continued:**

1. Need current status report for the 9/27/2013 hearing pursuant to Local Rule 7.5(B), which provides that in all matters set for Status Hearing, except if the required document is filed, a verified Status Report must be filed no later than 10 days before the hearing; notice of the status hearing with a copy of the Status Report shall be served on all necessary parties. Failure to comply with any part of this rule may result in the immediate imposition of sanctions.

***Petitioner Carmela DeSantis' Status Report filed by Joseph Marchini and Peter Fashing on 8/20/2013 [which report was previous to the last Status Hearing on 8/30/2013] states:***

- **Pending Petitions:** Petitioner has several petitions and several objections to trustee accountings pending before the Court in this matter:
  - (a) Petition to (1) Remove Trustees; (2) Appoint Receiver; (3) Surcharge Trustees; (4) Deny Trustees Compensation; (5) Impose Constructive Trust on Assets; and (6) Cause Proceedings to Trace and Recover Assets;
  - (b) Petition to Construe Trust Provision;
  - (c) Petition to Establish Claim of Ownership in Favor of Trust to Property and for Order Directing its Transfer to the Trustees to Hold in Trust;
  - (d) Objections to First Account Current and Report of Trustees and Petition for its Settlement;
  - (e) Amended Objections to the First Account Current and Report of Trustees; and
  - (f) Objections to the Second Account Current.
- **Additional Petitions:** The Trustees have provided, but not filed with the Court, accountings for 2011 and 2012; Counsel for Petitioner has reviewed those accountings in detail and will file objections to them which Petitioner proposed be tried with the pending petitions.
- **Discovery:** Early in this case, Petitioner served written discovery, to which the trustees have responded; the parties have agreed to an open extension of time for Petitioner to bring a motion to compel; in order to expedite the review of documents, and hopefully, the resolution of disputed transactions, Petitioner has retained a forensic accountant to review accounting records directly with the accountants retained by the Trustees;
  - Petitioner's accountant has met twice with the Trustee's accountant; the parties are in the process of scheduling an on-site review of relevant accounting records; the most recent review took place on **8/13/2013**;
  - Petitioner has requested deposition dates for the Trustees and their brother, **DINO VERNI**; Petitioner will also require depositions of the Trustees' accountant, possibly some third party vendors, and possibly some persons employed in the operation of Trust farm property; the parties anticipate taking these depositions in **September and early October**;
  - Petitioner previously proposed that the parties agree to waive percipient witness discovery cut-offs, and the Trustees are in agreement; Petitioner previously proposed that the parties agree to resolve discovery disputes on shortened noticed with the Court's assistance and consent, and the Trustees are in agreement.
- **Bifurcation:** Hearings on the various petitions and objections are scheduled for **12/6/2013**; Petitioner previously recommended severing the issue of tracing and valuing *inter vivos* gifts to a date after the Court has resolved the Trust interpretation issue set to be heard with the other petitions on **12/6/2013**, and the Trustees are in agreement.
- Petitioner has prepared a proposed stipulated order addressing the issues discussed under the [heading entitled "Discovery" above]; copy attached as *Exhibit A [noted below]*.

~Please see additional page~

Petitioner Carmela DeSantis has prepared a proposed Stipulation to Bifurcate Trial, to Waive Percipient Discovery Cut-Off, and to Provide Process for Discovery Dispute Resolution; and Proposed Order (attached as Exhibit A), stating in sum:

- The parties desire to conduct proceedings in the matter in an efficient and economical manner, and accordingly, have entered into this Stipulation;
- **Bifurcation:** Subject to Court approval, trial shall be bifurcated such that Trust interpretation issues raised in the *Petition to Construe Trust Provision* shall be tried and adjudicated first, and before trial and adjudication of any of the other petitions and objections [see *Stipulation for details*];
- **Resolution of Discovery Disputes:** The parties acknowledge that Local Rule 2.1.17 establishes a procedure for handling discovery disputes which includes a requirement that any party desiring to bring a motion to compel [...] must first request an informal Pretrial Discovery Conference to attempt to resolve any pending discovery disputes; [see *Stipulation for details re parties' agreement in the event a request for Pretrial Discovery Conference is granted*];
- **Waiver of Percipient Discovery Cut-Off:** The parties agree to waive the percipient discovery cut-off relevant to all available forms of discovery arising under applicable law and agree that the date for completion of discovery shall be deemed to be the date of trial; the parties waive the time limits for service of deposition notices and subpoenas, consumer notices and related documents; the parties shall agree to dates for depositions and, in the event they cannot, reasonable prior notice of not less than 3 court days shall be given.

**Note: Per Court instruction on 8/30/2013, the following message was emailed and faxed by the court examiner to the interested parties' attorneys on 9/6/2013:**

To all interested parties in the Verni Family Trust matter:

Minute Order dated 8/30/2013 directs, in pertinent part: "The court examiner is directed to review the file to verify if any documents requesting to bifurcate any issues has been received. The court examiner is directed to advise the parties if said documents have or have not been received by the Court."

Minute Order dated 2/21/2013 is the first instance in which the Court is informed that the parties are looking toward bifurcating some of the issues.

Based upon review of Court records, the Court is in receipt of one document specifically focused upon bifurcation of issues:

- **Proposed Stipulation to Bifurcate Trial, to Waive Percipient Discovery Cut-Off, and to Provide Process for Discovery Dispute Resolution; [Proposed] Order.**

This same document has been submitted twice to the Court as Exhibit A to the following filed documents: (1) Petitioner Carmela DeSantis' Status Report filed 6/11/2013; (2) Petitioner Carmela DeSantis' Status Report filed 8/20/2013. This Stipulation document is **not signed by the attorneys for the parties**: Joseph M. Marchini, Peter G. Fashing for Carmela DeSantis; Timothy L. Thompson for Nicola Verni and Rosa Verni. If the Stipulation is signed and filed with a request that the Court issue an order approving the Stipulation to Bifurcate Trial, the Court can consider it and sign a separately submitted Order approving a signed Stipulation. Status Reports filed since the 2/21/2013 hearing (statuses on 5/14/2013 and 5/23/2013) have each contained a paragraph regarding bifurcation relating to the *Petition to Construe Trust Provision*, consisting of essentially the same form and substance, as follows: "Petitioner Carmela DeSantis and the Trustees all agree to severing the issue of (a) **tracing and valuing inter vivos gifts made by Saverio Verni** to a date after the Court has resolved the issue of (b) **interpretation of the Equalization Provision of the Trust, which revolves around whether or not Saverio intended the Equalization Provision to include any lifetime gifts made by him to his children.**"

Severing the issues appears beneficial, per the statements in the pleadings, because in the event the Court rules in favor of Trustees on the trust interpretation issue (Trustees' position being that certain lifetime gifts alleged by Petitioner DeSantis were not actually gifts but rather were purchases by the respective transferees), then there will be no need to trace and value inter vivos gifts.

Per the Court's instruction, this email/fax serves to advise all interested parties of the above-referenced document regarding bifurcation that has been received by the Court. Please note that this document does not constitute a "request" to the Court to approve bifurcation as it is an unexecuted, proposed Stipulation attached as Exhibit A to the most recent Status Reports filed by Carmela DeSantis. The Status Reports **do not** request that the Court approve the proposed Stipulation, but simply state that the proposed Stipulation regarding bifurcation is attached as Exhibit A; the Status Reports **do** request continuances of the matter for 30 days from each status hearing.

[End of message to attorneys.]



