

Atty Molsenbocker, Gary L, sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

Status Conference Re: (1) Petition Requesting Relief for Breach of Fiduciary Duty; and (2) for an Accounting and (3) for Conversion of Personal Property and (4) for Elder Abuse and (5) for Damages

<p>Age: 90 years</p> <hr/> <hr/> <hr/> <p>Conf. from 021612, 041712, 050912, 071112, 081512, 092612</p> <table border="1" style="width: 100%;"> <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>Not.Cred.</td><td></td></tr> <tr><td>✓ Notice of Hrg</td><td></td></tr> <tr><td>✓ Aff.Mail</td><td>W/</td></tr> <tr><td>✓ Summons</td><td></td></tr> <tr><td>✓ Sp.Ntc.</td><td>W/</td></tr> <tr><td>✓ Pers.Serv.</td><td>W/</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>X</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		Not.Cred.		✓ Notice of Hrg		✓ Aff.Mail	W/	✓ Summons		✓ Sp.Ntc.	W/	✓ Pers.Serv.	W/	Conf. Screen		Letters		Duties/Supp		Objections		Video Receipt		CI Report		9202		Order	X	Aff. Posting		Status Rpt		UCCJEA		Citation		FTB Notice		<p>PUBLIC GUARDIAN, Conservator of the Person and Estate appointed 11/5/2008, is Petitioner.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> The Conservatee was at all relevant times a dependent adult under the care, custody and control of Respondent, VIRGINIA "GINGER" GREGGAINS, daughter; The Conservatee was not competent or capable of handling her personal finances or financial affairs and was entirely dependent upon Respondent to do so for her; Respondent had a confidential relationship with the Conservatee and her husband, ELMER FLY (DOD 11/8/2008), as their child; Petitioner alleges Respondent was responsible in some manner for the occurrences alleged herein and the damages proximately caused thereby; Elmer and the Conservatee executed a DECLARATION OF TRUST, ELMER V. AND JULIA B. FLY, naming Respondent as Successor Trustee; the Trust was amended several times, the latest being the <i>Third Amendment</i> dated 3/24/2008 (copy of Restated Trust and two subsequent amendments attached as Exhibits A, A-1 and A-2); Petitioner has no knowledge if there was an intervening amendment between the <i>Restatement of Trust</i> dated 9/25/2000 and the <i>Second Amendment</i> dated 2/7/2008; <p style="text-align: center;">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Page 1B is Second Account Current and Report of Conservator, etc. filed 2/14/2012 by Public Guardian.</p> <p>Page 1C is Petition for Confirmation of Actions of Attorney-in-Fact, Response to Petition Requesting Relief for Breach of Fiduciary Duty, for an Accounting, etc., and Objection to Second Account of Conservator filed 3/26/2012 by Virginia Greggains.</p> <p>Page 1D is the Petition Requesting Approval of Settlement Agreement in the Matter of: Petition Requesting Relief for Breach of Fiduciary Duty, etc. filed 8/14/2012 by Public Guardian.</p> <p>Continued from 9/26/2012. Minute Order states Matter continued to 10/16/2012. The Court directs Mr. Thornton to advise Mr. Knudson of the next hearing date.</p> <hr/> <p>Reviewed by: LEG</p> <hr/> <p>Reviewed on: 10/11/12</p> <hr/> <p>Updates:</p> <hr/> <p>Recommendation:</p> <p>File 1A - Fly</p>
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Petitioner states, continued:

- Respondent has been the sole Successor Trustee of the Trust since December of 2007 or early 2008, and she acted in several matters on behalf of the Conservatee and Elmer using General Durable Powers of Attorney (*copy attached as Exhibit B*);
- Petitioner possesses certain transactional documents and forms which Respondent signed in her capacity as "power of attorney in fact" in which she indicated she held the power for both Conservatee and Elmer, and these transactional documents conclusively establish that Respondent was acting in a fiduciary capacity for Conservatee;
- Petitioner possesses copies of a number of checks written on an account in the names of Conservatee, Elmer, and Virginia "Ginger" Greggains (Respondent); the transactions in this account are the prime source of a number of questionable expenditures made by Respondent from Conservatee's funds; the address on the checks is the personal residence of Respondent; a number of checks were written, signed and made payable to Respondent as well as to Respondent's husband, **STEPHEN ROY GREGGAINS**, each in the amount of **\$5,000.00**;
- In early 2008, Respondent contacted **SOUTAS & ASSOCIATES**, a firm engaged in Medi-Cal planning services, and in connection with the consultation, Respondent agreed to purchase an annuity on behalf of Conservatee and signed an application for an annuity with OM Financial Life Insurance on 5/29/2009 of **\$159,983.79**;
- On the annuity application, Respondent stated Conservatee held cash and investment accounts valued at **\$357,000.00**; the application contains handwritten entries detailing **\$82,000** in "Investment Experience and Holdings," **\$200,000** in "Money Market" accounts, and **\$75,000** in "Other Mutual Funds" accounts;
- As of 9/12/2008, the date of **PUBLIC GUARDIAN'S** appointment as temporary conservator, Respondent surrendered **~\$231,000.00** in accounts, and it appears that **\$120,000.00** in cash and investments accounts asserted to have existed by Respondent in May 2008 is missing;
- **Respondent should be ordered to account for all of the cash and investment accounts held by Conservatee from 12/1/2007 to the date Respondent surrendered the assets in her possession to the Public Guardian;**
- Respondent arranged for the removal and disposition of jewelry, motor vehicles, household furniture and furnishings, and several personal property items belonging to the Conservatee contained in her personal residence, in anticipation of the sale of the residence by Respondent; Petitioner alleges Respondent personally took and/or made gifts to family members of a number of the items from the residence, she sold some of the personal property at several yard sales, and she did not account to the principals for any of the proceeds or disposition of the items;
- Petitioner alleges that Respondent made gifts of motor vehicles that belonged to the Conservatee to family members without consideration; she removed and disposed of a number of plants growing on the residential property of Conservatee which are believed at the time to be worth thousands of dollars; she used funds belonging to the Conservatee to purchase and make improvements on her own residence, to make the down payment on a personal vehicle for herself, and to pay off a personal loan that she and her husband owned on a travel trailer;
- The Conservatee's financial status at present is tenuous at best; her annuity payments and monthly income are sufficient to fund her care for ~2 years; Petitioner has been unable to modify the annuity payments from the original terms to allow monthly payments, which combined with her income would sustain payments of **\$5,625.00 per month** to her residential facility; it is anticipated that additional funds will be necessary to sustain the Conservatee in her present environs.

~Please see additional page~

Petitioner states, continued:Causes of Action:

1. **Breach of Fiduciary Duty:** Respondent as Successor Trustee owed a fiduciary duty to the Petitioner and Respondent had a duty to exercise the utmost care, integrity, honesty and loyalty in her dealings with Conservatee's property in her capacity as attorney in fact for Conservatee or in her capacity as trustee of Conservatee's Trust; in breach of her fiduciary duty, Respondent deposited Trust funds into her own personal account; she took Conservatee's funds and used them for her own benefit, she took possession of Conservatee's personal property and the proceeds from sale of such property and converted those funds to her own use; the actions of Respondent accrued to the detriment of the Conservatee; Respondent know or should have known that her acts would accrue to the detriment of the Conservatee and that she did all of these acts in patent "bad faith" with the intent of depriving the Conservatee of her property without good and sufficient consideration and in violation of her duty to the Conservatee;
- Respondent has not rendered an account of her administration of the personal property and funds of Conservatee as required by law, and has not accounted to Conservatee or her legal representative for her actions as to the Conservatee's assets and their disposition; she has provided inaccurate and incomplete information regarding the assets taken for her benefit; **Petitioner requests the Court order Respondent to render a verified detailed account of her handling of the financial and personal affairs of the Conservatee from 12/1/2007 to the present and to serve that account to Petitioner within 90 days of the hearing.**
 - Respondent owed the Conservatee a duty to act in scrupulous good faith and absolute candor; Respondent breached her fiduciary duty to the Conservatee by failing to preserve the Conservatee's property, failing to deal impartially with the Conservatee's assets, failing to administer the affairs in Conservatee's best interest, failing to keep the Conservatee and her representatives reasonably informed, failing to keep Conservatee's property separate from her own property, converting Conservatee's property to her own use and enjoyment, and failing to maintain cash held on behalf of Conservatee in interest bearing accounts; Respondent should be ordered to respond in damages for each and every breach of fiduciary duty, wrongful act and/or both as provided for in the law;
 - Respondent's acts in this matter constitute breach of fiduciary duty, as she engaged in self-dealing, she breached her duties of loyalty and impartiality, and all acts of Respondent alleged herein were patently unfair and prejudicial to the interest of the Conservatee and her estate; Respondent failed to observe the directions and intent of the Settlers as expressed in their Trust, and all acts of Respondent in regards to the Trust were done "in bad faith" with intent to deprive Conservatee of property to which she is rightfully entitled and constitute breach of trust; **Petitioner alleges Conservatee is entitled to damages with interest as provided in the Code, or in the alternative that Respondent be ordered to pay damages in an amount equal to double the value of all property taken, concealed and/or disposed of by Respondent in bad faith according to proof.**
 - Petitioner alleges Respondent did all of the acts alleged with the intent to deprive the Conservatee of her property while she held a fiduciary relationship with Conservatee, and that any and all actions of Respondent were in violation of her fiduciary duty and **should be adjudged voided and set aside, and the assets or the value of the assets should be ordered returned and any loss incurred should be surcharged against Respondent.**

~Please see additional page~

Causes of Action, continued:

2. **Conversion:** The acts of Respondent as set forth constitute conversion of the Conservatee's property; Respondent without legal claim, privilege or right seized and disposed of the tangible personal property of the Conservatee, the Conservatee and/or her estate sustained damages thereby equal to the value of the property at the time it was converted by Respondent; **Respondent should be ordered to respond in damages proximately caused by her actions.**

