



## ATTENTION

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

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

Thank you for your patience.

**1 Louis Brosi, Sr. (Trust)****Case No.****07CEPR01213**Atty **David M. Gilmore and Ryan M. Janisse (for Cindy Snow Henry – Beneficiary – Petitioner)**Atty **Armo, Lance (for Robert Snow)**Atty **Paul Franco (for Louis Brosi, III)**Atty **Wilson, Joshua G. (of Bakersfield, for Louis Brosi, Jr.)****Status Hearing Re: Settlement Agreement**

	<b>CINDY SNOW HENRY</b> filed Notice of Motion and Motion to Compel Performance under Settlement Agreement on 3-15-11.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Minute Order 6-24-14:</b> Mr. Gilmore reports that the agreement has been signed by all parties on Mr. Franco's side. Continued to 7-8-14.  <b>Minute Order 7-8-14:</b> Continued to 8-21-14  <b>Minute Order 8-21-14:</b> Mr. Gilmore informs the Court that payment has been made. Continued to 10-16-14.  <ol style="list-style-type: none"> <li><b>1. Need order approving Ms. Henry's petition filed 11-5-12 pursuant to the Minute Order of 3-3-14.</b></li> <li><b>2. Need agreement per Minute Order 6-3-14.</b></li> <li><b>3. On 3-3-14, the Court appointed Doris Brosi as trustee. However, Doris Brosi has not made an appearance in this matter.</b></li> </ol> <p>Therefore, a filing/ appearance fee of \$435 is due from Doris Brosi.</p> <p><b>Note:</b> Minute Order 8-21-14 states: Mr. Gilmore informs the Court that payment has been made; however, Court records do not reflect any payment or filing by Doris Brosi, or consent to appointment. Need clarification.</p>
	Ms. Henry also filed Petition to Remove Trustee; Appoint Public Administrator as Trustee; Require Trustee Correct Title; and Compel Trustee to Account on 11-5-12.	
	The Court has held various settlement conferences and Court Trial hearings since then, including re: lot split and related matters.	
<b>Cont from 062414, 070814 082114</b>	<b>On 3-3-14, the Court granted Ms. Henry's petition filed 11-5-12. Minute Order 3-3-14 states:</b> The Court removes Louis Brosi, Jr. as the trustee and appoints Doris Brosi as successor trustee. An offer is made in open court. Mr. Gilmore's client is directed to respond to the offer by no later than 5:00 p.m. on 3/5/14. Parties agree that Mr. Armo's client will be paid in full \$100,000.00 by the close of business tomorrow with a joint check made out to both Mr. Armo and Robert Snow. The litigation guarantee and appraisal as to 6706 N. Chestnut shall be due by 3/12/14. Additionally, the \$100,000.00 payment to Cindy Snow Henry as well as the first monthly installment shall be due by 4/1/14. Continued to 4/1/14 @ 10:00 a.m. Dept. 303	
<b>Aff.Sub.Wit.</b>	<b>At continued settlement conference on 6-3-14, the Court made additional orders. Minute Order 6-3-14 states:</b> Parties engage in settlement discussions with the Court. Parties reach a settlement agreement as fully set forth on the record. Parties agree that the petitions will be dismissed with prejudice and the hearings set for 6/9/14 will be vacated. The Court notes that Cindy Snow Henry is not present, but has been in contact with Mr. Gilmore. Upon inquiry by the Court, Louis Brosi, III and Mr. Gilmore on behalf of his client agree to the terms and conditions of the agreement. Agreement to be prepared by Mr. Gilmore and provided to Mr. Franco by 6/6/14. Matter set for Status Hearing on 6/24/14. If everything is completed by 6/24/14, no appearances will be necessary and the matter will be taken off calendar. Set on 6/24/14 @ 9:00 a.m. Dept. 303 for: Status Hearing Re: Settlement Agreement	
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<b>CI Report</b>		
<b>9202 Order</b>		
<b>Aff. Posting</b>		
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<b>FTB Notice</b>		
	<b>Reviewed by:</b> skc	
	<b>Reviewed on:</b> 10-14-14	
	<b>Updates:</b>	
	<b>Recommendation:</b>	
	<b>File 1 - Brosi</b>	

**Amended First and Final Account and Report of Administrative, Petition for Settlement, for Allowance of Attorneys' Fees and Costs, for Waiver of Commission and for Final Distribution**