Atty Marchini, Joseph; Fashing, Peter; of Baker Manock & Jensen (for Petitioner Carmela DeSantis, daughter and Trust Beneficiary)  
 Atty Baldwin, Kenneth A.; Thompson, Timothy; Cunningham, Nikole; of McCormick Barstow (for Co-Trustees Antonietta "Rosa" Verni, daughter, and Nicola "Nick" Verni, son)  
 Atty Armo, Lance, sole practitioner (for Leonard "Dino" Verni, son)  
 Atty Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

Petition to Construe Trust Provision [Prob. C. 17200]

Leonarda DOD: 7/31/2000	<p>CARMELA DeSANTIS, daughter and Trust Beneficiary, is Petitioner.                  Petitioner states:</p> <ul style="list-style-type: none"> <li>The <b>VERNI FAMILY TRUST of 1999</b> was created by SAVERIO VERNI and LEONARDA VERNI on 6/10/1999, and was amended once by Settlor on the following day, 6/11/1999; Leonarda died on 7/31/2000, thereby causing the Trust to be divided into three sub-trusts: the <b>VERNI MARITAL TRUST</b>, the <b>VERNI FAMILY TRUST</b>, (which was amended once during both Trustors' lifetimes), and the <b>VERNI SURVIVOR'S TRUST</b> (copies of Trusts attached as Exhibit A);</li> <li>The instant petition relates to a provision contained in the <b>SURVIVOR'S SUB-TRUST</b>; over Petitioner's objections, Trustees Nick and Rosa have provided a commingled accounting for the Merged Family and Survivor's Sub-Trusts, which fails to segregate each Sub-Trust's assets, liabilities, receipts and disbursements;</li> <li>The failure to appropriately segregate assets, liabilities, receipts and disbursements among the Sub-Trusts prevents the Court, trustee and beneficiaries from determining the size and holdings of the <b>SURVIVOR'S SUB-TRUST</b>; because the <b>SURVIVOR'S SUB-TRUST</b> will be used to fund the above-referenced equalization provision, any appropriate increase in size to that particular Sub-Trust will allow greater realization of the Trustor's intent and will provide a means for effectuating the equalization of prior distributions; conversely, any inappropriate decrease in the size of the <b>SURVIVOR'S SUB-TRUST</b> will undermine the Trustor's intent and deny the Trustee the ability to effectuate an equalization;</li> <li>The Trustee of the <b>SURVIVOR'S SUB-TRUST</b> believes that distributions made during Saverio's lifetime should <u>not</u> be considered for purposes of the equalization process; Petitioner believes this to be contrary to the language of the provision and intent of the Trustor.</li> </ul> <p>Petitioner requests a judicial declaration from the Court concerning the proper construction of Subsection 1, of Section B, or Article IV of the <b>SURVIVOR'S SUB-TRUST</b> [refer to copy of Trust or Paragraph 11 of Petition for exact language requiring apportionment of the residue of the trust estate into equal shares for Trustor's living children.]</p>	<p><b>NEEDS/PROBLEMS/ COMMENTS:</b></p> <p><b>Continued from 8/30/2013.</b> Minute Order states Mr. Marchini and Ms. Cunningham are appearing via CourtCall.</p> <p><b>Note:</b> Additional notes pages originally prepared with respect to this petition have been omitted.</p>
Saverio DOD: 5/25/2009		
Conf. from 100212, 120512, 010313, 022113, 032213, 052413, 062113, 062813, 083013		
Aff.Sub.W		
✓ Verified		
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Citation		
FTB Notc		
		Reviewed by: LEG
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		Updates:
		Recommendation:
		File 6C - Verni

**Atty** Marchini, Joseph; Fashing, Peter; of Baker Manock & Jensen (for Petitioner Carmela DeSantis, daughter and Trust Beneficiary)

**Atty** Baldwin, Kenneth A.; Thompson, Timothy; Cunningham, Nikole; of McCormick Barstow (for Co-Trustees Antonietta "Rosa" Verni, daughter, and Nicola "Nick" Verni, son)

**Atty** Armo, Lance, sole practitioner (for Leonard "Dino" Verni, son)

**Atty** Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)

**Petition to Establish Claim of Ownership, in Favor of Trust, to Property and for Order Directing its Transfer to the Trustees to Hold in Trust (Prob. C. 850, 17200.1)**

<p>Leonarda DOD: 7/31/2000</p> <hr/> <p>Saverio DOD: 5/25/2009</p> <hr/> <p>Cont. from 100212, 120512, 010313, 022113, 032213, 062113, 062813, 083013</p> <p><input type="checkbox"/> Aff.Sub.W</p> <p><input checked="" type="checkbox"/> Verified</p> <p><input type="checkbox"/> Inventory</p> <p><input type="checkbox"/> PTC</p> <p><input type="checkbox"/> Not.Cred.</p> <p><input type="checkbox"/> Notice of Hrg</p> <p><input type="checkbox"/> Aff.Mail</p> <p><input type="checkbox"/> Aff.Pub.</p> <p><input type="checkbox"/> Sp.Ntc.</p> <p><input checked="" type="checkbox"/> Pers.Serv.</p> <p><input type="checkbox"/> Conf. Screen</p> <p><input type="checkbox"/> Letters</p> <p><input type="checkbox"/> Duties/S</p> <p><input type="checkbox"/> Objection</p> <p><input type="checkbox"/> Video Receipt</p> <p><input type="checkbox"/> CI Report</p> <p><input type="checkbox"/> 9202</p> <p><input checked="" type="checkbox"/> Order</p> <p><input type="checkbox"/> Aff. Post</p> <p><input type="checkbox"/> Status Rpt</p> <p><input type="checkbox"/> UCCJEA</p> <p><input type="checkbox"/> Citation</p> <p><input type="checkbox"/> FTB Notice</p>	<p><b>CARMELA DeSANTIS</b>, daughter and Trust Beneficiary, is Petitioner.</p> <p><b>Summary of Petitioner's requests for specific relief:</b></p> <ol style="list-style-type: none"> <li>1. Determining that the following is property of the Trust estate:             <ol style="list-style-type: none"> <li>(a) <b>Almond crops:</b> (i) The almond meat inventory on hand at the date of Saverio's death; (ii) all almond crops grown on Trust land since Saverio's death; and (iii) proceeds from the sale of the almond inventory and crops;</li> <li>(b) <b>Olive crops:</b> (i) The olive oil, olive crop and olive inventory on hand at the date of Saverio's death; (ii) all olive crops grown on Trust land since Saverio's death; and (iii) proceeds from the sale of the olive oil, inventory and crops;</li> <li>(c) <b>Other crops (Stone Fruit, Grapes, Etc.):</b> (i) The inventory of other crop grown on Trust land, on hand at the time of Saverio's death but not reported in the Trustee's First Account; (ii) all such crops grown on Trust land since Saverio's death and during 2009; and (iii) proceeds from the sale of the inventory and crops;</li> <li>(d) <b>Other Inventory on Hand:</b> (i) The inventory of firewood and olive oil on hand at the time of Saverio's death but not reported in the Trustee's First Account; (ii) all such items produced from products grown on Trust land since Saverio's death and during 2009; [and (iii) proceeds from the sale of the other inventory;]</li> <li>(e) <b>Proceeds from Sale of Trust Real Property:</b> The money received by Nick and Dino from DeYoung Properties in connection with the option to purchase land and used by DeYoung Properties to actually purchase Trust land which sum is believed to be not less than <b>\$1,000,000.00</b>;</li> </ol> </li> <li>2. Directing each of the beneficiaries in possession or holding the property to transfer such property to the Trustees to hold for the benefit of the Trust and the appropriate Sub-Trust(s);</li> <li>3. Directing each of the beneficiaries in possession or holding any proceeds from the sale or exchange of any of the property to transfer such proceeds to the Trustees to hold for the benefit of the Trust and the appropriate Sub-Trust(s);</li> <li>4. For judgment in favor of the Trustees of the Trust against any beneficiary who received the Trust property and proceeds, in an amount to be determined and as required to compensate for all of the detriment and damages cause to the Trust; and</li> <li>5. For treble damages pursuant to Probate Code § 859.</li> </ol>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Continued from 8/30/2013.</b> Minute Order states Mr. Marchini and Ms. Cunningham are appearing via CourtCall.</p> <p><b>Note:</b> Additional notes pages originally prepared with respect to this petition have been omitted.</p> <hr/> <p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 9/25/13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 6D - Verni</b></p>
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7 Ben H. Smith (CONS/PE)  
 Atty Jaech, Jeffrey A. (for Conservatee)  
 Atty Amador, Catherine A. (for Michael H. Smith, Sr. – son)  
 Atty Kruthers, Heather H. (for Public Guardian – Conservator)