3. **Abuse of an Elderly Person:** For a time period to be proven at trial, but no later than December 2007, the Conservatee was elderly, suffering from diminished mental capacity and was easily subjected to be taken advantage of by designing persons such as Respondents; with knowledge of this, each Respondent schemed to take advantage of the Conservatee and intended to cheat her out of her interest in the property; in furtherance of said scheme, which each Respondent concealed from the Conservatee, each Respondent exercised complete dominion and control over the Conservatee's assets and gained knowledge of her assets and property; the conduct of each Respondent resulted in the deprivation of Conservatee's assets which are necessary for her care and ongoing maintenance;
 - The conduct of each Respondent constitutes financial abuse under Welfare & Inst. Code § 15657 as defined in § 15610.30; each Respondent is guilty of recklessness, oppression, and fraud, and acted with malice against the Conservatee in the commission of the abuse; the conduct of each Respondent was in no way for the benefit of Conservatee and was willful and wanton, and was intended to cause injury to her; **the Conservatee is entitled to an award of exemplary or punitive damages;**
 - **Under Welfare & Inst. Code § 15657(a), each Respondent is liable to the Conservatee for reasonable attorney fees and costs, including reasonable fees for the services of the Public Guardian, as Conservator of her Estate, and their attorney for his services provided to litigate this claim necessitated by conduct of each Respondent.**

4. **Constructive Trust:** Respondent Greggains and the unnamed Respondents each have wrongfully taken, transferred, concealed and otherwise deprived the Conservatee of funds and/or personal property which rightfully belongs to her, and they therefore have become the involuntary trustees of said property for the benefit of the Conservatee; **Respondents should be ordered to surrender and deliver said property to the Conservatee and/or the Petitioner, her legal representative.**

Petitioner prays the Court Order:

1. Respondent must render a detailed and correct account for all property held and administered by her, either as Trustee and/or as agent under her power of attorney within 90 days of the date of the initial hearing, for the period from 12/1/2007 to the date she surrendered the Conservatee's funds and property to the Public Guardian;
2. Respondent must respond in damages for all property taken and/or wrongfully appropriated by her, or for funds and/or property that is missing or unaccounted for, together with interest at the legal rate per annum, from the date of the breach of trust and/or fiduciary obligation;
3. Respondent must respond in damages together with interest at the legal rate per annum from the date of breach of trust and/or fiduciary obligation;
4. Respondent and the unnamed Respondents must respond in exemplary damages for their outrageous, reckless, oppressive, fraudulent and malicious conduct in this matter;

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Petitioner prays the Court Order, continued:

5. In the alternative, Respondents must respond in damages in an amount equal to twice the value of property taken, concealed and/or disposed of by her "in bad faith;"
6. Respondent and the unnamed Respondents must respond in actual damages caused to the Conservatee by their conversion of her tangible personal property;
7. Respondent and the unnamed Respondents are found guilty of elder abuse and are assessed all the damages afforded the Conservatee under the law, including actual damages, exemplary damages, and attorney fees and costs;
8. A Constructive Trust is imposed on all assets taken by the Respondent and the unnamed Respondents for any property and sums the Court determines are rightfully due the Conservatee for their wrongful conduct; and
9. Attorney's fees and costs of suit are awarded as provided for in the law.

Atty Motsenbocker, Gary L, sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

(1) Second Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorneys (Prob. C. 2620, 2623, 2640, 2942)

Age: 90 years	PUBLIC GUARDIAN , Conservator of the Person and Estate appointed 11/5/2008, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Continued from 9/26/2012. Minute Order states Matter continued to 10/16/2012. The Court directs Mr. Thornton to advise Mr. Knudson of the next hearing date.
	Account period: 1/20/2010 – 1/19/2012	
Cont. from 032712, 041712, 050912, 071112, 081512, 92612	Accounting - \$313,100.83 Beginning POH - \$287,627.99 Ending POH - \$140,331.40 (\$128,831.40 is cash)	
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory	Conservator - \$3,660.40 (26.95 Deputy hours @ \$96/hr and 14.20 Staff hours @ \$76/hr)	
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	Attorney (County Counsel)- \$690.00 (4.6 hours @ \$150/her)	
<input checked="" type="checkbox"/> Aff.Mail W/		
<input type="checkbox"/> Aff.Pub.	Attorney (Motsenbocker) - \$6,863.83 (25.50 hours @ \$250/hr plus filing fee of \$395.00 and Fed Ex copies of \$93.83)	
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters	Bond fee - \$1,510.50 (o.k.)	
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt	Petitioner prays for an Order:	
<input checked="" type="checkbox"/> CI Report	1. Approving, allowing and settling the Second Account and Report of Conservator;	
<input type="checkbox"/> 9202	2. Authorizing conservator's compensation;	
<input checked="" type="checkbox"/> Order	3. Authorizing payment of attorney fees;	
<input type="checkbox"/> Aff. Posting	4. Authorizing payment of the bond fee.	
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: KT / LEG
		Reviewed on: 10/11/12
		Updates:
		Recommendation:
		File 1B - Fly

Atty Molsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

Petition for Confirmation of Actions of Attorney-in-Fact, Response to Petition Requesting Relief for Breach of Fiduciary Duty, for an Accounting, Etc., and Objection to Second Account of Conservator [Prob. C. 4541 et seq.; 1720 et seq; 850 et seq.; 16440(b) et seq; W & I Code 15657.5]

Age: 90 years	<p>VIRGINIA GREGGAINS (aka "GINGER"), daughter, is Respondent.</p> <p>Respondent states:</p> <ul style="list-style-type: none"> • She is the only child of Elmer and Julia Fly; prior to Elmer's death on 11/8/2008, he was under a conservatorship with the PUBLIC GUARDIAN as Conservator (Case 08CEPR00829), and those proceedings were concluded in 2010; • Julia continues under conservatorship with the Public Guardian as Conservator of her person and estate; • Elmer and Julia entered into a trust designated as the ELMER V. AND JULIA B. FLY TRUST, in which they declared they held various assets as Trustees; • On 9/25/2000, Elmer and Julia executed an AMENDED AND RESTATED DECLARATION of the Trust (copy attached as Exhibit A); • On 2/7/2008, Julia as Trustor and Trustee signed a purported "Second Amendment" to the Trust (copy attached as Exhibit A-1); • On 3/24/2008, Attorney MELISSA WEBB with [Dowling Aaron], which firm drafted the Flys' restated Trust, met with Julia and at or following that meeting Julia individually and as attorney-in-fact for Elmer executed a "Third" Amendment to the Trust (copy attached as Exhibit A-2); • The Third Amendment reversed the dispositive provisions of the Second Amendment and remains the most recent amendment to the Trust; <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 9/26/2012. Minute Order states Matter continued to 10/16/2012. The Court directs Mr. Thornton to advise Mr. Knudson of the next hearing date.</p>	
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Order			X
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
<p>Reviewed by: LEG/KT/LEG</p> <p>Reviewed on: 10/11/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1C - Fly</p>			

Respondent states, continued:

- Per the Restated Trust as amended by the Third Amendment, all assets are held in trust for the benefit of Elmer and Julia during their lifetimes and during the lifetime of the survivor; following Julia's death, the assets are to be distributed $\frac{1}{2}$ to **Ginger** and $\frac{1}{2}$ to the **Settlor's three grandchildren, ERIC (RICK) GREGGAINS, JULIE BANKS and TINA COX in equal shares;**
- Trust provides that on failure of the initial Trustees Elmer and Julia to act as Trustees, Ginger was to act as Successor Trustee, and the original Trust named **JULIE BANKS**, granddaughter, as an alternate, while the Third Amendment named Ginger's spouse, **STEPHEN ROY GREGGAINS** (Roy) as alternate successor trustee to Ginger;
- On 3/21/2008, Julia also executed a General Durable Power of Attorney (POA) (*copy attached as Exhibit B*), which designated Ginger as attorney-in-fact and Stephen as alternate agent;
- In December 2007, Elmer suffered a massive stroke and heart attack, and was moved several times to different care facilities due to his becoming violent and disruptive, and after a second heart attack, he was moved on 3/5/3008 to Alzheimer's Living Center at Elim ("Elim");
- In June 2008, after Julia's condition declined and was taken by ambulance several times to the hospital, she was required to live at Elim, as she could no longer live with Ginger and her husband in their home in the room they had prepared in August 2007 with safety rails and monitors for Julia and Elmer in the event they were no longer able to live independently;
- From the time of Elmer's hospitalization in December 2008, the family was constantly harangued by Ginger's daughter, **JULIE BANKS** and her husband **JOHN BANKS**, and they also had disrupted the living facilities, and had to be asked to leave or restricted from visiting Elmer and Julia at Elim;
- Elmer had asked John Banks after Elmer's hospitalization to remove guns from under Elmer's bed and put them in the gun safe at his residence; after the gun safe was checked at a later time, it was discovered the guns and **\$5,000.00** cash in the safe was missing; this and the Banks' disruptive conduct caused Julia mental suffering and anguish;
- Ginger and her husband have at all times followed the advice of physicians, hospitals and care providers for the care of Elmer and Julia; Ginger's intent was always to keep them well cared for;
- As it became evident Elmer and Julia would not return to their own residence, Ginger and family members with concurrence of Julia began cleaning out the residence to prepare it for sale with proceeds to be used for their care if needed; 50 years of belongings were sorted through;
- Following Julia's hospitalization, Ginger paid Elmer and Julia's bills, as she was a joint account holder with Elmer and Julia that was previously established, and their monthly **\$4,700.00** in social security and pensions was deposited into the account which was used to pay their bills;
- Ginger's action was taken first as daughter to provide care for her parents, and as attorney-in-fact under the POA; she did not specifically take actions as Trustee though she was designated successor trustee;
- **Medi-Cal planning to preserve assets:** Ginger sought advice regarding Elmer qualifying for Medi-Cal and the Elim staff referred her to **SOUTAS & ASSOCIATES**; Ginger followed their recommendations to qualify Elmer & Julia to receive Medi-Cal for their continuing care; Ginger was advised in order to qualify Elmer & Julia to move a substantial portion of their liquid assets, make certain pre-need arrangements, and that other funds could be transferred by gift in ways that would not cause ineligibility for Medi-Cal;

~Please see additional page~

Respondent states, continued:

- Julia agreed to the proposed plan and actions taken with her authorization included: prepayment of funeral expenses; payoff of loans, reimburse Ginger and her husband for remodeling expenses done for Elmer and Julia; purchase of annuity (**\$159,983.79**); payment of expenses and transfer of funds; and gifting totaling **\$87,000.00** in amounts not exceeding **\$5,000.00** to family members (*during May, June and July 2008; please refer to summary of dates of gifts and donees attached as Exhibit C*);
- Gifts were made to Ginger her husband Roy (**\$69,000**), Ginger's son Eric and his wife Trina (**\$6,000**), Ginger's daughter, Tina and her husband Curtis (**\$12,000**); because Julie Banks had removed herself from the family and adopted an adversarial position, Julie was not the recipient of any gifts;
- The funds gifted to Ginger and her husband were deposited into the account set aside for her parent's benefit at Washington Mutual and were used to pay certain expenses and costs; (*please refer to summary of transactions in the Washington Mutual account containing the \$69,000 gifted funds to Ginger for the benefit of Elmer and Julia, attached as Exhibit E*);
- Following appointment of Public Guardian as Conservator, the funds in the Washington Mutual account were transferred on 1/13/2009 to Deputy **YOUA HER** along with other accounts in Elmer and Julia's names; unfortunately, by transferring the funds back to Julia's name, the Flys no longer qualified for Medi-Cal;
- **Allegations regarding personal property:** In spring 2008, Ginger and family cleaned up the residence for sale, and held a yard sale where **\$1,400** was received and paid to Eric and Tina and their spouses for the work in readying the property for sale; the payment of **\$1,116** was for hauling away the remaining junk; this information is detailed in an email to Deputy Youa Her on 10/19/2008 (*copy attached as Exhibit G*); Ginger was acting within her POA authority in taking these actions;
- The vehicles were a 1994 truck which was given by Elmer and Julia gave to their grandson Rick and Rick's wife Trina insisted on paying **\$800.00**, and a check was given to Julia when she was managing her own finances; the 2004 Nissan Pathfinder was transferred to Trina in June 3008, as Julia signed it over to Ginger, but Ginger did not need it; the travel trailer acquired in 2006 for taking Julia and Elmer to Idaho had a loan balance due (purchase was made by turning in Ginger and Roy's own trailer as down payment) and per the Souta's recommendation the loan was paid off and trailer sold;
- Respondent (Ginger) is concerned that the Public Guardian's unwinding the annuity has been draining Julia's funds rather than having Julia's expenses paid in part by Medi-Cal, and that the funds will be dissipated more quickly than anticipated; Respondent has been advised that Elmer's pension could be received by Julia and provided this information to the Public Guardian, but they have failed to take action to secure these benefits;
- **Respondent's defense to the accusations of breach of fiduciary duty:** In all of Respondent's dealings she undertook whether under power of attorney or as trustee of her trust, she was in direct communication with her parents concerning the transactions; Julia was fully advised of the transactions and agreed to the gifts, to the Medi-Cal qualification and ratified the gifts and transactions taken on her behalf; Julia (the Conservatee) suffered no detriment as a result of the transactions and in fact Conservatee was benefited by enabling Medi-Cal qualification; at no time did Ginger act recklessly, wantonly or in bad faith, nor did she ever intend to deprive Julia of her property for any purpose; in all actions Ginger took on behalf of her mother and father, she acted with utmost good faith and fairness, with intent to enhance the quality of their living situation and to preserve their assets for their use; any actions taken were authorized under the POA, and all acts and transactions were reported to the Public Guardian Deputy Youa Her and information was fully and completely provided again and again;

~Please see additional page~

Respondent states, continued:

- If the Court determines that in some manner Respondent breached her fiduciary duty by an act not authorized by the trust, the POA or by express consent of Elmer or Julia, Respondent requests that any such breach be excused per Probate Code § 16440(b) such that the financial benefit accruing to Elmer and Julia exceeded any possible loss that might have arisen as a result of Respondent's actions which were taken reasonably and in good faith;
- **Conversion. Elder Financial Abuse. Constructive Trust:** Respondent denies that any of her acts as set forth in the petition with respect to Julia's property constitute conversion as claimed and denies any liability therefor; Respondent denies any financial elder abuse, as Julia did not suffer diminished mental capacity and remained aware of her financial affairs; Respondent has made it known to the Public Guardian that Julia was distraught over actions of harassment and physical and financial abuse by the Banks, but they have taken no actions to explore the charges; Respondent denies that she has wrongfully taken, transferred, concealed or otherwise deprived Julia of funds or personal property and denies she is the voluntary trustee of said property;
- **Respondent believes that Petitioner in bringing these allegations is bringing this petition in bad faith, despite having been in possession of the information set forth in this response, and the Public Guardian should be required to pay damages and attorney's fees to Respondent.**

Respondent's Objection to Petition and to Conservator's Second Account:

- Respondent renews her objection to the Conservator's Second Account that the Conservator has failed to obtain survivor's benefits due to the Conservatee from the Veteran's Administration;
- Respondent further objects to the bringing of the petition in that at all times since Petitioner's appointment as Conservator, Petitioner has been in possession of much of the information which is once again requested in the petition;
- Respondent further objects to the Public Guardian's petition to the extent that the account requests attorney's fees (which will further dissipate the estate) for the research and bringing of such a petition which will not benefit the Conservatee and will further reduce the assets available for her care, now that the Public Guardian has decimated the Medi-Cal planning that would have preserved assets for the Conservatee's benefit.

Respondent requests:

1. That the information set forth herein be accepted by the Public Guardian, and that upon its review the Public Guardian determine that Respondent has adequately and fully accounted for actions taken on behalf of Elmer and Julia Fly;
2. That the request of the Public Guardian for damages of any sort whatsoever be denied;
3. That the Court ratify, confirm and approve all acts taken by Respondent whether as attorney-in-fact under the POA or as trustee of the Elmer V. Fly and Julia Fly Trust as set forth herein; and
4. That the attorney's fees necessarily incurred by Respondent in responding to the allegations of the petition be paid by Petitioner.

Atty Molsenbocker, Gary L, sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

Petition Requesting Approval of Settlement Agreement in the Matter of: Petition Requesting Relief for Breach of Fiduciary Duty, and for an Accounting, and for Conversion of Personal Property, and for Elder Abuse, and for Damages

Age: 90 years	<p>PUBLIC GUARDIAN, Conservator of the Person and Estate appointed 11/5/2008, is Petitioner.</p> <p>Petitioner requests the Court approve the settlement agreement reached in this matter, based upon the following:</p> <ul style="list-style-type: none"> This matter involved the management, disposition and handling of the real and personal property of ELMER G. FLY (DOD 11/8/2008), and JULIA B. FLY (Conservatee), by their daughter, VIRGINIA "GINGER" GREGGAINS, Respondent; On 8/21/1997, Elmer and the Conservatee executed a DECLARATION OF TRUST, ELMER V. AND JULIA B. FLY, naming Respondent as Successor Trustee; the Trust was amended several times, the latest being the <i>Third Amendment</i> dated 3/24/2008; Pursuant to the Trust, all assets were to be held for the benefit of Elmer and Julia during their lifetimes and the lifetime of the survivor; following the death of the survivor, the assets are distributed 1/2 to Settlor's daughter Virginia, and 1/2 to Settlor's three grandchildren, ERIC ("RICK") GREGGAINS, JULIE BANKS, and TINA COX, in equal shares; On 3/21/2008, Julia executed a General Durable Power of Attorney designating Ginger Greggains to act as attorney-in-fact; STEPHEN ROY GREGGAINS, Ginger's husband, was designated as alternate attorney-in-fact; 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 9/26/2012.</u> <i>Minute Order</i> states Matter continued to 10/16/2012. The Court directs Mr. Thornton to advise Mr. Knudson of the next hearing date.</p>	
Conf. from 092612			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail			W/
Summons			
✓ Sp.Ntc.			W/
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
✓ Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

~Please see additional page~

Reviewed by: LEG
 Reviewed on: 10/11/12
 Updates:
 Recommendation:
 File 1D - Fly

Petitioner states, continued:

- Interested parties, including granddaughter Julie Banks, questioned Greggains' motives for her handling of Elmer and Julia's finances, her placement of Elmer and Julia in a care facility, the proposed sale of the Flys' residence, and the purchase of an annuity; at the request of Julie, proceedings initiated by the **PUBLIC GUARDIAN** as Conservator of the person and estate of Julia against Greggains for financial mismanagement, alleging breach of fiduciary duty and contending the disposition of the couple's assets were ill-advised and in contravention of the Flys' estate plan and existing Trust; Julie Banks insisted a formal accounting was necessary;
- Greggains response detailed the actions taken with the Flys' resources, with respect to Medi-Cal planning, and the purchase of the annuity; she provided an accounting of funds in her possession that were transferred or used for the benefit of Elmer and Julia, and an accounting of funds turned over to the Public Guardian; she objected to the Public Guardian's actions in changing the Annuity making Julia ineligible for Medi-Cal and to the Public Guardian's accounting and fees requested;
- Following several meetings between counsel and clients, the parties concluded it was in the best interest of the Conservatee and her estate that this matter be settled; it became apparent after lengthy discussions that Greggains had little or no liquid assets, the her real property was encumbered in excess of its fair market value, and her only source of income was Social Security benefits, such that she was in effect "judgment proof," and it became apparent that trial costs and expenses would be substantial and could be borne by the estate of the Conservatee, thus unnecessarily depleting her assets.

Petitioner states the parties entered into an agreement to settle and compromise in full the dispute by and between the Public Guardian and Greggains in order to avoid further expense, acrimony and controversy in regard to all issues raised and alleged; *(copy of the fully executed Mutual General Release and Settlement Agreement is attached as Exhibit A)*; a brief summary follows:

- (a) Any funds remaining in the Conservatorship estate upon Julia Fly's death, including any proceeds payable on the annuity contract, after payment of fees, costs and expenses, shall be paid to the named Trustee of the Trust to be distributed as part of the Trust;
- (b) The Public Guardian as Conservator of the Person and Estate of Julia withdraws and dismisses with prejudice its *Petition Requesting Relief for Breach of Fiduciary Duty, etc.*, and the Public Guardian waives any further accounting by Respondent Greggains as Trustee of the Trust or as Attorney in Fact for Julia;
- (c) Respondent withdraws and dismisses with prejudice her Objections to the Conservator's Second Account and for payment of attorney fees, Conservator fees and costs, and any and all objections which may be deemed in nature of a cross-complaint raised in her response;
- (d) Public Guardian agrees that it will initiate no further actions or complaints, nor initiate any other proceedings in this matter as to Respondent, including any civil and/or criminal actions.