<b>DOD: 10/01/08</b>	<b>JO ANN SORIA</b> , Administrator with will annexed, is Petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. The Petition indicates that there is ongoing litigation to which Petitioner, as Administrator of this estate is a party. Therefore it does not appear that this estate is in a position to be closed at this time due to the estate's involvement in ongoing litigation.</p>
	Account period: <b>11/10/10 – 06/18/14</b>	
<b>Cont. from</b>	Accounting - <b>\$400,000.00</b>	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Beginning POH - <b>\$400,000.00</b>	
<input checked="" type="checkbox"/> <b>Verified</b>	Ending POH - <b>\$400,000.00</b> (all real property)	
<input checked="" type="checkbox"/> <b>Inventory</b>	Administrator - <b>waived</b>	
<input checked="" type="checkbox"/> <b>PTC</b>	Attorney Bortolussi - <b>\$800.00</b> (less than statutory based on time spent on the administration)	
<input checked="" type="checkbox"/> <b>Not.Cred.</b>	Attorney Bortolussi costs- <b>\$496.50</b> (filing fees, certified copies, recording fees)	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	Attorney Fanucchi costs- <b>\$2,262.50</b> (to be paid by Petitioner outside of the probate estate for filing fees, publication, certified copies, probate referee)	
<input checked="" type="checkbox"/> <b>Aff.Mail</b> w/	Petitioner states that her former attorney's Quinlan, Kershaw & Fanucchi, filed a Notice of Lien for Statutory Attorneys' Fees and Reimbursement for Costs Advanced stating a lien for prior attorneys' fees had been created in the amount of \$12,127.64 calculated on the basis of a total estate of \$456,381.94. This is incorrect based on the Amended Inventory & Appraisal filed by Petitioner indicating that the total value of the estate was \$409,138.12. Petitioner has filed an Objection to the Lien and asserts that the Statutory Attorney's fees amount to \$11,227.63 rather than \$12,127.64. Petitioner states that the value of the estate assumed by Petitioner was and remains as of this accounting \$400,000.00. Petitioner alleges that such assets received by her are all the assets of the estate that have come to Petitioner's knowledge or into her possession.	
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Continued on Page 2

Petitioner requests approval to pay Quinlan, Kershaw & Fanucchi costs outside of probate. However, throughout the entire probate, Mr. Fanucchi had a conflict of interest in which his personal interests were directly adverse to the interests of the estate. This conflict stemmed from Mr. Fanucchi's option to buy real property which was owned, in some form, by the estate. Despite the obvious conflict, Mr. Fanucchi not only continued to represent the Administrator of the estate, but also attempted to modify the option contract to provide himself with a lower exercise price. In the process of seeking a better deal on the real property, he delayed the closing of the estate, causing it to have taken more than six years to close a simple probate. Under California law, an attorney is not entitled to fees after a conflict of interest has arisen (*Jeffry v. Pounds* (1977) 67 Cal.App.3d 6, 12). Here the conflict was present throughout the entirety of the representation. Accordingly, Petitioner requests that the court deny Mr. Fanucchi his fees.

Petitioner states that on 06/23/14, Mr. Fanucchi filed a lawsuit against Petitioner individually and as Administrator of the Estates of Anita Lucchesi and Gloria Lucchesi, Jack Lucchesi, and Linda Hofer for Rescission, Restitution and Damages (Fresno Superior Court Case No. 14CECG01795). This lawsuit stems from the conflict of interest that caused Petitioner to seek a new attorney in the final stages of this probate.

**Distribution, pursuant to Decedent's Will, is to:**

- Jo Ann Soria - ¼ interest in real property
- Jack Lucchesi - ¼ interest in real property
- Linda Hofer - ¼ interest in real property
- Administrator of the Estate of Gloria Darlene Lucchesi - ¼ interest in real property

**Amended First and Final Account and Report of Administrative, Petition for Settlement, for Allowance of Attorneys' Fees and Costs, for Waiver of Commission and for Final Distribution**

<b>DOD: 4/23/10</b>	<p><b>JO ANN SORIA</b>, Administrator, is petitioner.</p> <p>Account period: 9/9/10 – 3/18/14</p> <p>Accounting - <b>\$83,750.00</b>          Beginning POH - <b>\$83,750.00</b>          Ending POH - <b>\$83,750.00</b></p> <p>Attorney Fanucchi cost - <b>\$799.00</b></p> <p>Attorney Bortolussi costs - <b>\$799.00</b></p> <p>Attorney Bortolussi - <b>\$800.00</b> – less than statutory based on time spent on the administration.</p> <p><b>Petition states</b> Attorney Edward Fanucchi was the estate's attorney prior to the filing of a Substitution of Attorney on 5/15/14. Attorney Fanucchi filed a Notice of Lien for Statutory Attorney Fees and Reimbursement for Costs Advanced stating a lien for prior attorney fees had been created in the amount of \$4,000.00. The rate of compensation was computed on the basis of a total estate of \$100,000.00. This is incorrect based on the Amended Inventory and Appraisal filed by Petitioner.</p> <p>Throughout the entire probate the estate, Mr. Fanucchi had a conflict of interest in which his personal interests were directly adverse to the interests of the estate. This conflict stemmed from his option to buy real property which is owned, in some form, by the estate. Despite the obvious conflict, he not only continued to represent the Administrator, but also attempted to modify the option contract to provide himself with a lower exercise price. In the process of seeking a better deal on the real property, he delayed the closing of the estate. Under California Law, and attorney is not entitled to fees after a conflict of interest has arisen. (<i>Jeffry v. Pounds</i> (1977) 67 Cal.App.3d 6, 12.) Here the conflict was present throughout the entirety of the representation. Accordingly, <b>petitioner requests that attorney fees to Mr. Fanucchi be denied.</b></p> <p style="text-align: center;"><b>Please see additional page.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. According to the petition there is a pending lawsuit involving the Administrator of this estate, Jo Ann Soria in her capacity as Administrator. Therefore it appears that the estate is not in a condition to close.</li> <li>2. Order does not comply with Local Rule 7.6.1D – Probate order shall be drawn so that their general effect may be determined without reference to the petition on which they are based.</li> </ol>																																																					
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### **3 Gloria Darlene Lucchesi (Estate)**

**Case No.10CEPR00878**

On 6/30/14 Edward Fanucchi filed against Jo Ann Soria (individually and as Administrator of the Estates of Anital Lucchesi and Gloria Lucchesi); Jack Lucchesi; Linda Hofer; and Does 1 through 100, a Complaint for Rescission, Restitution and Damages with the Fresno Superior Court, case no. 14CECG01795. This lawsuit stems from the conflict of interest issue that cause the Petitioner to seek new counsel in the final stages of the probate.