Status Hearing Re: Filing of the Inventory and Appraisal

Age: 85	<p><b>PUBLIC GUARDIAN</b> was appointed Conservator of the Person and Estate on 01/13/13.</p> <p><b>Inventory &amp; Appraisal, Partial No. 1 filed 05/14/13 - \$0.00</b></p> <p><b>Status Conference Statement</b> filed 05/31/13 by Michael H. Smith, Sr. states: The parties are currently awaiting the completion of the Inventory &amp; Appraisal by the Public Guardian. Declarant states that conservatee's grandson, Michael H. Smith, Jr. ("Butch") has failed to provide certain bank account records required by the Public Guardian, despite his previous assurances to the Court that all such records would be provided promptly. Months have passed and these records are needed to determine the use of certain funds belonging to conservatee which were distributed to Butch for the benefit of the conservatee. The Conservator's inability to obtain these records is preventing them from completing the Inventory &amp; Appraisal.</p> <p>Once the Inventory &amp; Appraisal is complete, the parties need to collaborate to divide the community estate belonging to conservatee and his deceased wife, so that her portion of the estate can be distributed according to her estate plan. This work is also being delayed due to the lack of cooperation demonstrated by Butch.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b><u>CONTINUED FROM 09/20/13</u></b></p> <p>1. Need <b>Final Inventory &amp; Appraisal</b> <u>or</u> current written status report pursuant to Local Rule 7.5, which states: In all matters set for status hearing, verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>	
Cont. from 061813, 081613, 092013			
Aff.Sub.Wit.			
Verified			
Inventory			x
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: JF	
		Reviewed on: 09/24/13	
		Updates:	
		Recommendation:	
		File 7 – Smith	

**Probate Status Hearing Re: Failure to File Inventory and Appraisal; Failure to File First Account**

<b>Age: 51</b>	<p><b>CARL HAWK</b>, husband, was appointed Conservator of the Person and Estate on 10/27/11.</p> <p><b>Letters of Conservatorship</b> were issued on 10/28/11.</p> <p><b>Inventory &amp; Appraisal was due in March 2012.</b></p> <p><b>The First Account was due in October 2012.</b></p> <p><b>Status Hearing Report filed 06/20/13 states:</b> The conservatee is to receive a profit sharing distribution from her previous employment at Simonian Packing Company. No distributions have been made to the conservatee as of yet and the conservator has been informed that there is an ongoing investigation by the Department of Labor arising from complaints with the profit sharing plan. Eric Tristan, investigator with the Department of Labor stated on 06/20/13 that the investigation is still on-going. He further indicated that it is a large investigation involving numerous parties, but that he is hopeful it will resolve soon. As the investigation is still ongoing, the conservator has still not been able to take possessions of any assets of the conservatorship estate and therefore is unable to file an Inventory &amp; Appraisal or Accounting. A continuance of 90 days is requested.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b><u>CONTINUED FROM 06/28/13</u></b></p> <p>As of 09/24/13, nothing further has been filed in this matter:</p> <ol style="list-style-type: none"> <li>1. Need Inventory &amp; Appraisal.</li> <li>2. Need First Account and Report of Conservator.</li> </ol>
<b>Cont. from 022213, 062813</b>		
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
<b>Inventory</b> x		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
	<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 09/24/13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 8 - Hawk</b></p>	

**Status Hearing Re: Filing of the First Account and/or Petition for Final Distribution**

<b>DOD: 04/13/12</b>	<b>DARRYL GRANT</b> , son, was appointed Administrator with Bond in the Amount \$89,000.00 on 06/12/12. Bond was filed 07/02/12 and Letters of Administration were issued on 06/15/12.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>CONTINUED FROM 08/09/13</b>  <b>Minute Order from 08/09/13 states: Administrator is to be personally present at next hearing. Mr. Teixeira informs the Court that he will have Darryl Grant at the hearing as long as he his physically capable. Motion on 09/10/13 is rescheduled for 09/27/13. Continued at the request of Counsel.</b></p> <p>2. Need <b>Accounting and/or Petition for Distribution</b> <u>or</u> current written status report pursuant to Local Rule 7.5, which states: In all matters set for status hearing, verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>	
<b>Cont. from 080913</b>	<b>Inventory &amp; Appraisal filed 07/20/12 - \$67,000.00.</b>		
<b>Aff.Sub.Wit.</b>	<p><b>Minute Order from hearing on 06/12/12</b> set this matter for Status regarding filing of the First Account and/or Petition for Final Distribution.</p> <p><b>Status Report: Declaration of J. Stanley Teixeira</b> filed 08/08/13 states: He has been unable to contact his client after many attempts. He has filed a Motion to be Relieved as Counsel that is set for hearing on 09/10/13.</p>		
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>			
<b>Aff.Mail</b>			
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>			
<b>Conf. Screen</b>			
<b>Letters</b>			
<b>Duties/Supp</b>			
<b>Objections</b>			
<b>Video Receipt</b>			
<b>CI Report</b>			
<b>9202</b>			
<b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
			<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 09/24/13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 9A – Grant</b></p>

**Notice of Motion and Motion to be Relieved as Counsel**

<b>DOD: 04/13/12</b>		<b>DARRYL GRANT</b> , attorney for Administrator, Darryl Grant, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>DARRYL GRANT</b> , son, was appointed Administrator with Bond in the Amount \$89,000.00 on 06/12/12.	<b><u>CONTINUED FROM 09/10/13 by the Court per minute Order dated 08/09/13</u></b>
<b>Cont. from</b>		Bond was filed 07/02/12 and Letters of Administration were issued on 06/15/12.	1. Minute Order from hearing on 08/09/13 moved this hearing from 09/10/13 to 09/27/13; however, the Notice of Hearing that was mailed to the relevant parties reflected the hearing date of 09/10/13. Need proof of service of <i>Notice of Hearing</i> for the re-set hearing date of 09/27/13.
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>	<b>Inventory &amp; Appraisal</b> showing the value of the estate at \$67,000 was filed 07/20/12.	
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>	<b>Petitioner states</b> that he has made numerous attempts to contact the Darryl Grant, but has not received a response. There has been no response to phone calls, visits to Mr. Grant's residence, or mailed letters.	
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	w/	
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
			<b>Reviewed by:</b> JF
			<b>Reviewed on:</b> 09/24/13
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 9B – Grant</b>

Atty Fanucchi, Edward L. (for Gerald Ishii – Beneficiary – Petitioner)  
 Atty Marshall, Jared (for Leslie Ishii – Co-Trustee – Respondent)