Petitioner prays for an Order that:

1. The settlement of this matter is approved as prayed;
2. Any funds remaining in the Conservatorship estate upon the death of the Conservatee shall be paid to the Trustee of the **Elmer V. and Julia B. Fly Trust**, and that Respondent is to [agree] that any funds received by her, no matter the source, shall be paid to and held by the Trustee of the Trust;
3. The petition filed by the Public Guardian is dismissed with prejudice and any further accounting by Respondent is waived;

~Please see additional page~

Petitioner prays for an Order, continued:

4. The objections of the Respondent are withdrawn and dismissed with prejudice as to the Conservator's second account and for payment of attorney's fees and costs, as well as all objections raised by the Respondent in her response to the Public Guardian's petition and any and all objections raised by her which might be deemed in the nature of a cross-complaint; and
5. The Public Guardian shall initiate no further actions or complaints or other proceedings in that matter as to the Respondent as to the rights or damages allegedly sustained by the Conservatee.

Objection to Petition Requesting Approval of Settlement Agreement in the Matter of Petition for Relief for Breach of Fiduciary Duty; for an Accounting; for Conversion of Personal Property; for Elder Abuse; and for Damages filed on 9/21/2012 by JULIE BANKS, granddaughter of Conservatee, states:

- She objects to the settlement agreement [statements of factual background omitted];
 - In the spring of 2008, following Elmer's stroke and heart attack and move into the Alzheimer's center at Elim, Greggains purportedly determined that Elmer and Julia would not be able to return to their residence and began a systematic theft of all of their property; as part of that scheme, on 3/21/2008, Greggains caused Julia to execute a General Durable Power of Attorney, designating Greggains as attorney-in-fact, and **STEPHEN ROY GREGGAINS**, (Ginger) Greggains' husband, was named as alternate attorney-in-fact;
1. **Theft of Cash through purchase of Annuity:** After obtaining the Power of Attorney, Greggains contacted **SOUTAS & ASSOC. (S&A)** for the purported reason to qualify Elmer and Julia for Medi-Cal for the cost of their care; in reality it was to further her scheme to take assets out of the Trust, to countermand the inheritance directions of Julia and Elmer, and ultimately put money in her own pocket; the Annuity application submitted by Greggains on 3/29/2008 reveals that Greggains purchased a **\$159,983.79** Annuity and she and her husband (Stephen) listed themselves as the primary and contingent beneficiaries to the Conservatee, and did not list Settlor's grandchildren as instructed, nor was the beneficiary listed as the Trust as Greggains stated to the Court in a lie on 8/25/2008 (*copy of Reporter's Transcript attached as Exhibit D to the Declaration of Julie Banks in Support of Objection to Petition Requesting Approval of Settlement Agreement filed 9/21/2012*); Greggains elected the Annuity to pay out **~\$10.00** per month with the balance to be paid in 5 years, in order to maximize the benefit to her and her husband; Greggains' plan was obvious: take the money out of the Trust and hope that Julia and Elmer pass away before the Annuity matured; an Annuity that paid out **\$10.00** per month was not appropriate for a couple with substantial needs in their twilight years.
 2. **Theft of Conservatee's vehicles:** In 2008, Conservatee and Elmer owned and possessed a Nissan Pathfinder (~2004 model), and Objector believes that Greggains transferred the Pathfinder to her son, **ERIC GREGGAINS**, without value;
 3. **Theft of Conservatee's furnishings and personal belongings:** Greggains and her close family took and either sold or kept for themselves the furnishings and personal belongings of Conservatee; Objector believes the Inventory filed by the Public Guardian does not include furnishings and personal property of **~\$75,000.00** (*Declarations previously filed with Court on 10/10/2008 and 10/15/2008 listing the property are attached as Exhibits B and C to Banks' Declaration*);
 4. **Theft of Nevada property:** Conservatee and her husband own 40 acres of land in Nevada, per the parcel number indicated on the property profile of the Annuity application dated 4/24/2009; even though the County of Fresno and Greggains is aware of the Nevada property, it is mysteriously absent from the Inventory without explanation;

~Please see additional page~

Objection to Petition filed on 9/21/2012 by JULIE BANKS, continued:

5. **Greggains' Embezzlement and Misuse of the Conservatee's Estate:** Based upon the either missing from the Inventory or simply stolen, there is considerable concern that Greggains has absconded with additional money and personal property, and she cannot be trusted and should not receive a release or dismissal with prejudice of the petition; examples include the Inventory showing cash of **\$10,660.20** as of 9/12/2008, but the Annuity application showing cash and securities of **\$283,000.00** on 5/29/2008; even with the **\$159,983.79** Annuity purchase, there is still an evaporation of funds of **\$112,356.01** that is missing and unexplained; Greggains also stated to the Court on 8/25/2008 that Conservatee had **\$60,000.00** in a checking account, two weeks prior to the 9/12/2008 application; additionally, Greggains again lied to the Court on 8/25/2008 in stating the Flys' residence sale had not closed in responding that just an offer was made that was not accepted, while the *Purchase Agreement (attached as Exhibit F to Banks Decl.)* shows the purchase was signed on 8/21/2008, a mere four days before the hearing, so Greggains knew the purchase was signed on Monday and the hearing was on Thursday (see copy of 8/25/2008 Reporter's Transcript attached as Exhibit D to Banks' Declaration);
6. **Theft in the form of Financial Gifts and Monies used for Greggains' own purpose:** Greggains gifted at least **\$77,000.00** to herself and other chosen family members during May and June 2008 (see copies checks written by Greggains for gifts to relatives attached as Exhibits G and H); and Greggains used estate money to pay off her travel trailer (**\$15,288.71**), a down payment for Jeep Liberty for herself and her husband (**\$4,000.00**), room remodel reimbursement done long before Flys' illness (**\$6,248.20**), and a carport built in Greggains' backyard for their cash business "Bear Critters" (**\$7,000.00**).

Objector's Argument:

(A) The Settlement Agreement Exonerates Elder Abuse: Since October 2008, Fresno County has possessed substantial evidence showing Greggains and Stephen committed both civil and criminal crimes of Elder Abuse; Public Guardian retained Attorney Motsenbocker to investigate the allegations and collectability of an action against them; Motsenbocker filed the *Petition Requesting Relief for Breach, etc.* after reviewing the evidence and financial resources of the proposed defendants; after further depleting the estate, Motsenbocker is seeking to settle the case with both a civil and criminal exoneration for Greggains and Stephen; the settlement agreement is apparently based on the lack of financial wherewithal of Greggains and Stephen, even though there is substantial evidence of Elder Abuse.

The motion to approve the settlement should be denied for the following reasons:

1. There is no basis to provide the dismissal with prejudice; should Greggains and Stephen obtain significant financial resources, the Public Guardian should retain the right to collect the money and property that has been stolen; it would be more appropriate to dismiss the case without prejudice and sign a tolling agreement so that the claims do not lapse;
2. The settlement agreement provides that Greggains and Stephen will avoid criminal prosecution for their illegal acts because of lack of funds; it would be analogous to a government agency that refuses to file criminal charges against a bank robber because he has spent all of his ill-gotten gains and is again impoverished; Greggains and Stephen are the poster child of individuals that are callous enough to steal from their own parents; if the civil claims are dropped, this matter should be referred to criminal prosecution since it would not be a further drain on the Estate, nor is it dependent on the finances of the defendants; criminal exoneration will only condone the actions of Greggains and Stephen.

~Please see additional page~

Objector's Argument, continued:

(B) The County Failed to do any Due Diligence of the Defendants Financial Wherewithal: Prior to filing the petition, Motsenbocker represented to Deputy Youa Her that the defendants had the financial wherewithal to satisfy the proposed claims; without explanation, the settlement agreement and motion accept as a fact that Greggains and Stephen have no source of income other than social security and their house is under water; however, there is no evidence that the County performed any due diligence concerning the defendants earning ability or assets; as set forth in [Exhibit I] to the *Declaration of Julie Banks* [filed 9/21/2012], the defendants have a cash business selling carved wooden bears and other critters to the public, and in fact they used a portion of the stolen Estate money to make improvements to their garage from which to run the business; the motion and settlement agreement accept as a fact a statement from the defendants that they have no assets or income, and this type of blind devotion is not prudent when the statement is coming from the very parties accused of committing Elder Abuse crimes; additionally, there is no accounting of the items that were stolen; who owns the property in Nevada? Why hasn't there been a request that the individual family members of the defendants that received the stolen money and property return the same to the estate? The County knows the check numbers, amounts and recipients, but has the County taken the depositions of defendants or hired an asset investigation company to review the matter? A settlement without adequate investigation is foolhardy at best.

(C) The Settlement is not in the Best Interest of the Estate: It appears that the settlement is partially motivated to protect the interests of the County from liability; is the County really concerned that the "impoverished defendants" have the means to prosecute the County for damages? Does the County have liability for actions that it took, or more importantly, did not take? If that is so, should the County give a free pass to the defendants in order to escape liability when there is substantial evidence of their wrong-doing? Should the County and its agents be paid for depleting the Estate's resources without anything accomplished for the Estate? It is obvious that the answer to these questions is a resounding "No."

Objector concludes: Elmer and Julia Fly had plenty of assets and no debts; they should have been able to live comfortably through these difficult times and now, according to the Inventory and Appraisal, in just 9 months of Elmer's illness, all that they saved and accumulated for 68 years is almost gone; it makes no sense; this settlement agreement is fundamentally flawed and should not be approved.