Petitioner further states there was a Creditor's Claim filed by the Department of Health Care Services in the amount of \$74,720.18. There are not sufficient funds in the estate to pay the claim. Distribution will be subject to a lien in favor of the Department of Health Care Services on the real property. The lien shall be for the amount of \$74,720.18. The distributee will pay this amount no later than 60 days after final distribution is filed with the Court. If the claim is not paid within 60 days, interest will be assessed from the date of distribution at 7%, and the full amount plus interest will be due immediately. If the distributees demonstrate an inability to obtain financing within 60 days after the close of probate, and upon execution of a voluntary post death lien, the Department will accept a monthly payment plan of no less than \$100.00. An agreement to the terms of the lien has been received by the Department of Health Care Services.

Anita Lucchesi, decedent's daughter is the sole heir of this estate.

#### **Petitioner prays for an Order:**

1. That the administration of the estate be brought to a close;
2. That the first and final account of petitioner, as personal representative, be settled allowed and approved as filed;
3. That all acts and proceedings of petitioner, as personal representative, as set forth in the report be confirmed and approved;
4. That petitioner be authorized and directed to pay, outside of the probate to Quinlan, Kershaw and Fanucchi, LLP the sum of \$799.00 as costs advanced;
5. That Petitioner be authorized and directed to pay, outside of the probate to Caswell, Bell & Hillison, LLP, the sum of \$800.00 for ordinary attorney's fees for services to petitioner, plus reimbursement of costs of administration in the amount of \$496.50, outside of the probate;
6. That Petitioner waives her rights to statutory fees;
7. That distribution of the estate be made subject to a Medi-Cal lien in the amount of \$74,720.18.



<b>DOD: 9-25-11</b>		<p><b>JULIO A. HINOJOSA</b>, Executor with Full IAEA without bond, is Petitioner.</p> <p>I&amp;A: \$1,892.89 (cash)</p> <p><b>Petitioner states</b> he was appointed in order to defend the estate against a creditor's claim filed by Jose Diaz and to determine if there were any assets subject to the probate administration. The dispute was settled on 3-3-14 and all cash listed on the I&amp;A was used to pay the settlement of the dispute. After payment of the settlement, there was no cash left in the estate. It was then determined that there are no remaining assets subject to probate administration.</p> <p><b>Petitioner states</b> the following creditor's claims were filed, but the creditor's failed to file suit within the time period allowed by CCP 366.2 and the statute of limitations has expired:</p> <ul style="list-style-type: none"> <li>• DCM Services for \$389.59 filed 5-14-12</li> <li>• DCM Services for \$1,458.51 filed 5-17-12</li> <li>• DCM Services for \$2,019.50 filed 5-29-12</li> </ul> <p>Petitioner has agreed to be personally responsible for all costs incurred by Dowling Aaron Incorporated in the administration of the estate.</p> <p><b>Petitioner prays for an order</b> terminating further proceedings and discharging Petitioner as the court appointed personal representative.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. There were four creditor's claims filed timely in this estate – Mr. Diaz' claim plus the three listed in this petition. Need Allowance or Rejection of Creditor's Claims with proof of service on each creditor (Form DE-174) pursuant to Probate Code §9250. <b>Note:</b> Petitioner states the remaining creditors failed to file suit and the statute of limitations has expired; however, because the notice of allowance or rejection was never served, the statute may not have run. See CCP 366.2(b)(2) and corresponding Probate Code §9000 et seq., specifically §9256 (deemed rejected at the option of the creditor). <b>Note:</b> If the claims are rejected, the creditors have 90 days to act on the rejected claim. <b>Note:</b> If the claims are approved, but are not paid due to insolvency of the estate, notice of hearing on this petition to terminate proceedings is required to be served on the creditors pursuant to Probate Code §11000.</li> <li>2. The Court may require clarification regarding the use of the entirety of the estate's funds to settle one creditor's claim rather than apportionment pursuant to Probate Code §11450 (priority within debt class).</li> <li>3. Petitioner states he has agreed to be personally responsible for all costs of administration incurred by Dowling Aaron Incorporated in administration of the estate. Note that pursuant to Probate Code §10813, an agreement for higher compensation than the statutory calculation is void. Petitioner does not itemize the costs incurred. The Court may require clarification or itemization of costs to be paid outside of probate by Petitioner.</li> <li>4. Petitioner was formerly represented by Attorney Gary Bagdasarian; therefore, pursuant to Probate Code §10814, he may be entitled to a portion of the statutory attorney's compensation. The Court may require clarification or agreement re apportionment of statutory compensation.</li> <li>5. Petitioner must request discharge via the appropriate procedure. See Mandatory Judicial Council Form DE-295 Ex Parte Petition for Final Discharge and Order.</li> </ol>	
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<b>Reviewed on:</b> 10-14-14				
<b>Updates:</b>				
<b>Recommendation:</b>				
File 5 - Hinojosa				

