

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**

	CINDY SNOW HENRY filed Notice of Motion and Motion to Compel Performance under Settlement Agreement on 3-15-11.	NEEDS/PROBLEMS/COMMENTS:
	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.	Minute Order 6-24-14: Mr. Gilmore reports that the agreement has been signed by all parties on Mr. Franco's side. Continued to 7-8-14.
Cont from 062414, 070814 082114		Minute Order 7-8-14: Continued to 8-21-14
Aff.Sub.Wit.	The Court has held various settlement conferences and Court Trial hearings since then, including re: lot split and related matters.	Minute Order 8-21-14: Mr. Gilmore informs the Court that payment has been made. Continued to 10-16-14.
Verified		1. Need order approving Ms. Henry's petition filed 11-5-12 pursuant to the Minute Order of 3-3-14.
Inventory		2. Need agreement per Minute Order 6-3-14.
PTC		3. On 3-3-14, the Court appointed Doris Brosi as trustee. However, Doris Brosi has not made an appearance in this matter.
Not.Cred.	On 3-3-14, the Court granted Ms. Henry's petition filed 11-5-12. Minute Order 3-3-14 states: 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	Therefore, a filing/appearance fee of \$435 is due from Doris Brosi.
Notice of Hrg		Note: 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.
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Video Receipt		
CI Report		
9202		
Order	At continued settlement conference on 6-3-14, the Court made additional orders. Minute Order 6-3-14 states: 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	Reviewed by: skc
Aff. Posting		Reviewed on: 10-14-14
Status Rpt		Updates:
UCCJEA		Recommendation:
Citation		File 1 - Brosi
FTB Notice		

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

DOD: 10/01/08		JO ANN SORIA , Administrator with will annexed, is Petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</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: 11/10/10 – 06/18/14	
Cont. from		Accounting - \$400,000.00	
<input type="checkbox"/>	Aff.Sub.Wit.	Beginning POH - \$400,000.00	
<input checked="" type="checkbox"/>	Verified	Ending POH - \$400,000.00 (all real property)	
<input checked="" type="checkbox"/>	Inventory	Administrator - waived	
<input checked="" type="checkbox"/>	PTC	Attorney Bortolussi - \$800.00 (less than statutory based on time spent on the administration)	
<input checked="" type="checkbox"/>	Not.Cred.	Attorney Bortolussi costs- \$496.50 (filing fees, certified copies, recording fees)	
<input checked="" type="checkbox"/>	Notice of Hrg	Attorney Fanucchi costs- \$2,262.50 (to be paid by Petitioner outside of the probate estate for filing fees, publication, certified copies, probate referee)	
<input checked="" type="checkbox"/>	Aff.Mail		
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	Letters	11/10/10	
	Duties/Supp		
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	Status Rpt		
	UCCJEA		
	Citation		
<input checked="" type="checkbox"/>	FTB Notice		

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 (*Jeffrey 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

DOD: 4/23/10	JO ANN SORIA , Administrator, is petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 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. 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.
	Account period: 9/9/10 – 3/18/14	
	Accounting - \$83,750.00	
	Beginning POH - \$83,750.00	
	Ending POH - \$83,750.00	
Conf. from	Attorney Fanucchi cost - \$799.00	
<input type="checkbox"/> Aff.Sub.Wit.	Attorney Bortolussi costs - \$799.00	
<input checked="" type="checkbox"/> Verified	Attorney Bortolussi - \$800.00 – less than statutory based on time spent on the administration.	
<input checked="" type="checkbox"/> Inventory	Petition states 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.	
<input checked="" type="checkbox"/> PTC	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, petitioner requests that attorney fees to Mr. Fanucchi be denied.	
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	Please see additional page.	
	Reviewed by: KT	
	Reviewed on: 10/14/14	
	Updates:	
	Recommendation:	
	File 3 – Lucchesi	

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.