(1) Petition for Final Distribution on Waiver of Accounting, and (2) for Allowance of Ordinary and Extraordinary Attorneys' Fees, (3) Statutory and Extraordinary Commissions, and Costs [Prob. C. 10954, 10810; Cal. Rules of Court 7.550(a), (b), 7.705(b); Local Rules 7.13, 7.18A, B]

DOD: 4/5/2008		JOSEPH A. GOLDING , Administrator, is petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 8/21/12. Minute order states if counsel submits something from the State by 10/16/12 indicating that they do not wish to contest, no appearance will be necessary.</p> <p>Letter from Department of Health Services dated 10/4/12 states the Department of Health Services will accept \$57,400.14 as full payment of their claim. The Administrator, Joseph Golding, depleted the estate's assets. He has already received estate assets that far exceed his statutory commission and extraordinary commission for his services. The Department requests that the Administrator receive no further commission. If any additional assets are discovered, which rightfully belong to this estate, DHS will take steps necessary to recover the remaining amount of their claim.</p> <p>Declaration of Attorney Fanucchi states on behalf of the Administrator, he requests that the Court take into consideration the Administrator's physical, medical and psychological condition and consider awarding some compensation to him.</p> <p>1. It appears that the investment accounts were sold during the administration of the estate. Need schedule of changes in the form of assets. California Rule of Court 7.550(b)(3). This should also contain information about gains or losses the sales.</p>
		Accounting is waived.	
Cont. from 071712, 082112		I & A (pt. 1) - \$170,000.00 I & A (final) - \$ 90,577.45 POH - \$ 70,076.71	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified	Administrator (statutory) - \$6,120.32	
<input checked="" type="checkbox"/>	Inventory		
<input checked="" type="checkbox"/>	PTC	Administrator x/o- \$1,000.00 (per Local Rule for sale of real property)	
<input checked="" type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Attorney (statutory) - \$6,120.32	
<input checked="" type="checkbox"/>	Aff.Mail	Attorney x/o - \$2,660.00 (\$1,000 for court confirmed sale of real property per Local Rule and 8.30 hours @ \$200/hr for preparation of an application for hardship waiver with DHS and subsequent appeal.)	
<input type="checkbox"/>	Aff.Pub.		
<input checked="" type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen	Costs - \$2,896.25 (filing fees, certified copies, probate referee, and publication).	
<input checked="" type="checkbox"/>	Letters	3/5/09	
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections	Distribution, pursuant to intestate succession is to:	
<input type="checkbox"/>	Video Receipt	Department of Health Services - \$50,279.82 (for their creditor's claim)	
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	9202	Joseph Golding - personal property (valued at \$1,000)	
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting	Declaration of attorney Fanucchi filed on 8/9/12 states the personal representative used the estate's cash assets for the care of the estate real property and his living expenses while residing in the estate's real property until the close of escrow.	
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input checked="" type="checkbox"/>	FTB Notice		
			Reviewed by: KT
			Reviewed on: 10/11/12
			Updates:
			Recommendation:
			File 2 - Golden

(1) Petition for Substituted Judgment to Transfer Assets of the Conservatorship Estate to Irrevocable Trust, (2) First and Final Account and Report of Conservators of the Conservatorship Estate, (3) Petition for Approval and (4) Petition for Allowance of Attorney's Fees and Reimbursement of Costs, and for (5) Suspension of Further Accounting by the Conservatorship (Prob. C. 2580, 2620, 2640)

Age: 79	ROBB P. MYERS and LYNN MYERS, Co-Conservators of the Estate, are Petitioners.		NEEDS/PROBLEMS/COMMENTS: Notes: Inventory & Appraisal filed 09/07/12 lists assets of the Conservatorship Estate in the amount of \$46,811.88 comprised of a vehicle, tangible personal property items and an annuity. Petitioners have included a trust accounting as exhibit B to their Petition; however, the Trust accounting is not presently before the Court. Any petition requesting the settlement of a Trust accounting would need to be brought in a new case file for the Trust. 1. Petitioners are requesting to transfer the assets of the Conservatorship Estate to the Conservatee's trust pursuant to Probate Code § 2580(b)(6) which allows "Transferring to a trust created by the conservator or conservatee any property unintentionally omitted from the trust." However, petitioners do not allege or make any statement that the conservatorship estate assets were <u>unintentionally omitted</u> . The Court may require further information. 2. Petitioners request to dispense with the requirements of CRC 7.903; the court may require authority to dispense with such requirements. 3. Need Order.
	Account period: 06/29/11 – 06/30/12		
	Accounting - \$47,428.12		
	Beginning POH - \$46,811.88		
	Ending POH - \$47,428.12		
Cont. from	Conservators - waive		
<input type="checkbox"/> Aff.Sub.Wit.	Attorney - \$6,706.25 (per itemization for 10.8 attorney hours @ \$275.00/hr. and 17.75 paralegal hours @ 85.00/hr. for work done in establishing the conservatorship, obtaining bond, completion of the I & A, and this Petition)		
<input checked="" type="checkbox"/> Verified	Attorney - \$800.00 (anticipated additional fees not to exceed \$800.00 for services to be rendered after the date of this Petition through the hearing on this Account)		
<input checked="" type="checkbox"/> Inventory	Attorney costs - \$2,096.00 (For filing fees, investigation fees, bond fee, certified copies, probate referee. \$1,540.63 has already been paid, leaving a balance of \$555.37.)		
<input checked="" type="checkbox"/> PTC	Petitioners state:		
<input type="checkbox"/> Not.Cred.	1. The main purpose of establishing a conservatorship of the estate was to enable the conservators to deal with METLIFE so that proceeds from a METLIFE long term care policy could be obtained and used to pay for Conservatee's care. That purpose has been fulfilled and regular payments are being made for Conservatee's care directly to the conservatee's care facility.		
<input checked="" type="checkbox"/> Notice of Hrg	2. Subsequent to the Petitioner's filing their Petition for Appointment of Conservator of the Estate, Conservatee's husband filed a competing petition. The Conservatee's husband and Petitioners agreed to the appointment of Petitioners subject to the obligation that Petitioner's provide Conservatee's husband with periodic accountings in addition to the accountings required under the Probate Code.		
<input checked="" type="checkbox"/> Aff.Mail	x		
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.			
<input type="checkbox"/> Pers.Serv.			
<input type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters			
<input type="checkbox"/> Duties/Supp			
<input checked="" type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input 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			
Continued on Page 2			
Reviewed by: JF			
Reviewed on: 10/10/12			
Updates: 10/11/12			
Recommendation:			
File 3 - Marx			

3. On 06/27/96, Conservatee executed the RAE ANN MARX 1996 FAMILY TRUST (the "Trust"). The Trust was restated on 12/03/08. Conservatee is the sole income beneficiary of the Trust. As of 05/31/12, the Trust's assets totaled \$524,478.50.
4. Petitioners believe that given the small size and nature of the assets in the Conservatorship estate, it is in the best interest of the Conservatee to have all of her assets centralized in the Trust, which Conservatee created for her own benefit. This would centralize management of Conservatee's Estate, minimize accounting costs and any probate costs or time delays upon the death of the Conservatee. Taking this action would eliminate the need for providing Conservatee's husband with multiple accountings, thus providing additional savings for the Conservatee.
5. Petitioners seek an order under Probate Code § 2580(b)(6) allowing Conservators to transfer all assets shown on Schedule E to RONALD FAGAN, ROBB MYERS, CYNTHIA MYERS, MARK MYERS, and BRAD MYERS, as Trustees of THE RAE ANN MARX 1996 FAMILY TRUST UTD JUNE 27, 1996.
6. No further accountings should be required of Conservators if the Court authorizes transfer of the assets to the Trust as requested herein because there will be no further receipts or disbursements to or from the Conservatorship Estate. The Conservatorship Estate should remain open so Conservators can continue to interact with the insurance company making long-term care payments if necessary.
7. Good cause exists to dispense with the requirements of California Rule of Court 7.903(c) because this Trust was created many years before the Conservatorship proceedings were commenced, the Trust is managed by a group of Trustees and a majority of them must concur in any decision, the Trust waived the requirement of a bond, and modifying the Trust to comply with Rule 7.903 would cause unnecessary expense.

Petitioner prays for an Order:

1. Authorizing and directing the Conservators to transfer the assets of the Conservatorship Estate to RONALD FAGAN, ROBB MYERS, CYNTHIA MYERS, MARK S. MYERS, and BRAD MYERS, Trustees of THE RAE ANN MARX 1996 FAMILY TRUST UTD JUNE 27, 1996;
2. Authorizing the suspension of accounting by the Conservatorship;
3. That good cause exists to dispense with the requirements of California Rule of Court 7.903;
4. Requiring Trustees of THE RAE ANN MARX 1996 FAMILY TRUST UTD JUNE 27, 1996 provide accountings as agreed to the Conservatee's spouse;
5. Approving, allowing and settling the Account and Report of Conservators; and
6. Authorizing the attorney fees and costs.

Response and Objection to Petition for Substituted Judgment to Transfer Assets of the Conservatorship Estate to Irrevocable Trust filed 10/11/12 by Gilbert Marx, M.D. states:

1. Dr. Marx is the spouse of conservatee Rae Ann Marx.
2. Dr. Marx filed a competing Petition for appointment of Conservator of the Person on 06/16/11.
3. In lieu of the competing petitions being resolved at trial, Dr. Marx and the Petitioners reached an agreement whereby, the Petitioners would be appointed as Co-Conservators provided that Petitioners provided Dr. Marx with Bi-annual accountings in the conservatorship and for the RAE ANN MARX 1996 FAMILY TRUST UTD JUNE 27, 1996 (the "Trust"), of which Robb Myers is a co-trustee. This agreement was entered in a Court order on 06/29/11.
4. Petitioners have failed to timely file an accounting for the Trust and conservatorship as ordered. The first and only accountings were filed by the Petitioners in this Petition, which were filed after a year had elapsed.