<b>DOD: 12/19/12</b>	<p><b>MANUEL ROJAS</b>, brother, was appointed as Administrator of the Estate with Full IAEA and without bond on 02/14/13. Letters of Administration were issued on 02/20/13.</p> <p><b>Order on Ex Parte Petition to Amend Petition for Probate</b> filed 07/23/13 ordered that Manuel Rojas file a bond in the amount of \$315,000.00. Bond was later increased to \$400,000.00 by Ex Parte Order to Increase Bond filed 08/16/13.</p> <p><b>Bond</b> was filed 08/26/13 and new Letters of Administration were issued to Manuel Rojas on 08/28/13.</p> <p><b>Administrator Manuel Rojas</b> died on 12/08/13. <b>Pat Hernandez</b>, sister, was appointed as successor Administrator with bond in the amount of \$400,000.00 on 03/19/14. <b>Bond</b> was filed 03/25/14 and Letters of Administration were issued to Pat Hernandez on 03/25/14.</p> <p><b>Minute Order from hearing appointing Manuel Rojas as Administrator on 02/14/13</b> set this matter for status regarding filing of the First Account/Petition for Distribution.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b><u>CONTINUED FROM 07/18/14</u></b></p> <p>1. Need First Account and/or Petition for Final Distribution <u>or</u> current written status report.</p>
<b>Cont. from 041814 071814</b>		
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	<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 10/14/14</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 8 – Sanchez</b></p>	

Atty Thompson, Timothy L.; Cunningham, Nikole E., of McCormick Barstow (for Petitioner Michelle K. Johnson, daughter)  
 Atty Law Offices of Joanne Sanoian (for Christine Reynolds, Decedent's former caregiver)

**Probate Status Hearing: Report of Special Administrator**

<b>DOD: 10/3/2012</b>	<b>MICHELLE K. JOHNSON</b> , daughter filed on 4/9/2013 a petition against <b>CHRISTINE REYNOLDS</b> , former non-relative caregiver, seeking findings of financial elder abuse, conversion, and recovery of estate property pursuant to probate Code § 850.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Need status report from the Special Administrator, Michelle K. Johnson, pursuant to Local Rule 7.5(B), which provides that in all matters set for Status Hearing a verified Status Report must be filed no later than 10 days before the hearing; notice of the status hearing with a copy of the Status Report shall be served on all necessary parties.</p>
<b>Cont. from</b>	Following settlement attempts and appointment of <b>CHRISTINE REYNOLDS</b> as Special Administrator for the purpose of obtaining copies of Decedent's financial accounts, <b>MICHELLE K. JOHNSON</b> petitioned for Letters of Special Administration on 6/9/2014.	
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>	X	
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>	X	
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
	<p><b>Order for Special Administration filed on 7/21/2014</b> appointed <b>MICHELLE K. JOHNSON</b> as Special Administrator with Letters to expire on <u>10/16/2014</u>, for the sole purpose of obtaining true and correct copies of all account statements from all financial accounts held in the name of Decedent George L. Smith.</p> <p><b>Order for Special Administration filed on 7/21/2014</b> set this Status Hearing on 10/16/2014 for a report of the special administration of <b>MICHELLE K. JOHNSON</b>.</p>	
<b>Reviewed by:</b> LEG		
<b>Reviewed on:</b> 10/14/14		
<b>Updates:</b>		
<b>Recommendation:</b>		
File 9 - Smith		

<b>DOD: 1-22-13</b>	<b>GWEN HEMMINGER</b> , Administrator with Full IAEA with bond of \$550,000.00, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. It does not appear that this petition is appropriately brought in this Probate Court. Petitioner is alleging various causes of action from events originating prior to the decedent's death under Welfare and Institutions Code and requests civil damages under the Penal Code and accounting for funds withdrawn prior to the decedent's death, and other remedies not available under the Probate Code. Those causes of action may require resolution in Civil Court prior to the estate bringing a petition to recover assets under Probate Code §850, or authority to proceed as filed.  2. If this matter goes forward: <b>Need Notice of Hearing (Mandatory Judicial Council Form DE-120) and proof of service of Notice of Hearing on interested parties pursuant to Probate Code §§1215, 1252.</b>  <u>Note:</u> Petitioner filed a "Proof of Service" indicating that documents were mailed to interested parties; however, the Notice of Hearing is a mandatory Judicial Council form containing mandatory language pursuant to Probate Code §1211.  3. If this matter goes forward: <b>The Bank of America accounts mentioned herein have been inventoried as assets of this estate; however, the Chase and Union Bank accounts are not inventoried as assets of this estate. Need clarification or authority to include these accounts in this petition if not assets of this probate estate.</b>
	<b>Petitioner titles this matter as follows:</b>	
<b>Cont. from 100214</b>	<b>GWEN G. HEMMINGER</b> , Administrator of the Estate of Lindsay R. Green, deceased, <b>Petitioner,</b>	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	<b>vs.</b>	
<input checked="" type="checkbox"/> <b>Verified</b>	<b>ERMA J. MARZETTE, aka ERMA MAYO, aka ERMA MARZETTE GREEN; TASCIA TUCKER; and DOES 1-50, inclusive, Respondents.</b>	
<input type="checkbox"/> <b>Inventory</b>	Petitioner states the decedent died on 1-22-13 at age 74, and at all times mentioned herein was over the age of 65 and an "elder" as defined in the W&I Code. During his lifetime, he had a romantic relationship with Erma J. Marzette. They never married, but Erma lived with the decedent on and off over the course of many years. Even though not married to the decedent, Erma from time to time used the name Erma Green to identify herself.	
<input type="checkbox"/> <b>PTC</b>	The decedent was sick and in poor health the last 6-8 months of his life. At the time of his death, he was not of sound mind and was susceptible to the undue influence of other people.	
<input type="checkbox"/> <b>Not.Cred.</b>	Petitioner states that the decedent frugally saved money during his lifetime and had bank accounts with deposits totaling over \$600,000.00. Some accounts remained in his name alone and have been inventoried as assets of this estate. Others, he designated beneficiaries, including three of his children. (A fourth child was not designated as a beneficiary on any accounts.)	
<input type="checkbox"/> <b>Notice of Hrg</b>	<input checked="" type="checkbox"/>	
<input type="checkbox"/> <b>Aff.Mail</b>	<input checked="" type="checkbox"/>	
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input type="checkbox"/> <b>Conf. Screen</b>		
<input type="checkbox"/> <b>Letters</b>		
<input type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input type="checkbox"/> <b>Order</b>	<input checked="" type="checkbox"/>	
<input type="checkbox"/> <b>Aff. Posting</b>	Petitioner is informed and believes that Erma and/or Tascia may have been designated beneficiary(ies) on one or more accounts belonging to Lindsay R. Green. Petitioner states that if such designation was made, it was not made at the voluntary direction of the decedent, and was obtained by undue influence.	
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
<b>SEE ADDITIONAL PAGES</b>		<b>Reviewed by:</b> <b>Reviewed on:</b> 10-14-14 <b>Updates:</b> <b>Recommendation:</b> <b>File 10 - Green</b>