4 Ramona Garcia (Estate)

Case No. 12CEPR00128

**Atty Janisse, Ryan Michael (for Administrator Joe Garcia II)
Petition to Approve Settlement Agreement**

DOD: 3-22-10	<p>JOE GARCIA, II, Son and Administrator with Limited IAEA without bond, is Petitioner.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>				
		<p><u>Note:</u> The Court may require an estimated time frame for closing the estate from the attorney, and may set a status hearing accordingly for the filing of the petition for final distribution.</p>				
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	Aff.Sub.Wit.					
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✓	Notice of Hrg					
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	Video Receipt					
<table border="1"> <tr> <td data-bbox="99 1169 162 1220"></td> <td data-bbox="162 1169 358 1220">CI Report</td> <td data-bbox="358 1169 448 1220"></td> </tr> </table>		CI Report				
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<p>Recommendation:</p>						
<table border="1"> <tr> <td data-bbox="99 1472 162 1522"></td> <td data-bbox="162 1472 358 1522">Citation</td> <td data-bbox="358 1472 448 1522"></td> </tr> </table>		Citation		<p>Given Petitioner's limited authority, the settlement is conditioned upon the Court's order approving said agreement.</p>	<table border="1"> <tr> <td data-bbox="1032 1472 1572 1522"> <p>File 4 - Garcia</p> </td> </tr> </table>	<p>File 4 - Garcia</p>
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<p>File 4 - Garcia</p>						
<table border="1"> <tr> <td data-bbox="99 1522 162 1572"></td> <td data-bbox="162 1522 358 1572">FTB Notice</td> <td data-bbox="358 1522 448 1572"></td> </tr> </table>		FTB Notice		<p>Petitioner requests this Court enter an order approving the settlement agreement and thereby making it a binding agreement.</p>		
	FTB Notice					

DOD: 9-25-11		<p>JULIO A. HINOJOSA, Executor with Full IAEA without bond, is Petitioner.</p> <p>I&A: \$1,892.89 (cash)</p> <p>Petitioner states 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&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>Petitioner states 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"> • DCM Services for \$389.59 filed 5-14-12 • DCM Services for \$1,458.51 filed 5-17-12 • DCM Services for \$2,019.50 filed 5-29-12 <p>Petitioner has agreed to be personally responsible for all costs incurred by Dowling Aaron Incorporated in the administration of the estate.</p> <p>Petitioner prays for an order terminating further proceedings and discharging Petitioner as the court appointed personal representative.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>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.</p> <p><u>Note:</u> 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).</p> <p><u>Note:</u> If the claims are rejected, the creditors have 90 days to act on the rejected claim.</p> <p><u>Note:</u> 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.</p> <p>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).</p> <p>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.</p> <p>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.</p> <p>5. Petitioner must request discharge via the appropriate procedure. See Mandatory Judicial Council Form DE-295 Ex Parte Petition for Final Discharge and Order.</p>
Aff.Sub.Wit.			
Verified			
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PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail W			
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Status Rpt			
UCCJEA			
Citation			
FTB Notice			
Reviewed by: skc			
Reviewed on: 10-14-14			
Updates:			
Recommendation:			
File 5 - Hinojosa			

(1) First and Final Report of Executor on Waiver of Account and (2) Petition for Final Distribution; and for (3) Allowance of Compensation to Attorneys for Ordinary Services

DOD: 05/18/2012	HENRY T. PEREA , Executor, is petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Allowance or Rejection of Creditor's Claim for State of California Franchise Tax Board pursuant to California Rules of Court 7.401. 2. Need Allowance or Rejection of Creditor's Claim for Wells Fargo Card Service pursuant to California Rules of Court 7.401. 3. Need Allowance or Rejection of Creditor's Claim for Fresno County Federal Credit Union for Creditors Claim in the amount of \$120,248.82 pursuant to California Rules of Court 7.401. 4. Need Allowance or Rejection of Creditor's Claim for Fresno County Federal Credit Union for Creditors Claim in the amount of \$11,944.47 pursuant to California Rules of Court 7.401.
	Accounting is waived	
	I&A - \$142,500.00	
	POH - \$17,543.68 (cash)	
Cont. from	Executor – Waives	
<input type="checkbox"/> Aff.Sub.Wit.	Attorney - \$5,275.00 (Statutory)	
<input checked="" type="checkbox"/> Verified	Costs – \$1,651.00 (filing fees, certified copies, publication)	
<input checked="" type="checkbox"/> Inventory	Petitioner states the estate is insolvent. Final distribution of the assets of the estate is proposed based on the classes defined in Probate Code § 11420 as follows:	
<input type="checkbox"/> PTC	<ul style="list-style-type: none"> • Payment to Wagner & Wagner for attorney's fees \$5,275.00 • Reimbursement to Wagner & Wagner for administration expenses \$1,651.00 • Balance cash \$10,617.68 	
<input type="checkbox"/> Not.Cred.	Allocation between First Priority Claimants:	
<input checked="" type="checkbox"/> Notice of Hrg	<ul style="list-style-type: none"> • U.S. Department of the Treasury \$8,069.44 • California Franchise Tax Board \$2,548.24 	
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<input type="checkbox"/> Aff.Pub.		
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		Reviewed on: 10/15/2014
		Updates:
		Recommendation:
		File 6 - Trevino