Petition of Beneficiary to Remove Successor Co-Trustees, Appoint Temporary Successor Trustee, and for Payment of Attorneys' Fees and Costs (Probate Code 15642, 16000, 16002, 16003, 16004, 16006, 16007, 16009, 16060, 16062, 17200, 17206)

Frank K. Ishii DOD: 11-10-93	GERALD ISHII, Beneficiary and Co-Trustee, is Petitioner.	NEEDS/PROBLEMS/ COMMENTS:
Lily Y. Ishii DOD: 3-7-05	Petitioner states he and <b>LESLIE ISHII</b> (Respondent) were named successor co-trustees of the <b>ISHII FAMILY TRUST DATED 3-3-92 (the "Trust")</b> . The Trust consisted of interests in 8 parcels of real property, stocks, bonds, securities, cash, and other assets in Prudential-Bache Securities, and 300 shares of common stock in <b>Frank K. Ishii &amp; Sons, Inc.</b> , a California corporation owned by the Settlor.	Continued from 7-2-12, 7-27-12, 8-31-12, 9-27-12, 11-26-12, 1-14-13, 2-25-13, 3-29-13, 5-17-13, 6-28-13, 8-30-13
Cont. from 070212, 072712, 083112, 092712, 112612, 011413, 022513, 032913, 051713, 062813, 083013	At the death of Frank K. Ishii on 11-10-93, two irrevocable and one revocable sub-trusts were created:	See Page 3 for details.
<input type="checkbox"/> Aff.Sub.Wit.	<ul style="list-style-type: none"> <li>• The <b>FRANK K. ISHII TRUST</b></li> <li>• The <b>ISHII FAMILY MARITAL DEDUCTION TRUST</b></li> <li>• The <b>ISHII FAMILY SUVIVOR'S TRUST</b> (revocable)</li> </ul>	
<input checked="" type="checkbox"/> Verified	On 3-15-95, <b>Lily Ishii</b> , individually and as Trustee of the Trust, assigned a 36.44% interest to the <b>FRANK K. ISHII TRUST</b> , a 13.56% interest to the <b>ISHII FAMILY MARITAL DEDUCTION TRUST</b> , and a 50% interest to the <b>ISHII FAMILY SUVIVOR'S TRUST</b> of the assets listed on Exhibit F, including accrued rent payable from the corporation of \$105,548 as of 11-10-93, a receivable due from the corporation of \$26,089 as of 11-10-93, and a proprietorship known as Lily's Hair Stylists consisting of furniture and fixtures, cash, supplies, inventory and goodwill.	
<input type="checkbox"/> Inventory	Lily Ishii died on 3-7-05 and he and <b>LESLIE ISHII</b> (Respondent) became Co-Trustees.	
<input type="checkbox"/> PTC	Pursuant to Section 5.02 of the Trust, the three sub-trusts were to be combined on the death of the surviving settlor and certain distribution was to occur:	
<input type="checkbox"/> Not.Cred.	<ul style="list-style-type: none"> <li>• \$75,000.00 to Sharon J. Shoji (daughter)</li> <li>• One-half of the remaining balance to Gerald</li> <li>• One-half of the remaining balance to Leslie</li> </ul>	
<input checked="" type="checkbox"/> Notice of Hrg	As to the corporation: Petitioner and Leslie each hold 300 shares individually and the Trust holds 300 shares. Petitioner and Leslie as individuals and as Co-Trustees may vote an equal number of shares, but have been in a deadlock as to the operation of the corporation since approx. 2007. As such, the corporation's status has become suspended with many tax liabilities remaining outstanding, which continues to decrease the value of the corporation.	
<input checked="" type="checkbox"/> Aff.Mail <span style="float:right">w</span>	<b>SEE PAGE 2</b>	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order <span style="float:right">X</span>		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: skc Reviewed on: 9-23-13 Updates: Recommendation: File 10A - Ishii

## PAGE 2

A meeting of the directors of the corporation was noticed on 6-3-10 by Gerald, who is secretary; however, the meeting did not occur because Leslie found the principal place of business of the corporation to be an inconvenient meeting location, although it is approx. one mile from her home. No meetings have occurred since. Because the corporation is one-third owned by the trust, the deadlock between the Co-Trustees is impairing the administration of the Trust and causing trust assets to lose value.

Petitioner requests that the Court remove both Co-Trustees of the Trust and subtrusts because due to hostility and lack of cooperation among Co-Trustees, administration of the Trust and sub-trusts continue to be impaired and trust assets neglected. Probate Code §§ 15642(a)(3), 17200(b)(10). The Trust does not appoint a successor trustee in the event of removal; rather, it provides only the manner of successor appointments should one of the two become unable to perform. Petitioner requests appointment of **BRUCK BICKEL** as Successor Trustee with compensation to be approved by the Court. Mr. Bickel consents to act. Petitioner requests appointment without bond for one year to allow the corporate affairs to be brought to order, with authority to apply for an extension by Mr. Bickel should the corporate affairs remain unresolved and the Trust assets undistributed. Petitioner believes this appointment is in the best interests of the Trust and sub-trusts, and those persons interested in the Trust estate.

**Petitioner requests that:**

1. **The Court temporarily and partially remove Gerald Ishii and Leslie Ishii as Co-Trustees of the ISHII FAMILY TRUST DATED 3-3-92;**
2. **The Court appoint Bruce Bickel as temporary Successor Trustee to serve without bond for a period of one year, with the ability of Mr. Bickel to petition the Court for additional time should the corporate affairs remain deadlocked;**
3. **The Court award reasonable compensation to the temporary Successor Trustee;**
4. **The Co-Trustees to deliver the Trust assets to the temporary Successor Trustee within 30 days after issuance of an Order;**
5. **The Court order Leslie Ishii to file an accounting with the Court detailing their respective acts as Co-Trustees no later than four weeks after the Court makes its order;**
6. **The Court order Petitioner's attorneys' fees in the amount of \$1,000.00 and costs advanced to be paid to such attorneys directly from the Trust, to be charged 100% to income, and paid within 10 days after the Court makes its order; and**
7. **Such further orders as the Court deems proper.**

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**Objection of LESLIE ISHII states this probate proceeding is not the proper forum or vehicle to resolve such corporate issues.** This lawsuit is premature at best and legally inapposite to the issues it proposes to resolve at worst. The corporation is deadlocked; however, the instant petition filed as a trust proceeding does not request any form of relief that will serve to end the shareholders' deadlock and restore the corporation to operational status. Specifically, the appointment of a neutral third party trustee will not resolve any issues with regard to the operation of the corporation. While a trustee may have the right to vote shares of stock held in trust, a trustee's paramount duty is to distribute trust property pursuant to the terms of the trust instrument. Here, the trust instrument requires the residue be distributed one-half each to Petitioner and Respondent. If a neutral third party trustee is appointed, he will be obligated to distribute the shares held in trust accordingly, not to vote the shares, and, in effect run the business of the corporation.

Respondent has no objection to the immediate equal distribution of the shares of the corporation currently held in trust. In the likely event that said distribution does not resolve the deadlock, however, Petitioner's only recourse will be to file a lawsuit for involuntary dissolution in the unlimited civil department of the Superior Court.

**SEE PAGE 3**

PAGE 2

Respondent requests that the Court issue an order requiring the Co-Trustees to immediately distribute 150 shares of Frank K. Ishii & Sons, Inc., each to Petitioner and Respondent, and for reasonable attorneys' fees and costs incurred herein.