## Page 2

**First Cause of Action – Recovery of Assets – Bank of America Accounts:** Petitioner states the decedent maintained several accounts at Bank of America, and had four accounts there totaling nearly \$400,000.00, including Regular Savings account xx1865 containing \$171,919.54 as of 1-17-13.

Petitioner states on 1-12-13, Decedent executed a new signature card for his Regular savings account xx1865. In that document, he designated Erma J. Marzette, who was then using the name Erma J. Green, as power of attorney on that account. See Exhibit B. Petitioner believes that at the time such card was executed, Decedent was ill and infirm and in a declining mental state, and he was unduly influenced by Erma J. Marzette to execute the signature card.

Petitioner states the execution on the account card read: "Lindsay R. Green POA Erma J. Marzette Green." See Exhibit C.

Decedent died 1-22-13. Prior to his death on 1-18-13, a cashier's check in the amount of \$170,000.00 was drawn on the xx1865 account. Petitioner is informed and believes that these funds were withdrawn by Erma J. Marzette without the authorization, consent, or knowledge of the decedent. On 1-22-13, the day the decedent died, a cash withdrawal of \$1,869.00 was made from the xx1865 account.

Petitioner state the above withdrawals made by Ms. Marzette were deposited into an account under her name at Wells Fargo Bank, and such funds were not used for the care or benefit of the decedent, but were used by Ms. Marzette for her own benefit. Petitioner requests the return of \$171,869.00 to the estate.

**Second Cause of Action – Misappropriation – Chase Bank Account:** Petitioner states the decedent owned a CD at Chase Bank, account xx4955 with a balance equal to or in excess of \$100,000.00. Petitioner believes that on 3-5-13, more than 40 days after the decedent's death, Respondent Tascia Tucker withdrew said amount from Chase Bank by execution of a false affidavit or declaration under Probate Code §13100 in which she alleged that she was entitled to the funds under the "small estate" provisions of the California Probate Code. Such statements were false in that Tascia Tucker was not an heir of the decedent, and the decedent's assets exceeded the amount prescribed in the Probate Code for use of the small estate affidavit procedure. Petitioner seeks recovery of the proceeds of the decedent's Chase Bank Account xx4955, together with interest thereon from the date of misappropriation of said funds, together with damages.

**Third Cause of Action – Misappropriation – Bank of America Accounts:** Petitioner states that after the decedent's death, transfers were made from Decedent's Bank of America Account xx2492 to Decedent's Bank of America Checking Account xx2494 in the aggregate amount of \$17,000, and in addition, cash of \$800.00 was withdrawn from xx2492 by use of the Decedent's ATM and/or debit card(s) which had been appropriated by Tascia Tucker and others acting in concert with or under her direction. From 1-25-13 to 1-31-13, ATM withdrawals and merchandise purchases were made totaling \$10,667.92, as set forth in the attached bank statement. Petitioner believes that the withdrawals and purchases were made by Tascia Tucker, who is not an heir of the decedent, and with full knowledge that the decedent had died, with an intent to deprive the beneficiaries of the estate of their property. Petitioner seeks recovery of the \$800.00 withdrawn from xx2492, together with \$10,667.92 representing funds withdrawn and purchases made from xx2494 after the decedent's death.

**Fourth Cause of Action – Theft from an Elder:** Petitioner states Respondents committed theft by withdrawing funds as detailed above without the decedent's knowledge or consent for their own use and benefit, and each of them knew that the owner of the property was an elder. Petitioner requests damages for violation of Penal Code 368.