Continued on Page 3

Objections to Trust Accounting:

1. Trustees have a duty to make the trust property productive and not use or deal with trust property for the trustee's own profit. Probate Code § 16064 & 16067.
2. The Trust contains two pieces of real property commonly known as 46943 Oonay Nation Road, Coarsegoad, CA and 46778 Safari World Drive, Coarsegold, CA (collectively the "Properties"). Notwithstanding having two pieces of real property held in the Trust, the sole source of rental income is \$11,236.98 all of which is attributable to cell phone tower rent.
3. Therefore, for more than a year, the Trustees have allowed for the properties to remain unrented.
4. Dr. Marx alleges that one or more of the Trustees are occupying one or both of the Properties rent free. While Dr. Marx does not object, *per se*, to any or all of the Trustees residing at either or both properties, he does object to the trustees not collecting fair market rent for both of the properties.
5. Dr. Marx requests this Court order the Trustees obtain fair market value, as determined by a professional qualified to make such determination for the Properties.

Conditional Opposition to Transfer of Conservatorship Assets

1. Dr. Marx wishes to ensure that his wife's assets are properly utilized for her sole benefit for the duration of her life.
2. Dr. Marx would never have entered into the agreement with Petitioners if he knew they would attempt to circumvent such agreement before conservatee's death by transferring assets out of the conservatorship estate and into the Trust.
3. Dr. Marx will only stipulate to the transfer of the conservatorship assets to the Trust, if and only if, the trustees of the Trust, Petitioner Robb Myers, Ronald Fagan, Cynthia Myers, Mark Myers, and Brad Myers stipulate to continuing to provide Dr. Marx with bi-annual accountings on behalf of the Trust and granting Dr. Marx the right to object to the accountings. Such accountings shall be filed with the Court in the manner provided in Probate Code §§1060-1064.

Objection to Transfer of Conservatorship Assets

1. If the Trustees do not stipulate, Dr. Marx objects to the transfer of conservatorship assets to the Trust.
2. The Trust instrument provides the manner in which distributions are to be made by the Trustees in the event of the Conservatee's incapacity. In Article 4 of the Trust, it provides:
"My Trustee may make distributions for my benefit in any one or more of the following ways: To me, but only to the extent I am able to manage such distributions.....To my... conservator who has assumed responsibility for me under any court order, decree or judgment issued by a court of competent jurisdiction."
3. The Conservatee specifically states that it is her intention for Trust assets to be routed out of the Trust estate and into the Conservatorship. Here, the Petitioners seek to do precisely the opposite. This would thwart the Conservatee's intent and is improper.
4. Therefore, if the Trustees of the Trust do not agree to file bi-annual Trust accountings, Dr. Marx objects to the transfer of the conservatorship estate assets to the Trust and requests the Court deny such request.

Examiner Note:

The Trust matter is not presently before the Court. Petitioners have not petitioned for settlement of the Trust accounting and it has not been substantively reviewed by the Examiner. Any requests of the Court with regard to the Trust (accounting or otherwise) must be brought in a separate case opened specifically for matters dealing with the Trust.

Second Amended First and Final Account and Report of Administrator; Petition for Its Settlement, for Ratification of Acts; for Allowance of Extraordinary Fees; for Final Distribution and for Discharge of Administrator

DOD: 06/01/11	SANDRA AVEDESIAN , Administrator, is Petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 09/18/12</u> Minute Order from 09/18/12 states: Counsel advises the Court that she will be doing another re-evaluation.</p> <hr/> <p>Reviewed by: JF</p> <p>Reviewed on: 10/10/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4 - Avedisian</p>
	Account period: 08/08/11 – 08/20/12	
	Accounting - \$234,150.62	
	Beginning POH - \$226,340.47	
	Ending POH - \$195,868.47 (\$17,246.05 cash remaining after payment of final creditors claim)	
Cont. from 09/18/12		
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
<input checked="" type="checkbox"/> Inventory	Administrator - \$7,125.05 (statutory less payments made by the estate on behalf of the Administrator and distribution of the beneficial interest in a gun)	
<input checked="" type="checkbox"/> PTC		
<input checked="" type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail	Administrator x/o - \$1,000.00 (Per Local Rule for the sale of personal property) w/	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.	Attorney - \$7,428.29 (statutory)	
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen	Attorney x/o fees - \$1,550.71 (per itemization for work performed for the benefit of the estate for selling estate assets and legal advice to administrator in liquidating estate assets)	
<input type="checkbox"/> Letters	08/08/11	
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt	Closing - \$142.00	
<input type="checkbox"/> CI Report	Distribution, pursuant to intestate succession, is to:	
<input checked="" type="checkbox"/> 9202	Sandra Fay Avedisian-16.666% interest in a 50% interest in real property	
<input checked="" type="checkbox"/> Order	Louise Avedisian - 16.666% interest in a 50% interest in real property	
<input type="checkbox"/> Aff. Posting	Thomas Avedisian - 16.666% interest in a 50% interest in real property	
<input type="checkbox"/> Status Rpt	Sarah Avedisian - 4.166% interest in a 50% interest in real property	
<input type="checkbox"/> UCCJEA	Stephanie Avedisian- 4.166% interest in a 50% interest in real property	
<input type="checkbox"/> Citation	Carla Avedisian - 4.166% interest in a 50% interest in real property	
<input checked="" type="checkbox"/> FTB Notice	Crystal Avedisian - 4.166% interest in a 50% interest in real property	
	Harold Simonian - 16.666% interest in a 50% interest in real property	
	Jeffrey Simonian - 5.555% interest in a 50% interest in real property	
	Kristen Simonian - 5.555% interest in a 50% interest in real property	
	Jonathan Simonian - 5.555% interest in a 50% interest in real property	

DOD: 2-1-12	<p>ROBERTA LOU ODAHL, Daughter, Co-Trustee and Trust beneficiary, is Petitioner and requests appointment as Special Administrator without bond and without IAEA for the specific purpose of appointing a Plan Administrator for a Money Purchase Keogh held at Fidelity Investments to facilitate the distribution of funds to the named beneficiaries.</p> <p>Petitioner states the Decedent was the Plan Administrator for a Money Purchase Keogh. A beneficiary designation is on file; however, Fidelity Investments is unable to release the funds to the named beneficiaries until a Plan Administrator is appointed under their rules, as no suitable Plan Administrator was named.</p> <p>Fidelity Investments refused to recognize a §13100 Affidavit to allow Petitioner to exercise the right to appoint a successor Plan Administrator of the Keogh Plan and requires the appointment of a personal representative to exercise the right to appoint a successor Plan Administrator.</p> <p>Once a Plan Administrator is appointed, the assets in the account will pass to the named beneficiaries. This requires immediate attention to allow the collection and distribution of the Keogh Plan to the designated beneficiaries to avoid adverse income tax consequences.</p> <p>Petitioner also requests that due to the fact there will be no probate proceeding, the Court order payment of attorney's fees incurred in this proceeding by the trust pursuant to the attached fee agreement.</p> <p>Petitioner states that the trust permits one co-trustee acting alone to take such actions; therefore, Petitioner Roberta K. Odahl is the only co-trustee signing the Agreement Assuming Liability; however, the other co-trustee, Diane Patricia Barnett, has been provided with notice of this petition.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> Petitioner has not designated a time frame for the Special Administration. The Court may require clarification to set an expiration date.</p>	
<input type="checkbox"/> Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified			
<input type="checkbox"/> Inventory			
<input type="checkbox"/> PTC			
<input type="checkbox"/> Not.Cred.			
<input checked="" type="checkbox"/> Notice of Hrg			
<input checked="" type="checkbox"/> Aff.Mail			W
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.			
<input type="checkbox"/> Pers.Serv.			
<input type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters			
<input type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input checked="" type="checkbox"/> Order			
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
<p>Reviewed by: skc</p> <p>Reviewed on: 10-10-12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 5 - Knowlton</p>			

Petition for Appointment of Temporary Conservator of the Person

Age: 81	<u>GENERAL HEARING 11/19/12</u>		NEEDS/PROBLEMS/COMMENTS: 1. Need CI report – CI to provide.
	DORIS ORMSBY , wife, is Petitioner and request appointment as Temporary Conservator of the Person with the authority to move the proposed conservatee to a secured dementia facility.		
Cont. from	Petitioner alleges: The proposed conservatee suffers from severe dementia and needs assistance with all activities of daily living including toileting, dressing, bathing, etc. Petitioner states that she had been caring for the proposed conservatee at home, but he has become violent towards her and therefore needs to be placed in a secured dementia facility where he can be cared for.		
Aff.Sub.Wit.		Court Investigator Jennifer Daniel filed a report on – NEED REPORT.	
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail	w/o		
Aff.Pub.			
Sp.Ntc.			
✓ Pers.Serv.			
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
CI Report	x		
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
Reviewed by: JF			
Reviewed on: 10/11/12			
Updates:			
Recommendation:			
File 6 - Ormsby			

Petition for Termination of Guardianship

Age: 8	TARA BACON , Mother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	JOAN BLACK , Paternal Grandmother, was appointed Guardian on 1-5-10.	<u>Continued from 9-4-12.</u>
090412	Father: DANNY BLACK	Petitioner filed a Declaration on 9-21-12 regarding the Court Investigator's report. See Declaration.
<input type="checkbox"/> Aff.Sub.Wit.	Paternal Grandfather: Deceased	As of 10-9-12, the following issues remain:
<input checked="" type="checkbox"/> Verified	Maternal Grandparents: Deceased	1. Need Notice of Hearing.
<input type="checkbox"/> Inventory		2. Need proof of service of Notice of Hearing at least 15 days prior to the hearing per Probate Code §1460(b)(5) on:
<input type="checkbox"/> PTC		- Joan Black (Guardian)
<input type="checkbox"/> Not.Cred.	Petitioner states she has her own apartment – a very nice two bedroom in a good area. She has a very good job working for the public authorities and is in the health care union. She attends church at Harmony Free and will take her son with her. Jerry Dyer also attends church there. Her son stays nights with her often and she takes him to school and picks him up. He tells her he wants to be with her and she can't wait for the day he returns home for good. Mother states she has had her own apartment since December 2011. The guardian promised that she would return Jason before second grade began, but second grade is now over. It hurts her to see her son being hurt by the situation. Petitioner asks the court to please end the guardianship so that she and her son can be complete and settled together in one stable home.	- Danny Black (Father)
<input type="checkbox"/> Notice of Hrg		Note: Petitioner filed a "Proof of Service – Civil" but it is incomplete – it does not state the hearing date, what documents were served, and does not provide info about the server.
<input checked="" 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 checked="" type="checkbox"/> CI Report	Court Investigator Jo Ann Morris filed a report on 8-27-12.	Reviewed by: skc
<input type="checkbox"/> 9202		Reviewed on: 10-9-12
<input checked="" type="checkbox"/> Order		Updates:
<input type="checkbox"/> Aff. Posting		Recommendation:
<input type="checkbox"/> Status Rpt		File 8 - Black
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