Alternatively, Respondent requests the Court issue an order removing Petitioner and Respondent as Co-Trustees, but only as to their fiduciary ownership of the Trust's 300 shares of Frank K. Ishii & Sons, Inc.; appointing Bruce Bickel as temporary successor trustee without bond solely for the purpose of administering the Trust's 300 shares of Frank K. Ishii & Sons, Inc.; authorizing Mr. Bickel to petition to continue to serve should it be in the best interests of the beneficiaries or the affairs of the corporation that he remain in such role; awarding reasonable compensation to the temporary Successor Trustee; requiring the Co-Trustees to deliver the shares of Frank K. Ishii & Sons, Inc., to the temporary Successor Trustee by a date certain; for reasonable attorneys' fees and costs incurred herein; and for any and all other relief the Court deems just and proper.

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**Status Report filed 1-7-13 by Attorney Fanucchi states** further continuance is needed. Gerald Ishii maintains his brother Leslie is wasting the vineyard known as Candy Ranch by inappropriately pruning, tying, tilling, chemical control, and irrigating control which has diminished the value of the realty.

**Status Report filed 1-9-13 by Attorney Burnside states** inquiry has been made to Les' accountant Jim Horn whether he has any documents in his possession regarding the expenses Les incurred to operate the Candy Ranch, but Mr. Horn has been unable to review his files due to his year-end workload. Counsel will follow up this week.

**Status Report filed 2-19-13 by Attorney Fanucchi states** Gerald Ishii is unable to accept or reject what has been presented to date and has forwarded information to his accountant. Further continuance is needed.

**Status Report filed 2-19-13 by Attorney Burnside states** the accountants had to reschedule their meeting and further continuance is needed.

**Minute Order 5-17-13:** Ms. Burnside advises the Court that they have resolved a few things and are making progress. Ms. Burnside further advises that the CPSs are still trying to get together.

**Minute Order 6-28-13:** Continued to 8-30-13.

**Minute Order 8-30-13:** Counsel informs the Court that they will be going forward with the evaluation of the property and meeting with the accountants. The Court notes that this is the eleventh appearance and parties have been waiting for information that can only be provided by the accountants. Parties are informed that the Court will be expecting a declaration to be submitted before the next hearing. Continued to 9/27/13.

**Status Conference**

Frank K. Ishii DOD: 11-10-93	GERALD ISHII, Beneficiary and Co-Trustee, filed the petition at Page 6A on 5-17-12.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
Lily Y. Ishii DOD: 3-7-05	LESLIE ISHII, Beneficiary and Co-Trustee, filed an objection on 6-21-12.	<b>Note: See Page 4A for details of the petition and file to date.</b>
Cont. from 032913, 051713, 062813, 083013	Hearings have been continued since 7-2-12.	<b>Minute Order 8-30-13:</b> Counsel informs the Court that they will be going forward with the evaluation of the property and meeting with the accountants. The Court notes that this is the eleventh appearance and parties have been waiting for information that can only be provided by the accountants. Parties are informed that the Court will be expecting a declaration to be submitted before the next hearing. Continued to 9/27/13.
Aff.Sub.Wit.	At the last hearing on 2-25-13, counsel requested continuance and in addition to continuing the petition at 6A, the Court set this additional status hearing.	
Verified	<b>As of 8-27-13, both attorneys have filed status reports requesting additional time to resolve the issues. Both attorneys request additional time.</b>	Reviewed by: skc
Inventory	<b>Ms. Burnside states</b> the accountants continue to work together to resolve the accounting issues, and Les and his attorney anticipate being able to resolve the issues and the parties, their counsel, and their accountants continue to work together.	Reviewed on: 9-23-13
PTC	<b>However, Mr. Fanucchi states</b> the accounting information that is needed to help resolve the issues is not forthcoming.	Updates:
Not.Cred.		Recommendation:
Notice of Hrg		File 10B - Ishii
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		



Probate Status Hearing Re: Failure to File Annual or Biennial Account

Age:		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><b>OFF CALENDAR.</b> Eighth and Final Account filed and set for hearing on 10/15/13</p>
DOD:		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 9/23/13
		Updates:
		Recommendation:
		File 12 – Peterson

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; Thompson, Timothy L.; Cunningham, Nikole E.; of McCormick Barstow (for Nicola Verni, son, and Antonietta R. Verni, daughter, Trustees)  
 Atty Jaech, Jeffrey A.; Marchini, Joseph M.; of Baker Manock & Jensen (for Carmela DeSantis, daughter and beneficiary)

Status Hearing

DOD: 5/25/2009	<p><b>ERLINDA M. VERNI</b>, 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><b>ANTONIETTA ROSA VERNI</b>, daughter and Successor Trustee of the <b>VERNI FAMILY TRUST</b> and the <b>VERNI MARITAL TRUST</b>, and <b>NICOLA VERNI</b>, son and Successor Trustee of the <b>VERNI SURVIVOR'S TRUST</b>, 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><b>Progression of this matter most recently culminated in a Statement of Decision filed 3/14/2013</b>, which ordered, among the substantive holdings, that the parties shall contact the Clerk of Department 303 to set a mutually agreeable date for this Status Conference of no more than 30 minutes regarding outstanding issues remaining before the Court.</p> <p><b>Notice of Setting Hearing (Probate) filed 6/28/2013</b> set this Status Hearing on <b>8/30/2013 at 9:00 a.m. in Department 303.</b></p> <p style="text-align: center;">~Please see additional page~</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Continued from 8/30/2013.</u> Minute Order states Mr. Marchini and Ms. Cunningham are appearing via CourtCall. Mr. Childs informs the Court that he has tried to certify this matter for appeal, but it was rejected. Matter continued to 9/27/2013. Trial date to be addressed at the next hearing.</p> <p>2. Need current status report for the 9/27/2013 hearing pursuant to Local Rule 7.5(B), which provides that in all matters set for Status Hearing, except if the required document is filed, a verified Status Report must be filed no later than 10 days before the hearing; notice of the status hearing with a copy of the Status Report shall be served on all necessary parties. Failure to comply with any part of this rule may result in the immediate imposition of sanctions.</p>	
Cont. from 083013			
Aff.Sub.W.			
Verified			
Inventory			
PTC			
Status Rpt			X
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/S			
Objection			
Video Receipt			
CI Report			
9202			
Order			
Aff. Post			
Notice Creditors			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: LEG	
		Reviewed on: 9/25/13	
		Updates:	
		Recommendation:	
		File 13 – Verni	

**Trustees' Status Report filed 8/16/2013 [which report was filed previous to the last status hearing] by Attorney Nikole Cunningham on behalf of Trustees NICOLA VERNI and ROSA VERNI states:**

- The parties engaged in a 2-day Court Trial heard on 6/1/2012 and 6/11/2012, in order to determine the validity of the Post-Marital Agreement executed by Saverio Verni and Erlinda Verni;
- At the conclusion of the trial, the Court ruled that the Post-Marital Agreement was valid and enforceable;
- However, it left open the question of whether any community property had accumulated between the date of marriage and the date that the Post-Marital Agreement was executed;
- In its *Statement of Decision*, the Court directed the parties select a mutually agreeable date for a status conference regarding Phase II of the case;
- After the Court issued its ruling, [Attorney Cunningham] called and emailed Mr. Childs several times in order to select a mutually agreeable date for the status conference per the Court's request in its *Statement of Decision*; however, a date was never selected;
- After speaking with Mr. Childs in approximately May 2013, it was my understanding that he was planning on attending the hearing on 6/28/2013 in the Trust Administration matter [10CEPR00639], and we planned on asking the Court at that time to set this matter for a status conference;
- Attorney Cunningham attended the 6/28/2013 hearing in the Trust Administration matter; due to other scheduling conflicts, Mr. Childs did not appear at the hearing; however, Attorney Cunningham requested the Court set this matter for a status conference pursuant to her discussions with Mr. Childs; after the hearing, her assistant sent Mr. Childs an email informing him of the status conference on 8/30/2013;
- After the Court issued its ruling on the validity of the Post-Marital Agreement, there has been little to no progress from Petitioner Erlinda Verni regarding proceeding with Phase II of this matter;
- Attorney Cunningham has followed up with Mr. Childs several times; however, to date no progress has been made by Petitioner to proceed with Phase II.