**SEE ADDITIONAL PAGES**

**Fifth Cause of Action – Financial Elder Abuse – Bank of America and Chase Accounts:** Petitioner states Respondents Erma J. Marzette and Tascia Tucker, and those who assisted them in committing the acts alleged herein, are guilty of recklessness, oppression and fraud, and acted with malice against Lindsay R. Green in the commission of the above-described abuse. Their conduct was not for Lindsay's benefit or enjoyment, was willful and wanton and was intended to cause injury to him. Petitioner as Administrator brings this action on behalf of the heirs of Lindsay R. Green, and is therefore entitled to an award of exemplary or punitive damages, and fees and costs pursuant to W&I Code §15657(a).

**Sixth Cause of Action – Financial Elder Abuse – Union Bank Account:** Petitioner states at the time of his death, the decedent owned a Time Deposit account at Union Bank, account xx2185. A notification from Union Bank dated 1-7-13 confirmed the balance was \$100,000.00 and indicated the account was to mature 4-8-13. See Exhibit E. Petitioner tried to obtain information regarding this account; however, Union Bank has refused to release information. Petitioner believes the account may have been paid out, either to named beneficiaries, or, as with the Chase Account, pursuant to a false affidavit.

**Seventh Cause of Action – Accounting:** On 1-12-13, the decedent executed a signature card at Bank of America in which he designated Erma J. Marzette, aka Erma J. Marzette Green, as attorney-in-fact pursuant to a power of attorney with respect to his account xx1865. Upon such designation, Ms. Marzette had a fiduciary duty to the decedent to act in his best interest and for his use and benefit. Ms. Marzette withdrew \$170,000.00 on 1-18-13 and on 1-22-13 withdrew an additional \$1,869.00. Petitioner demands an accounting from Ms. Marzette of all sums withdrawn together with actions taken as attorney in fact for Lindsay R. Green.

**Eighth Cause of Action – Constructive Trust:** Petitioner states Respondents have wrongfully taken, transferred, concealed, and otherwise deprived the decedent of property belonging to him which is and should be property of his estate. Petitioner's information and belief is based on statements made by Respondents and other persons indicating that they had received and/or were in possession of funds belonging to Lindsay R. Green. Petitioner state the transferees knew the property were assets of Lindsay R. Green. As a result of such transfer, the transferees received and held the assets as Constructive Trustees for and on behalf of the decedent's heirs who inherit his estate, and Respondents, each of them, should be ordered to surrender and deliver said property to Petitioner as Administrator of the Estate.

**Petitioner prays:**

1. For general damages in an amount according to proof;
2. For "double damages" under Probate Code §859 for the wrongful diversion and retention of assets belonging to the estate;
3. For exemplary damages in an amount necessary to punish respondents for their egregious and wrongful conduct;
4. For damages assessed on account of acts of elder abuse, including but not limited to actual damages, exemplary and punitive damages, and attorney fees and costs;
5. For imposition of a constructive trust on Respondents who received assets belonging to or attributable to Lindsay R. Green;
6. For costs of suit incurred herein;
7. For attorney's fees and costs incurred in bringing this action; and
8. For any and all such other and further relief as the Court may deem just and proper.

Atty Georgeson, C. Russell; Noyes, Christopher B.; of Georgeson, Belardinelli & Noyes (for Edmund Nolte, Jr., Beneficiary)  
 Atty Sullivan, Jr., Robert L.; Emerzian, David; of McCormick Barstow (for Marjorie A. Nolte, Trustee)

Notice of Motion and Motion for Protective Order Restricting Discovery by Excluding Ernest Nolte From the Deposition of Petitioner Edmund V. Nolte Jr

Edmund Sr. DOD: 12/13/2006	<p><b>EDMUND V. NOLTE, JR.</b>, son and Beneficiary of the <b>NOLTE FAMILY TRUST</b> dated <b>5/20/1999</b>, filed a <i>Motion for Protective Order Restricting Discovery by Excluding Ernest Nolte From the Deposition of Petitioner Edmund V. Nolte Jr.</i> on 9/9/2014.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Page 11B</b> is Motion filed by Trustee Marjorie A. Nolte.</p> <p><b>Note:</b> Examiner notes not prepared for this matter.</p>
Rosetta DOD: 5/7/2009		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
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Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	Reviewed by: LEG	
	Reviewed on: 10/14/14	
	Updates:	
	Recommendation:	
	File 11A - Nolte	

Atty Georgeson, C. Russell; Noyes, Christopher B.; of Georgeson, Belardinelli & Noyes (for Edmund Nolte, Jr., Beneficiary)  
 Atty Sullivan, Jr., Robert L.; Emerzian, David; of McCormick Barstow (for Marjorie A. Nolte, Trustee)

Notice of Motion and Motion to Compel Deposition of Edmund Nolte, Jr. with Request for Production of Documents

Edmund Sr. DOD: 12/13/2006	<p><b>MARJORIE A. NOLTE</b>, Trustee of the <b>NOLTE FAMILY TRUST</b> dated <b>5/20/1999</b>, filed a <i>Motion to Compel Deposition of Edmund Nolte, Jr. with Request for Production of Documents</i> on 9/9/2014.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> Examiner notes not prepared for this matter.</p>
Roseetta DOD: 5/7/2009		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
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Notice of Hrg		
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Citation		
FTB Notice		
	Reviewed by: LEG	
	Reviewed on: 10/14/14	
	Updates:	
	Recommendation:	
	File 11B - Nolte	