(1) Waiver of Accounting and (2) Petition for Final Distribution

DOD: 6-28-10		<p>CINDY L. WALL, Executor with Full IAEA without bond, is Petitioner.</p> <p>Accounting is waived.</p> <p>I&A: \$174,360.50 POH: \$174,360.50 (\$4,360.50 cash plus real property)</p> <p>Executor: Waived</p> <p>Distribution pursuant to Decedent's will:</p> <p>Cindy L. Wall: Entire estate (\$4,360.50 cash plus real property)</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Minute Order 4-16-12: Examiner Notes provided to Petitioner. Petitioner is directed to cure the defects.</u></p> <p><u>As of 10-10-12, nothing further has been filed. The following issues remain:</u></p> <ol style="list-style-type: none"> Petitioner does not address whether notice was given to the Director of Health Care Services pursuant to Probate Code §9202(a). <p>If notice was required, but not given, the matter may require continuance for the appropriate time for response.</p> <ol style="list-style-type: none"> Need Order. <p>9202(a). Not later than 90 days after the date letters are first issued to a general personal representative, the general personal representative or estate attorney shall give the Director of Health Care Services notice of the decedent's death in the manner provided in Section 215 <u>if the general personal representative knows or has reason to believe that the decedent received health care under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, or was the surviving spouse of a person who received that health care.</u> The director has four months after notice is given in which to file a claim.</p>
	Aff.Sub.Wit.		
✓	Verified		
✓	Inventory		
✓	PTC		
✓	Not.Cred.		
N/A	Notice of Hrg		
N/A	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	X	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
<p>Reviewed by: skc</p> <p>Reviewed on: 10-10-12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 15 - Wedel</p>			

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

Age: 2 years		Temporary Expires 10/16/12		NEEDS/PROBLEMS/COMMENTS: Continued from 9/4/12. As of 10/11/12 the following issues remain: 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: a. Donicio Ramirez (father) b. Cathrine Garcia (mother) - unless the court dispenses with notice. 3. 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: a. Carlos Ramirez Navarro (paternal grandfather) b. Maternal grandparents – unless the court dispenses with notice.
		SOPHIA QUINTANAR , paternal grandmother, is petitioner		
		Father: DONICIO CARLOS RAMIREZ		
Cont. from 090412		Mother: CATHRINE GARCIA , declaration of due diligence filed 07/02/2012		
	Aff.Sub.Wit.		Paternal grandfather: Carlos Ramirez Navarro	
✓	Verified		Maternal grandparents: Unknown - Declaration of Due Diligence filed 07/11/2012	
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg	X		
	Aff.Mail	X		
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.	X		
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
✓	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
Petitioner alleges: that the mother asked the petitioner to pick up the child on February 5 th and mother has never come back for the child. Father is currently incarcerated. Petitioner states the mother is unable to provide stability for the child. The child is forced to stay with whoever will house them and that mother's friends look like drug addicts.				
Court Investigator Samantha Henson filed on 8/28/12.				
Reviewed by: KT				
Reviewed on: 10/11/12				
Updates:				
Recommendation:				
File 10 - Molina				

Atty Grover, Kelly L (pro per Petitioner/mother)

Atty Brown, Kim (pro per Guardian)

Atty Brown, Anthony (pro per Guardian)

Petition for Visitation

Amiah age: 5 yrs	<p>KELLY GROVER, mother, is petitioner.</p> <p>KIM BROWN and ANTHONY BROWN, maternal aunt and uncle, were appointed guardians on 4/2/12.</p> <p>Father: UNKNOWN</p> <p>Paternal grandparents: Unknown Maternal grandfather: James Grover Maternal grandmother: Sharon Trihup</p> <p>Petitioner states she is requesting visitations with her children. She has been through WestCare and Spirit of Women, in patient. Petitioner states she drug tests regularly and attends outpatient program at Pathways to Recovery. She states she also attends church, Wednesday and Sunday and she does 3 AA/NA meetings per week. She states she currently has her own apartment (emergency housing) and is seeking employment. Petitioner states she has only seen her children 2 times. Petitioner states on several occasions she has tried to make amends and see her children but her sister refuses. Petitioner states she has an 8 month old who would like to have a bond with her siblings.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of service, at least 15 days prior to the hearing, of the Notice of Hearing along with a copy of the petition on: <ol style="list-style-type: none"> a. Kim Brown (guardian) b. Anthony Brown (guardian) 	
Jaedyn age: 2 yrs			
Cont. from 090412			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			X
Aff.Mail			X
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order	X		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: KT	
		Reviewed on: 10/12/12	
		Updates:	
		Recommendation:	
		File 11A – Tracy & Grover	

Atty Grover, Evelyn (pro per Petitioner/paternal aunt)
 Atty Grover, Kelly L (pro per mother)
 Atty Brown, Kim (pro per Guardian)
 Atty Brown, Anthony (pro per Guardian)

Petition for Visitation

Amiah age: 5 yrs	EVELYN GROVER, paternal aunt, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 3. Need Notice of Hearing. 4. Need proof of service, at least 15 days prior to the hearing, of the Notice of Hearing along with a copy of the petition on: c. Kim Brown (guardian) d. Anthony Brown (guardian)
Jaedyn age: 2 yrs	KIM BROWN and ANTHONY BROWN, maternal aunt and uncle, were appointed guardians on 4/2/12.	
Cont. from	Father: UNKNOWN	
Aff.Sub.Wit.	Mother: KELLY GROVER	
✓ Verified	Paternal grandparents: Unknown	
Inventory	Maternal grandfather: James Grover	
PTC	Maternal grandmother: Sharon Trihup	
Not.Cred.		
Notice of Hrg	X Petitioner states that at the last hearing on 4/4/2012, the Judge stated she could have visitation with the children. It was to be determined between the parties. Kim Brown is not in compliance with the order.	
Aff.Mail	X	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.	Petitioner further states she has been getting notices in the mail stating Jaedyn Grover has missed his physical therapy sessions. She further alleges that Amiah is not getting therapy for accusations of molestation.	
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: 10/12/12
		Updates:
		Recommendation:
		File 11B – Tracy & Grover

12 **Lucy Torres De Luna (Def Succ)**
 Atty Torres, Jose Andres (pro per Petitioner/brother)
 Atty De Luna, Charles (pro per Petitioner/spouse)
 Atty De Luna, Chris (pro per Petitioner/son)
 Atty Gonzales, April (pro per Petitioner/daughter)

Case No. 12CEPR00397

Petition to Determine Succession to Real Property

DOD: 12/13/2000	JOSE ANDRES TORRES , Brother, CHARLES DE LUNA , spouse, CHRIS DE LUNA , son and APRIL GONZALEZ , daughter, are Petitioners.	NEEDS/PROBLEMS/COMMENTS: Continued from 8/21/12. Minute order states Mr. Torres advises the court that Lucy De Luna had a will. The matter continued to 10/16/12. 1. Jose Andres Torres is not a successor in interest in the decedent's estate therefore should not be a petitioner. 2. Inventory and Appraisal is signed by Jose Andres Torres. Mr. Torres is not a successor interest to the property. The inventory and appraisal must be signed by each successor in interest (Charles De Luna, Chris De Luna and April Gonzalez). 3. If the decedent had a valid will, the petition should be amended to reflect that the decedent died testate and should be joined in by all who will succeed to the property.
	40 days since DOD	
Cont. from 082112	No other proceedings	
<input type="checkbox"/> Aff.Sub.Wit.	Decedent died intestate.	
<input checked="" type="checkbox"/> Verified	I & A - \$17,000.00	
<input type="checkbox"/> Inventory	Petitioners request Court determination that the Decedent's 25% separate property interest in certain real property APN 016-270-03 passes to Charles De Luna, Chris De Luna and April Gonzalez, each as to a 1/3 interest.	
<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 checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: KT
		Reviewed on: 10/11/12
		Updates:
		Recommendation:
		File 12 - Luna

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

Age: 9	<u>TEMPORARY EXPIRES 10/16/12</u>	NEEDS/PROBLEMS/COMMENTS:
	SARAH HARRISON , sister, is Petitioner.	<u>CONTINUED FROM 09/04/12</u>
	Father: GARY SMALZ - <i>deceased</i>	Minute Order from 09/04/12 states:
	Mother: LAURA SMALZ – <i>deceased</i>	Examiner notes are provided to the
Cont. from 090412	Paternal grandfather: ANDREW SMALZ - <i>deceased</i>	Petitioner. The Petitioner is directed to cure
Aff.Sub.Wit.	Paternal grandmother: MARILYN ROOT – served by mail on 09/04/12	defects. Matter continued to 10/16/12.
✓ Verified	Maternal grandfather: DARVIN PITTMAN - <i>deceased</i>	The temporary is extended to 10/16/12.
Inventory	Maternal grandmother: JACQUE PRISCO – served by mail on 09/04/12	
PTC	Siblings: GARY LEE SMALZ, ROXANNE SMALZ – both served by mail on 09/04/12	
Not.Cred.	Petitioner states that the minor's parents are	
✓ Notice of Hrg	deceased and that it was her parents wish	
✓ Aff.Mail	that she serve as custodian of the minor.	
Aff.Pub.	Court Investigator Dina Calvillo filed a report	
Sp.Ntc.	on 08/27/12.	
Pers.Serv. n/a		
✓ Conf. Screen		Reviewed by: JF
✓ Letters		Reviewed on: 10/09/12
✓ Duties/Supp		Updates:
Objections		Recommendation:
Video Receipt		File 13 – Smalz
✓ CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		