Age: 14	OSCAR BARBA and TRISHA BARBA , maternal uncle and aunt, are Petitioners.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: If the petition is granted, status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Thursday, April 16, 2015 at 9:00 a.m. in Department 303, for the filing of the final account of Delia Gonzalez; and • Thursday, December 17, 2015 at 9:00 a.m. in Department 303, for the filing of the First account of Successor Guardians <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.</p> <p>Note: Status hearing previously set on 08/19/15 for the second account of Delia Gonzalez will be taken off calendar</p>
	On 10/31/12, DELIA GONZALEZ (Paternal Aunt), RAFAEL DE LA MORA MARTIN (Paternal Grandfather), and MARIA DE JESUS GOMEZ MUNOZ (Paternal Grandmother) were appointed Co-Guardians of the Person, and DELIA GONZALEZ was appointed Guardian of the Estate.	
Cont. from		
<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	On 08/15/13 OSCAR BARBA and TRISHA BARBA , maternal uncle and aunt, were appointed successor Co-Guardians of the Person. DELIA GONZALEZ continued as Guardian of the Estate.	
<input checked="" type="checkbox"/> Aff.Mail	w/	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.	Father: FRANISCO J. DE LA MORA (Deceased) Mother: LORENA DE LA MORA (Deceased)	
<input checked="" type="checkbox"/> Conf. Screen	Paternal Grandfather: RAFAEL DE LA MORA MARTIN – Consent & Waiver of Notice filed 10/07/14	
<input checked="" type="checkbox"/> Letters	Paternal Grandmother: MARIA DE JESUS GOMEZ MUNOZ – Consent & Waiver of Notice filed 10/07/14	
<input checked="" type="checkbox"/> Duties/Supp	Maternal Grandfather: CATARINO BARBA – Consent & Waiver of Notice filed 09/25/14	
<input type="checkbox"/> Objections	Maternal Grandmother: CARMEN BARBA – Consent & Waiver of Notice filed 09/25/14	
<input type="checkbox"/> Video Receipt	Petitioners state they are already acting as co-guardians of the minor's person and he wants them to handle his estate. The current guardian of the estate, Delia Gonzalez, has submitted her resignation and consents to the Petitioner's being successor Co-Guardians of the Estate.	
<input type="checkbox"/> CI Report	n/a	
<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		
	Estimated Value of the Estate: Personal property - \$207,041.60	
	Reviewed by: JF	
	Reviewed on: 10/14/14	
	Updates:	
	Recommendation:	
	File 7 - Mora	

DOD: 12/19/12	<p>MANUEL ROJAS, 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>Order on Ex Parte Petition to Amend Petition for Probate 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>Bond was filed 08/26/13 and new Letters of Administration were issued to Manuel Rojas on 08/28/13.</p> <p>Administrator Manuel Rojas died on 12/08/13. Pat Hernandez, sister, was appointed as successor Administrator with bond in the amount of \$400,000.00 on 03/19/14. Bond was filed 03/25/14 and Letters of Administration were issued to Pat Hernandez on 03/25/14.</p> <p>Minute Order from hearing appointing Manuel Rojas as Administrator on 02/14/13 set this matter for status regarding filing of the First Account/Petition for Distribution.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 07/18/14</u></p> <p>1. Need First Account and/or Petition for Final Distribution <u>or</u> current written status report.</p>
Cont. from 041814 071814		
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: JF
		Reviewed on: 10/14/14
		Updates:
		Recommendation:
		File 8 – Sanchez

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

DOD: 10/3/2012	MICHELLE K. JOHNSON , daughter filed on 4/9/2013 a petition against CHRISTINE REYNOLDS , former non-relative caregiver, seeking findings of financial elder abuse, conversion, and recovery of estate property pursuant to probate Code § 850.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 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.
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	X	
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt	X	
UCCJEA		
Citation		
FTB Notice		
<p>Following settlement attempts and appointment of CHRISTINE REYNOLDS as Special Administrator for the purpose of obtaining copies of Decedent's financial accounts, MICHELLE K. JOHNSON petitioned for Letters of Special Administration on 6/9/2014.</p> <p>Order for Special Administration filed on 7/21/2014 appointed MICHELLE K. JOHNSON 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>Order for Special Administration filed on 7/21/2014 set this Status Hearing on 10/16/2014 for a report of the special administration of MICHELLE K. JOHNSON.</p>		
Reviewed by: LEG		
Reviewed on: 10/14/14		
Updates:		
Recommendation:		
File 9 - Smith		