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

<b>DOD: 01/08/2014</b>	<b>DENNIS H. JOHNS</b> , son was appointed Executor with limited IAEA authority without bond on 06/23/2014.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Minute Order of 08/28/2014: Dennis Johns appears via Courtcall. Status may come off calendar if filed.</b></p> <p><b>The following issues remain:</b></p> <ol style="list-style-type: none"> <li>1. The partial Inventory and Appraisals filed 08/13/2014 were not appraised by the assigned Probate Referee, Rick Smith, pursuant to Probate Code §8902.</li> <li>2. Need Inventory and Appraisal or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</li> </ol>
	Letters were issued on 06/23/2014.	
<b>Cont. from 082814</b>	<b>Minute Order of 06/23/2014</b> set this status hearing for the filing of the Inventory and Appraisal.	
<b>Aff.Sub.Wit.</b>	Three Partial Inventory & Appraisal separated by APN numbers were filed 08/13/2014.	
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by:</b> LV
		<b>Reviewed on:</b> 10/14/2014
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 14 - Johns</b>

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

<b>DOD: 08/22/2014</b>		<p><b>MORGAN H. DEMING</b>, son is petitioner and requests appointment as Administrator without bond.</p> <p>All heirs waive bond</p> <p>Full IAEA – o.k.</p> <p>Decedent died intestate</p> <p>Residence: Clovis          Publication: The Business Journal</p> <p><b>Estimated value of the Estate:</b></p> <table> <tr> <td>Personal property</td> <td>-</td> <td>\$12,000.00</td> </tr> <tr> <td>Real property</td> <td>-</td> <td>\$260,000.00</td> </tr> <tr> <td>(Less encumbrances</td> <td>-</td> <td>-\$142,837.00)</td> </tr> <tr> <td><b>Total</b></td> <td>-</td> <td><b>\$129,163.00</b></td> </tr> </table> <p>Probate Referee: Steven Diebert</p>	Personal property	-	\$12,000.00	Real property	-	\$260,000.00	(Less encumbrances	-	-\$142,837.00)	<b>Total</b>	-	<b>\$129,163.00</b>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note: If the petition is granted status hearings will be set as follows:</b></p> <ul style="list-style-type: none"> <li>• <b>Thursday, 02/19/2015 at 9:00a.m. in Dept. 303</b> for the filing of the inventory and appraisal <b>and</b></li> <li>• <b>Thursday, 12/14/2015 at 9:00a.m. in Dept. 303</b> for the filing of the first account and final distribution.</li> </ul> <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>
Personal property	-		\$12,000.00												
Real property	-		\$260,000.00												
(Less encumbrances	-		-\$142,837.00)												
<b>Total</b>	-		<b>\$129,163.00</b>												
<b>Cont. from</b>															
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>														
<input checked="" type="checkbox"/>	<b>Verified</b>														
<input type="checkbox"/>	<b>Inventory</b>														
<input type="checkbox"/>	<b>PTC</b>														
<input type="checkbox"/>	<b>Not.Cred.</b>														
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		<p><b>Reviewed by:</b> LV</p> <p><b>Reviewed on:</b> 10/14/2014</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b> Submitted</p> <p><b>File 18 - Deming</b></p>													

Atty Horton, Lisa M., of Walters & Moshrefi (for Conservator Kendra L. Brenson)

Status Hearing Re: Filing of Bond or Receipt of Blocked Account

<b>Age: 39 years</b>	<p><b>KENDRA L. BRENSON</b>, sister, was appointed Successor Conservator of the Person and Estate on 8/2/2007.</p> <p><b>Petition for Order Confirming Sale of Real Property was filed by Conservator on 3/10/2014</b>, seeking Court confirmation of the real property interest owned by the Conservatorship, consisting of a <b>23.95%</b> interest in the property valued at <b>\$84,314.47</b> as of 3/31/2008.</p> <p><b>Order Confirming Sale of Real Property was filed 5/19/2014</b>, and requires bond of <b>\$42,000.00</b>.</p> <p><b>Minute Order dated 5/19/2014</b> from the hearing on the confirmation of state states the Court accepts counsel's representation and finds good cause for sale of the property at <b>\$185,000.00</b>. There being no overbids in open Court, the sale price is confirmed at <b>\$185,500.00</b>. The Court orders that there be no distribution of the proceeds pending further order of the Court.</p> <p><b>Declaration of Lisa Horton filed 6/11/2014 for the previous Status Hearing states, in pertinent part:</b></p> <ul style="list-style-type: none"> <li>• Due to the Petitioner being out of state, being bonded is difficult;</li> <li>• Petitioner requests that this Court order the funds from the sale as according to the closing statement be deposited into a blocked account in Texas, with proof of deposit into a blocked account filed within 15 days from the date of the hearing;</li> <li>• The Conservatee receives SSA from his father's death and no longer receives SSI; if the sale proceeds are deposited into a blocked account, then there is no danger of Conservatee losing any benefits.</li> </ul>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from 061814</b>		<b>Page 20B</b> is the Status Hearing Re: Establishment of Conservatorship in Texas; and the Final Account.
<b>Aff.Sub.Wit.</b>		<b>Continued from 6/18/2014.</b> Minute Order states Counsel reports that the Petitioner and the Conservatee are both residing in Texas. Counsel further reports that escrow has not closed.
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
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<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by: LEG</b>
		<b>Reviewed on: 10/14/14</b>
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 20A - Harris</b>