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

Age: 1 year		TEMPORARY EXPIRES 10-16-12		NEEDS/PROBLEMS/COMMENTS:
		<p>ISIDRO RAMOS and AGAPITA GONZALES, maternal uncle and aunt, are petitioners.</p> <p>Father: JESUS ALBERTO REYNA CISNEROS - Declaration of Due Diligence filed 08/16/2012, Notice dispensed 8-28-12</p> <p>Mother: VERONICA RAMOS, consents and waives notice.</p> <p>Paternal Grandfather: Unknown Paternal Grandmother: Elvira Reyna Cisneros, Served by mail 8-18-12</p> <p>Maternal Grandfather: Isidro Ramos, Declaration of Due Diligence filed 08/14/2012 Maternal Grandmother: Louisa Velasco, consents and waives notice</p> <p>Petitioner states: child has down syndrome and guardianship is needed to get the child enrolled with CVRC for services. Mother is under the influence most of the time and not in the right state of mind to care for the child. Child had open heart surgery in December 2011 and her follow up appointments were missed with the Neurologist and Cardiologist.</p> <p>Court Investigator Dina Calvillo filed a report 10-4-12.</p>		
	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			
✓	Clearances			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
				Reviewed by: skc
				Reviewed on: 10-10-12
				Updates:
				Recommendation:
				File 14 - Cisneros

Atty Castro, Rafael Rojo (pro per – maternal grandfather/Petitioner)

Atty Barajas, Maria Estela Aguirre (pro per – maternal grandmother/Petitioner)

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

Jose, 5	<p align="center"><u>NO TEMPORARY REQUESTED</u></p> <p>RAFAEL ROJO CASTRO and MARIA ESTELA AGUIRRE BARAJAS, maternal grandparents, are Petitioners.</p> <p>Father (Jose): MANUEL RAMIREZ ESPINOZA</p> <p>Father (Rodolfo): RODOLFO GONZALEZ BAUTISTA</p> <p>Father (Jonathan): JAVIER ANTONIO BASTIDA RAMIRES</p> <p>Mother: MARIA ISABEL ROJO</p> <p>Paternal grandfather (Jose): SR. RAMIREZ – deceased</p> <p>Paternal grandmother (Jose): EPIFANIA ESPINOZA</p> <p>Paternal grandfather (Rodolfo): RODOLFO BAUTISTA – deceased</p> <p>Paternal grandmother (Rodolfo): EUNECIMA GONZALEZ</p> <p>Paternal grandparents (Jonathan): UNKNOWN</p> <p>Petitioners allege: The mother is not able to provide a stable home for the minors. Jose's father uses and sells drugs and Rodolfo's father is remarried and living in Mexico. Fernando Ramires is listed as Jonathan's father on his birth certificate and there is currently an ongoing Family Law case (12CEFL00819) regarding custody of Jonathan between Fernando Martinez, Jr. and the mother. The mother states that Fernando Martinez, Jr. is not Jonathan's father and is getting a DNA test. The mother states that Javier Ramires is Jonathan's father.</p> <p>Court Investigator Charlotte Bien filed a report on 09/28/12.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. There is an active Family Law Case involving the minor Jonathan (12CEFL00819). Therefore it does not appear that the Probate Court has jurisdiction over him at this time. The next hearing in that matter is set for 11/06/12. 2. Need Notice of Hearing. 3. Need proof of personal service at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person or Consent & Waiver of Notice or Declaration of Due Diligence for: <ul style="list-style-type: none"> - Manuel Ramirez Espinoza (Jose's father) - Rodolfo Gonzalez Bautista (Rodolfo's father) - Javier Antonio Bastida Ramires (Jonathan's father, according to Petitioners) - Fernando Ramires (Jonathan's father per birth certificate and currently has custody of Jonathan) 4. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person or Consent & Waiver of Notice or Declaration of Due Diligence for: <ul style="list-style-type: none"> - Epifania Espinoza (Jose's paternal grandmother) - Eunecima Gonzalez (Rodolfo's paternal grandfather) - Jonathan's paternal grandparents (unknown) 	
Rodolfo, 7			
Jonathan, 1			
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			x
Aff.Mail			x
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			x
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
<p>Reviewed by: JF</p> <p>Reviewed on: 10/11/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 15 - Rojo</p>			

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

Age: 2		<u>NO TEMPORARY REQUESTED</u>		NEEDS/PROBLEMS/COMMENTS: 1. Declaration of Due Diligence filed 10/05/12 states that the mother's whereabouts are unknown. If diligence is not found, need proof of personal service of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person or Consent & Waiver of Notice for: - Destiney Rico (mother)			
		ROSE ELENA BURCIAGA, maternal aunt, is Petitioner.					
		Father: MICHAEL MOLINA, JR. – Consent & Waiver of Notice filed 10/09/12					
Cont. from		Mother: DESTINEY RICO – Declaration of Due Diligence filed 10/05/12					
	Aff.Sub.Wit.						
✓	Verified						
	Inventory						
	PTC						
	Not.Cred.						
✓	Notice of Hrg						
✓	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						
		Paternal grandfather: MICHAEL MOLINA – served by mail on 08/31/12 Paternal grandmother: DEBBIE WALLACE – served by mail on 08/31/12 Maternal grandfather: RONALD RICO – personally served on 08/31/12 Maternal grandmother: GERALDINE VALDEZ – served by mail on 08/31/12 Petitioner alleges: Anthony's mother is homeless, on drugs, and is unable to care for him. The mother dropped Anthony off with Petitioner over a year ago and has only visited 7 times since. The mother has had black eyes and bruises when she comes to visit. Court Investigator JoAnn Morris filed a report on 10/09/12.		Reviewed by: JF Reviewed on: 10/11/12 Updates: Recommendation: File 16 - Molina			

17 Natalie Salinas, Kiara Salinas, Javier Juarez & Daniel Montes (GUARD/P)

Case No.

12CEPR00721

Atty Salinas, Raudel (pro per Petitioner/maternal grandfather)

Atty Salinas, Rosa Navarro (pro per Petitioner/maternal grandmother)

Atty Montes, Fernando (pro per Objector/Daniel's father)

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

Natalie age: 9 yrs		<p><u>THERE IS NO TEMPORARY. Temporary was denied.</u></p> <p>RAUDEL SALINAS and ROSA NAVARO SALINAS, maternal grandparents, are petitioners.</p> <p>Father (of Natalie): EFREN GARCIA – Declaration of Due Diligence filed on 8/28/12.</p> <p>Father (of Kiara): FLORENCIO GOMEZ, Jr. – Declaration of Due Diligence filed on 8/28/12.</p> <p>Father (of Javier): JAVIER JUAREZ</p> <p>Father (of Daniel): FERNANDO MONTES – personally served on 8/20/12</p> <p>Mother: CRYSTAL SALINAS – consents and waives notice.</p> <p>Paternal grandfather (of Natalie): Mr. Garcia Paternal grandmother (of Natalie): Mrs. Chavez</p> <p>Paternal grandfather (of Kiara): Florencio Gomez Paternal grandmother (of Kiara): Juanita Mendoza</p> <p>Paternal grandparents (of Javier): Unknown</p> <p>Paternal grandparents (of Daniel): Unknown</p> <p>Please see additional page</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Daniel is in the care of his father. Father, Fernando Montes was granted sole legal and physical custody in the Family Court on 9/18/12.</p> <ol style="list-style-type: none"> Need proof of personal service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: <ol style="list-style-type: none"> Efren Garcia (Natalie's father) – unless court dispenses with notice. Javier Juarez (Javier's father) Florencio Gomez, Jr. (Kiara's father) – unless court dispenses with notice. Need proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: <ol style="list-style-type: none"> Mr. Garcia (Natalie's paternal grandfather) Mrs. Chavez (Natalie's paternal grandmother) Florencio Gomez (Kiara's paternal grandfather) Juanita Mendoza (Kiara's paternal grandmother) Javier's paternal grandparents Daniel's paternal grandparents.
Kiara age: 7 yrs			
Javier age: 6 yrs			
Daniel age: 4 yrs			
Cont. from			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
	Aff.Mail X		
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✓	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: 10/11/12	
		Updates:	
		Recommendation:	
		File 17 – Salinas & Juarez	

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

Age: 4		<u>GENERAL HEARING 12/04/12</u>		NEEDS/PROBLEMS/COMMENTS:	
		<p>JESUSA MARIA JOSE GUTIERREZ, non-relative, is Petitioner.</p> <p>Father: ROBERT RENE BOTELLO, SR.</p> <p>Mother: VALERIE ALEXIS MORENO</p> <p>Paternal grandparents: DECEASED</p> <p>Maternal grandparents: UNKNOWN</p> <p>Petitioner alleges: she has raised the minor since birth. She and the minor's father were in a relationship until 1 month ago. The father left their home and took the minor with him. Petitioner alleges that the father is ill and unable to care for himself let alone the minor.</p>			
Cont. from					
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
	Notice of Hrg	x			
	Aff.Mail				
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	x			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: JF	
				Reviewed on: 10/11/12	
				Updates:	
				Recommendation:	
				File 19 – Botello, Jr	

Atty Quinn, Juanita (pro per – paternal grandmother/Petitioner)

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

John, 13	<p align="center"><u>GENERAL HEARING 12/04/12</u></p> <p>JUANITA QUINN, paternal grandmother, is Petitioner.</p> <p>Father: JOHN F. CHAPMAN</p> <p>Mother: TAMMY CHAPMAN</p> <p>Paternal grandfather: NOT LISTED</p> <p>Maternal grandfather: NOT LISTED</p> <p>Maternal grandmother: NOT LISTED</p> <p>Petitioner alleges: the mother takes the children and brings them back dirty and hungry. She does not leave food or money for their care. She takes them to known drug houses and leaves them. She does not care about their education or well-being. She only wants them so she can get welfare and food stamps. She does not take them to the doctor or dentist.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of personal service at least 5 court days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Temporary Guardian of the Person <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: <ul style="list-style-type: none"> - John F. Chapman (father) - Tammy Chapman (mother) - John Paul Chapman (minor) 	
Chessa, 11			
Cont. from			
Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified			
Inventory			
PTC			
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Notice of Hrg			x
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Pers.Serv.			x
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<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			
Reviewed by: JF			
Reviewed on: 10/11/12			
Updates:			
Recommendation:			
File 20- Chapman			