Status Hearing Re: Filing of the First Account or Petition for Final Distribution

<b>DOD: 03/25/2012</b>	<b>DAVID BRANDL</b> , son, was appointed Executor with full IAEA authority without bond on 05/30/2012.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	Letters issued on 05/30/2012.	
<b>Cont. from 072613</b>		
<b>Aff.Sub.Wit.</b>	<b>Status Report of Attorney J. Stanley Teixeira filed 09/27/2013</b> states since the last report, Mr. Brandl has been actively working with RBC Wealth Management to effect sale of stock held by the estate.	
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>	Ms. Gail Carver of RBC Wealth Management informed Attorney Teixeira that the sale should be "completed in about a week."	
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>	Beneficiaries of the estate have executed waivers of accounting, copies of which are attached hereto as Exhibit "A" and incorporated herein by reference.	
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>	A draft of the petition for final distribution has been prepared. Upon receipt of information about the sale amount for the stock it will easy to complete the petition and have Mr. Brandl review and sign it so that it may be filed with the Court.	
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by:</b> LV
		<b>Reviewed on:</b> 09/24/2013
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 14 – Brandl</b>

Status Hearing Re: Filing of the First Account and/or Petition for Final Distribution

Age:				<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>OFF CALENDAR.</b> Order for Final Distribution signed on 2/27/13.
DOD:				
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.			
<input type="checkbox"/>	Notice of Hrg			
<input type="checkbox"/>	Aff.Mail			
<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 type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		Reviewed by: KT		
		Reviewed on: 9/23/13		
		Updates:		
		Recommendation:		
		File 15 – Silva		

Status Hearing Re: Filing of the Inventory and Appraisal

<b>DOD: 3/31/2010</b>	<p><b>JOSPEH W. MARTIN</b> was appointed Administrator with full IAEA authority and without bond on 3/28/2013.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>
	<p>Letters issued on 3/29/2013.</p>	<p><b>Continued from 8/30/13. As of 9/23/13 the following issues remain:</b></p>
<b>Cont. from 083013</b>	<p>Minute Order dated 3/28/2013 set this status hearing for the filing of the inventory and appraisal.</p>	<p>1. Need <b>final</b> inventory and appraisal or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>	<p>Inventory and Appraisal, part 1, was filed on 3/26/2013 showing a value of \$95,000.00</p>	<p>2. Inventory and Appraisal, part 1, filed on 3/28/2013 was not signed by the attorney as required. California Rules of Court, Rule 7.501(c).</p>
<b>Inventory</b>		
<b>PTC</b>	<p>Inventory and Appraisal, supplemental, was filed on 5/7/13 showing a value of \$24,123.74</p>	<p><b>Reviewed by: KT</b></p>
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		<p><b>Reviewed on: 9/23/2013</b></p>
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		<p><b>Updates:</b></p>
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		<p><b>Recommendation:</b></p>
<b>Conf. Screen</b>		
<b>Letters</b>		<p><b>File 16 – Martin</b></p>
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		

Status Hearing Re: Filing of the Inventory and Appraisal

Age:		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><b><u>OFF CALENDAR</u></b></p> <p>Partial I&amp;A filed 7-29-13, Final I&amp;A filed 9-19-13</p>
DOD:		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: skc
		Reviewed on: 9-23-13
		Updates:
		Recommendation:
		File 17 – Bradley

**Status Hearing Re: Filing of the Inventory and Appraisal**

<b>DOD: 7-1-12</b>	<p><b>GEORGE P. PAPPAS</b> was appointed Executor with Full IAEA without bond on 4-25-13 and Letters issued on 5-1-13.</p> <p>At hearing on 4-25-13, the Court set this status hearing for filing the Inventory and Appraisal.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>1. Need Inventory and Appraisal or written status report pursuant to Local Rules.</b></p>
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
	<b>Reviewed by:</b> skc	
	<b>Reviewed on:</b> 9-23-13	
	<b>Updates:</b>	
	<b>Recommendation:</b>	
	<b>File 18 – Pappas</b>	



Status Hearing Re: Receipt of Blocked Account

<b>DOD: 8/21/12</b>	<p><b>GILDA N. WALKER</b> was appointed Administrator with full IAEA authority and bond set at \$187,115.00 on 7/15/13.</p> <p><b>Minute Order dated 8/16/13</b> states counsel informed the court that the bond had been denied again. The court on its own motion amended the Letters to reflect limited IAEA powers with a blocked account.</p> <p>Letters issued on 8/30/13.</p> <p>This status hearing was set for the filing of the receipt for blocked account in the amount of \$75,700.00</p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>OFF CALENDAR.</b> Receipt filed on <b>9/24/13.</b>
<b>Cont. from</b>		
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input type="checkbox"/> <b>Verified</b>		
<input type="checkbox"/> <b>Inventory</b>		
<input type="checkbox"/> <b>PTC</b>		
<input type="checkbox"/> <b>Not.Cred.</b>		
<input type="checkbox"/> <b>Notice of Hrg</b>		
<input type="checkbox"/> <b>Aff.Mail</b>		
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input type="checkbox"/> <b>Conf. Screen</b>		
<input type="checkbox"/> <b>Letters</b>		
<input type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
		<b>Reviewed by: KT</b>
		<b>Reviewed on: 9/24/13</b>
		<b>Updates: 9/25/13</b>
		<b>Recommendation:</b>
		<b>File 20A – Miles</b>

Probate Status Hearing Re: (1) Failure to File Inventory and Appraisal; (2) Failure to File a First Account or Petition for Final Distribution [Prob. C. 12200, et seq.]

<b>DOD: 3/24/01</b>	<p><b>LAUREN JEROME SEVERSON</b> was appointed Executor with full IAEA authority and without bond on 6/5/01.</p> <p>Letters issued on 6/6/01.</p> <p>Inventory and appraisal was due on 10/5/01.</p> <p><b>Note:</b> The Petition for Probate indicated the estate consisted of personal property valued at \$240,000.00 and real property valued at \$160,000.00.</p> <p>First account or petition for final distribution was due on 6/6/02.</p> <p>Notice of Status Hearing was mailed to the attorney on 7/31/13.</p> <p>A Request for Dismissal <b>denied</b> on 8/20/13 stating the estate must be properly closed.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Need Inventory and Appraisal, First Account or Petition for Final Distribution or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>		
<b>Cont. from</b>				
<b>Aff.Sub.Wit.</b>				
<b>Verified</b>				
<b>Inventory</b>				
<b>PTC</b>				
<b>Not.Cred.</b>				
<b>Notice of Hrg</b>				
<b>Aff.Mail</b>				
<b>Aff.Pub.</b>				
<b>Sp.Ntc.</b>				
<b>Pers.Serv.</b>				
<b>Conf. Screen</b>				
<b>Letters</b>				
<b>Duties/Supp</b>				
<b>Objections</b>				
<b>Video Receipt</b>				
<b>CI Report</b>				
<b>9202</b>				
<b>Order</b>				
<b>Aff. Posting</b>				
<b>Status Rpt</b>				
<b>UCCJEA</b>				
<b>Citation</b>				
<b>FTB Notice</b>				
			<b>Reviewed by: KT</b>	
			<b>Reviewed on: 9/24/13</b>	
		<b>Updates:</b>		
		<b>Recommendation:</b>		
		<b>File 21 – Severson</b>		