Atty Horton, Lisa M., of Walters & Moshrefi (for Conservator Kendra L. Brenson)

Status Hearing Re: Establishment of Conservatorship in Texas; Final Account

<b>Age: 39 years</b>	<p><b>KENDRA L. BRENSON</b>, sister, was appointed Successor Conservator of the Person and Estate on 8/2/2007.</p> <p><b>Order Fixing Residence Outside the State of California filed on 6/18/2014</b> finds the residence of the Conservatee shall be <i>[street address omitted]</i>, Conroe, Texas; and that conservatorship of the person and estate or its equivalent shall be commenced in the state of new residence <b>within 4 months</b> of the date of this order.</p> <p><b>Minute Order dated 6/18/2014</b> set this Status Hearing on 10/16/2014 for filing proof of establishment of conservatorship or its equivalent in Texas.</p> <p>Four months of the date of the <i>Order Fixing Residence</i> expires on <b>10/18/2014</b>.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need proof of the establishment of conservatorship of the person and estate or its equivalent in the State of Texas.</li> <li>2. Need first and final account of the conservatorship pursuant to Probate Code § 2620 et seq.</li> </ol>
<b>Cont. from</b>		
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
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<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
	<p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 10/14/14</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 20B - Harris</b></p>	

DOD: 01/08/14		NEEDS/PROBLEMS/COMMENTS:
		<b><u>OFF CALENDAR</u></b>
		<b><u>Inventory &amp; Appraisal filed 06/11/2014</u></b>
		<b><u>Order Settling First and Final Account filed 10/08/2014</u></b>
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: LV
		Reviewed on: 10/14/2014
		Updates:
		Recommendation:
		File 21 - Oller

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

<b>DOD: 1-5-14</b>	<b>HELEN JOHNSON, Daughter, and SHACOLA THOMAS, Granddaughter,</b> are Petitioners and request appointment as Co-Administrators with Full IAEA.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  Continued from 7-10-14, 9-4-14. Nothing further has been filed.  1. Need publication pursuant to Probate Code §8120.  2. #3c of the petition is blank. Need estimated value of estate pursuant to Probate Code §8002(a)(4).  3. #5a is blank at (7) and (8). Need clarification as to whether the decedent was survived by issue of a predeceased child or no issue of a predeceased child.  4. Petitioners only list themselves at #8 of the petition. The Court may require clarification as to whether there are any other relatives, and if so, need Notice of Petition to Administer Estate per Probate Code §8110.  5. Petitioners do not address bond. Need clarification with reference to Probate Code §8480 or waiver from all heirs, if any.  <u>Note:</u> This estate was opened with a fee waiver; however, if assets are distributed, filing fees will be due.  <u>Note:</u> If the petition is granted, status hearings will be set for the filing of the bond, if required, the filing of the inventory and appraisal, and the filing of the first account or petition for final distribution. Dates will be provided when it appears that this petition is ready to go forward.  Reviewed by: skc Reviewed on: 10-14-14 Updates: Recommendation: File 23 – Pennington
<b>Cont'd from 071014 090414</b>	Petitioners do not address bond.	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Full IAEA – Need publication	
<input checked="" type="checkbox"/> <b>Verified</b>	Decedent died intestate	
<input type="checkbox"/> <b>Inventory</b>	Residence: Fresno	
<input type="checkbox"/> <b>PTC</b>	Publication: Need publication	
<input type="checkbox"/> <b>Not.Cred.</b>	Estimated value of estate: Not addressed	
<input type="checkbox"/> <b>Notice of Hrg</b>	Probate Referee: Steven Diebert	
<input checked="" type="checkbox"/> <b>Aff.Mail</b>		
<input checked="" type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input type="checkbox"/> <b>Conf. Screen</b>		
<input checked="" type="checkbox"/> <b>Letters</b>		
<input checked="" type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		

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

		<b>NO TEMP REQUESTED</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>HELEN MENDOZA</b> , Sister, is Petitioner and requests appointment as Conservator of the Person with medical consent powers and dementia medication and placement powers.	<u>Court Investigator advised rights on 8-12-14.</u>
<b>Cont. from 090414</b>		<b>Voting rights affected</b>	<u>Voting rights affected – need minute order</u>
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	W	
	Aff.Pub.		
	Sp.Ntc.		
✓	Pers.Serv.	W	
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
✓	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
✓	Citation		
	FTB Notice		
		<b>Petitioner states</b> the proposed Conservatee suffers from dementia, autism.	1. At the last hearing, it was unclear if the petitioner was seeking dementia medication and placement powers because the dementia attachment to the petition (GC-313) was not included or served with the petition.
		<b>Court Investigator Charlotte Bien filed a report on 8-14-14.</b>	The Capacity Declaration states the proposed Conservatee <u>has</u> dementia, and supports dementia medication powers, <u>but does not address placement at all.</u>
			Petitioner has now filed the Dementia Attachment requesting both medication and placement powers, and has filed proofs of service on the attorney for the Conservatee and the relatives.
			However, because the Capacity Declaration specifically does not address placement, the Court may require further information or a new Capacity Declaration.
			Reviewed by: skc
			Reviewed on: 10-14-14
			Updates:
			Recommendation:
			File 24 - Alvarez