**Probate Status Hearing Re: Failure to File First Account or Petition for Final Distribution**

<b>DOD: 2/9/1996</b>	<p><b>PUBLIC ADMINISTRATOR</b> was appointed as Administrator, with full IAEA authority on 6/19/2001. Letters issued on 6/19/2001.</p> <p>Inventory and Appraisal filed on 8/8/2001 shows the estate valued at \$216,606.57 consisting of a default judgment of Raymond Carranza v. Joe Guerra, et al. Santa Clara County Superior Court case no. 720015 dated 8/8/1996.</p> <p>Department of Health Services filed a creditor's claim in the amount of \$7,335.22 on 9/4/01.</p> <p><b>Status Report filed on 8/20/13</b> states this case was referred to the Public Administrator by Attorney Richard Hyppa from Tracy CA. Attorney Hyppa represented the decedent in a 1992 Santa Clara County matter involving "swindle" of real property.</p> <p>On 1/27/2002, Deputy Public Administrator Nina Acosta appeared in Court for a Settlement Conference. No settlement was reached and the case was set for trial the following week. On 2/12/2002 Mr. Hyppa sent an email to the Public Administrator stating that the Judge had decided against him.</p> <p>If the judgment had been awarded, it would have been the sole asset of the estate. Therefore, the Public Administrator never had control of any other assets, and the estate remains insolvent.</p> <p>After receiving the Notice of Status Hearing, Deputy Public Administrator Noe Jimenez called Attorney Hyppa, who reported that the case was essentially lost due to the statute of limitations.</p> <p>The Public Administrator requests to have this estate dismissed and he be discharged. There were never any assets to marshal, so no accounting is required.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need proof of service of the Status Report on Department of Health Service pursuant to the Request for Special Notice filed on 8/29/2001.</li> <li>2. If the case is going to be dismissed then it should be on a noticed hearing after the filing of a petition requesting termination of proceedings for an insolvent estate.</li> </ol>
<b>Cont. from</b>		
<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		

<b>Reviewed by: KT</b>
<b>Reviewed on: 9/24/13</b>
<b>Updates:</b>
<b>Recommendation:</b>
<b>File 22 – Carranza</b>

DOD: 03/11/10		<p><b>OWEN R. OVERTON</b>, Administrator, is Petitioner.</p> <p>Account period: 06/03/10 – 03/31/13</p> <p>Accounting - \$665,255.84                  Beginning POH - \$521,763.15                  Ending POH - \$560,590.84</p> <p>Petitioner states that he intends to file a Petition for Final Distribution as soon as the sale of the real property asset of the estate is complete.</p> <p><b>Petitioner prays for an Order:</b></p> <ol style="list-style-type: none"> <li>Settling, allowing and approving the First Account.</li> </ol> <p><b>Objection to Petition for Settlement of First Account filed 06/14/13</b> states:</p> <ol style="list-style-type: none"> <li>Objector objects to Schedule A paragraphs 1, 2 and 3 in that it is incomplete and does not characterize the property of the real estate and the personal property as separate, quasi community or community property.</li> <li>Objector objects to Schedule B regarding the agreement that Ana Overton owes the estate \$11,484.77 for rent while living in her own apartment. Objector is 75 years old and her husband always promised her that she would have the units to live in and have money to live on. Objector felt pressured by Petitioner to make this agreement. Objector, as owner of the property should not have to pay rent to herself. If anything is owed, it would be \$2,871.19 to Owen Overton.</li> <li>Objector objects to Schedule D regarding the sale of personal items in that the items are not described and how the sale price as basis of \$5,655.00 was determined, and when the items were sold the Objector never received a Notice of Proposed Action as required by the Code.</li> <li>Objector objects to Schedule D items described as Involuntary conversion of \$16,108.09 of insurance proceeds as this is too broad and not understandable and should not be allowed.</li> <li>Objector objects to Schedule J, paragraph 2, that she owes \$16,108.09 as it is very vague and lacks specificity for the basis of the claim.</li> <li>Objector objects to Schedule J, paragraph 4 regarding money allegedly owed by Objector.</li> </ol> <p><b>Objector requests:</b></p> <ol style="list-style-type: none"> <li>The Court not approve the First Account as presented;</li> <li>The Court make a determination of the estate property as community property;</li> <li>For all other relief the Court may deem just and proper.</li> </ol>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>CONTINUED FROM 09/19/13</u></p> <p>Minute Order from 07/24/13 states: Ms. Overton will sign deed to allow sale of property. Execution of Documents necessary to close sale will not prejudice Ms. Overton on the on-going issues, especially not limited to her claim on property. Mr. Overton will put a percentage of money received into blocked account until issues are settled.</p>
Cont. from 062013, 072413, 091913			
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			

**Reviewed by:** JF  
**Reviewed on:** 09/25/13  
**Updates:**  
**Recommendation:**  
 File 1A – Overton

**Petition for Determination of Entitlement to Estate Distribution**

<b>DOD: 03/11/10</b>	<b>ANA D. OVERTON</b> , surviving spouse, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<b>Petitioner alleges:</b>	<b><u>CONTINUED FROM 09/19/13</u></b>
	1. The Administrator of the Estate has filed a Petition for Settlement of First Account.	<b>Minute Order from 07/24/13 states: Ms. Overton will sign deed to allow sale of property. Execution of Documents necessary to close sale will not prejudice Ms. Overton on the on-going issues, especially not limited to her claim on property. Mr. Overton will put a percentage of money received into blocked account until issues are settled.</b>
<b>Cont. from 072413, 091913</b>	2. A dispute exists between the Administrator and Petitioner, the decedent's widow, regarding whether all the assets of the Estate are separate or community property. Petitioner believes that all of the assets of the estate are community in character because the real estate that was recently sold was in the name of decedent and Petitioner and was transferred out of Petitioner's name without her full knowledge and understanding of the deed that was presented to her by the Administrator. The Petitioner and decedent were married from 1997 until his death.	1. Need Order.
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>		
<input type="checkbox"/> <b>Inventory</b>		
<input type="checkbox"/> <b>PTC</b>		
<input type="checkbox"/> <b>Not.Cred.</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>		
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	w/	
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input type="checkbox"/> <b>Conf. Screen</b>	3. Petitioner and decedent managed the real property together. Decedent owned the real property prior to the marriage and she helped him manage the property (an apartment complex) throughout their marriage.	
<input type="checkbox"/> <b>Letters</b>		
<input type="checkbox"/> <b>Duties/Supp</b>	4. In 2004, Decedent transferred the real property to himself and Petitioner as husband and wife. (Copy of Grant Deed attached to Petition as Exhibit 1).	
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>	5. On 09/11/07 without the knowledge of the Petitioner she executed a grant deed, recorded 09/24/07, transferring the property to her husband only and 20% to the Administrator (copy attached as Exhibit 2).	<b>Reviewed by:</b> JF
<input type="checkbox"/> <b>CI Report</b>		<b>Reviewed on:</b> 09/25/13
<input type="checkbox"/> <b>9202</b>	6. The 09/11/07 grant deed was presented to Petitioner for signature by the Administrator without explanation of the consequences to her if she signed it. Petitioner states that she was told that the grant deed was only for the units owned by she and the decedent.	<b>Updates:</b>
<input type="checkbox"/> <b>Order</b>		<b>Recommendation:</b>
<input type="checkbox"/> <b>Aff. Posting</b>		<b>File 1B – Overton</b>
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
	Continued on Page 2	

7. Also on 09/11/07, the decedent and Administrator (decedent's son), executed a Grant Deed to Robert G. Overton (decedent) and Ana D. Overton (Petitioner), Husband and Wife as joint tenants. The fact that two different deeds were executed on the same day demonstrates that someone was trying to pull something over on the Petitioner and in bad faith. (Exhibit 3).
8. There was no separate agreement signed by Petitioner nor was consideration paid to Petitioner when she signed the Deed. She did not have independent counsel review the documents before she signed it.
9. This was not the last time the Administrator presented a document to Petitioner to sign that turned out to be to her detriment. In April 2010, the Administrator presented a declination to serve as Personal Representative to Petitioner to sign without explaining to Petitioner what it was. Administrator presented the document to Petitioner stating that he needed her to sign it so that he could take care of the family owned apartment complex. Petitioner states that the Administrator came to her home at night and unduly influenced her to sign the declination to serve and wouldn't leave her home until she signed it.
10. The Administrator also unduly influenced Petitioner to sign the waiver of bond document. These documents were presented to Petitioner by the Administrator about 30 days after the decedent's death.
11. The real property located at 981 Pollasky in Clovis was community property and the proceeds of the sale of said property are therefore community property.
12. The Inventory & Appraisals filed in this matter fail to comply with Probate Code § 8850(c) and do not state whether or not the real and personal property was separate, community or quasi community property. This may be because the Administrator did not know the character of the property.

**Wherefore, Petitioner requests that the Court determine the character of the estate property and those who are entitled to distribution of the estate assets.**

**Objections and Response to Ana Overton's Petition for Determination of Entitlement to Estate Distribution** filed 07/19/13 by Owen R. Overton admits and denies portions of the Petition and states:

1. Respondent admits that there is a dispute between he and the Petitioner, decedent's widow. Respondent further admits that the decedent and Petitioner were married from November 1997 until the decedent's death.
2. Respondent alleges that the real property in question and all assets of the estate were the separate property of Decedent. Petitioner had previously held an interest in the real property with Decedent as joint tenants, but never as community property. Petitioner voluntarily and with full knowledge and understanding of the consequences deeded her interest to Decedent on or about September 11, 2007.
3. Respondent admits that Decedent owned the real estate prior to his marriage to Petitioner, but denies that Petitioner managed the units. Respondent and Decedent managed the units.
4. Respondent admits that Petitioner signed a deed transferring the real property to her husband as to 80% and to Respondent as to 20% but denies that Petitioner executed the deed without knowledge. On the contrary, the deed was read to Petitioner and explained to Petitioner by the agent of the lender that handled the transaction. Furthermore, Respondent commented that the deed was different in that it did not have Petitioner's name on it. Petitioner signed the deed voluntarily and with full knowledge of the consequences.
5. Respondent alleges that the deed was explained to Petitioner by an independent third party who presided over the transaction and notarized the document. Respondent also commented in Petitioner's presence that the deed was different than how title was held before.

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6. Respondent admits that there was a deed on the same date by Decedent and Owen Overton to Decedent and Ana D. Overton as joint tenants. Respondent believes that that deed was recorded prior to the other deed signed on that date. Respondent alleges that the purpose of the two deeds was not to "pull something over on Petitioner", but to enable Petitioner and Decedent to obtain a loan on the real property so that Decedent and Petitioner could spend the money. Decedent and Petitioner intended to temporarily take Respondent's name off the property so that Decedent and Petitioner could obtain a loan on the property in their name alone. Respondent alleges that the loan was obtained and Decedent and Petitioner intended to restore title to the property to its prior status before Decedent added Petitioner's name to the property, namely 80% to Decedent and 20% to Respondent. The deed of trust which resulted from this transaction was executed by Decedent and Petitioner alone and was recorded more than one month after the deed which Decedent and Petitioner granted the property 80% to Decedent and 20% to Respondent. Respondent alleges that the fact that the deed of trust executed by Decedent and Petitioner was recorded after the deed by which Petitioner relinquished her interest in the property causing the title company to take the position that there was a cloud on the title to the property. The sale of the property which was confirmed and ordered by this court on 06/05/13 has not yet closed because the escrow company, while acknowledging that Petitioner had relinquished title to the property, has asked that Petitioner sign the deed transferring the property to the respective buyer to clear up what the escrow company considers a cloud on the title caused by the deed and deed of trust which were recorded out of sequence. Petitioner has refused to sign the grant deed.
7. Respondent states that it is outrageous for Petitioner to allege that there was no consideration paid when the transaction resulted in a \$100,000.00 loan, proceeds of which Petitioner has received and spent.
8. Respondent admits that he presented a Declination to Act and Waiver of Bond to Petitioner but denies all other allegations regarding the presentation of these documents.
9. Petitioner has made no allegations regarding the characterization of the personal effects, jewelry, works of art, and household furniture and furnishings of the estate, but these items are separate property as well.
10. Even if it was determined that Petitioner signed the deed relinquishing her interest in the real property without understanding what she was signing, which is rejected by Respondent, it is impossible to conclude that the result is that Petitioner had a community property interest in the property. In fact, Petitioner and Decedent never characterized the property as community property; rather they characterized it as joint tenancy. Decedent also signed the deed by which Petitioner relinquished her interest in the real property and in doing so, Decedent severed the joint tenancy. If Petitioner had any interest in the property, it was limited by the fact that Decedent had severed the joint tenancy and the interest he retained after severing the joint tenancy was his separate property and it does not pass entirely to Petitioner, but passes pursuant to the laws of intestate succession for separate property.
11. Respondent further alleges that Petitioner has obstructed the administration of the estate. She has objected at every stage of the proceeding, including the petition for letters of administration. She has made repeated claims that she did not understand documents that she was signing or the meaning of various actions or proceedings in spite of the fact that she has been represented by at least two attorneys during the duration of the administration of the estate. There was a fire in Petitioner's apartment on the real property shortly after the administration of the estate opened which delayed the process of selling the property for almost 2 years. Thereafter, Petitioner expressed a strong desire to sell the property and pressured Respondent for the last year to find a buyer for the property. However, she attempted to thwart potential sales of the property by telling anyone who would listen that the property was not for sale. She shared confidential information by telling certain tenants what other tenants were paying in rent in an attempt to create dissension among the tenants.

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12. When Respondent finally procured a buyer for the property and gave notice of proposed action, Petitioner objected. Respondent then went to court to obtain an order confirming the sale. Again Petitioner objected, but the Court ordered the sale. Now the title company has required Ana's signature on the deed to clear a cloud on title, but she has refused to sign, further obstructing the sale and Respondent's efforts to comply with an Order of this Court.

**Wherefore, Respondent prays for an order as follow:**

1. That the Court determine that the character of all the estate property including the real property located at 981 Pollasky Avenue, Clovis, CA as well as the personal effects, jewelry, works of art, and household furniture and furnishings is the separate property of Decedent and that the entire estate should be distributed according to the laws of intestate succession for separate property.
2. That the Court order Petitioner to join in executing the deed transferring the real property located at 981 Pollasky Avenue, Clovis, CA to the buyer as ordered in the Order Confirming Sale of this Court on or about 06/05/13.