DOD: 1-22-13	GWEN HEMMINGER , Administrator with Full IAEA with bond of \$550,000.00, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	Petitioner titles this matter as follows:	<ol style="list-style-type: none"> 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: 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. <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: 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.
Cont. from 100214	GWEN G. HEMMINGER , Administrator of the Estate of Lindsay R. Green, deceased, Petitioner,	
<input type="checkbox"/> Aff.Sub.Wit.	vs.	
<input checked="" type="checkbox"/> Verified	ERMA J. MARZETTE , aka ERMA MAYO , aka ERMA MARZETTE GREEN; TASCIA TUCKER; and DOES 1-50, inclusive, Respondents.	
<input type="checkbox"/> Inventory	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"/> PTC	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"/> Not.Cred.	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"/> Notice of Hrg	<input checked="" type="checkbox"/>	
<input type="checkbox"/> Aff.Mail	<input checked="" type="checkbox"/>	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order	<input checked="" type="checkbox"/>	
<input type="checkbox"/> Aff. Posting	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"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
SEE ADDITIONAL PAGES		Reviewed by: Reviewed on: 10-14-14 Updates: Recommendation: File 10 - Green

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>EDMUND V. NOLTE, JR., son and Beneficiary of the NOLTE FAMILY TRUST dated 5/20/1999, 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>NEEDS/PROBLEMS/COMMENTS:</p> <p>Page 11B is Motion filed by Trustee Marjorie A. Nolte.</p> <p>Note: 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		
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: 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>MARJORIE A. NOLTE, Trustee of the NOLTE FAMILY TRUST dated 5/20/1999, filed a <i>Motion to Compel Deposition of Edmund Nolte, Jr. with Request for Production of Documents</i> on 9/9/2014.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> Examiner notes not prepared for this matter.</p>
Roseetta DOD: 5/7/2009		
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: LEG	
	Reviewed on: 10/14/14	
	Updates:	
	Recommendation:	
	File 11B - Nolte	

DOD: 8-24-12	CAROL GOULART , Executor with Full IAEA without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	I&A: \$1,850,310.00 consisting of various real property interests	
	Petitioner states that since the Executor is not yet in a position to close and distribute the estate, she has filed this Report of Administration. The beneficiaries according to the decedent's will are Petitioner and her brother Anthony Teixeira.	
	Creditor's Claims have been filed by State of California Franchise Tax Board, California Home for the Aged, and Phamerica. The Executor also filed, but subsequently withdrew, a Creditor's Claim on her own behalf.	
<input type="checkbox"/> Aff.Sub.Wit.	Petitioner believes the amount owed to the California Franchise Tax Board is not nearly as much as asserted on the claim, and Executor is attempting to put together Decedent's tax records to show that. The other two claims have been rejected by the Executor pursuant to applicable law, and the creditors did not file suit thereafter; therefore, the claims are now barred.	
<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		
	Petitioner states that unless she can prove a lesser amount is owing, the amount of tax debt is approximately \$19,500.00, plus interest. Executor intends to waive her statutory commission, and her attorney's commission will amount to approximately \$31,500.00. Expenses of administration will amount to approximately \$3,500.00. Assuming no extraordinary fees are incurred in the ongoing administration, it appears the cash needed to meet debts and administrative expenses will be approximately \$54,500.00.	
	Petitioner states she has engaged in discussion with her uncles, who each own an undivided interest in the real property in Santa Clara, with respect to one or the other or both of them purchasing the estate's interest in the property, which would be more than ample to meet the administrative cash requirements of the estate and facilitate distribution of the estate between the beneficiaries. Executor therefore seeks more time to work out a deal or to otherwise borrow against the estate's interest or possibly file a partition action to force a sale of the real estate.	
	Petitioner states keeping the estate open over the near-term is not harmful to the estate or beneficiaries and will allow Petitioner time to compile the delinquent income taxes and come up with a way to generate sufficient liquidity to enable the settlement and final distribution thereof.	
	Petitioner prays for an order that administration continue for a period of six months, after which time a Petition for Distribution or a Status Report will be filed.	
		Reviewed by: skc
		Reviewed on: 10-14-14
		Updates:
		Recommendation: File 12 - Teixeira

Atty **Gin, Robert W.;** of Griswold, Lasalle, Cobb, Dowd & Gin, Hanford (Petitioner, Attorney for David N. Washington, Jr.)
Atty **Boyett, Deborah K.;** of Walter & Wilhelm Law Group (Court-appointed Attorney for Conservatee)

Petition for Order Fixing and Allowing Attorney's Fees

Age: 81 years	<p>GRISWOLD, LASALLE, COBB, DOWD & GIN by ROBERT W. GIN, attorneys for DAVID N. WASHINGTON, JR., son, is Petitioner.</p> <p>DAVID N. WASHINGTON, Jr., was appointed Conservator of the Person and Estate on 5/2/2014.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> • Petitioner is the attorney for the Conservator of the Person and Estate, David N. Washington, Jr.; • On 11/20/2013, David N. Washington, Jr., entered into an agreement to hire Petitioner to represent him in the preparation of a conservatorship proceeding for the Conservatee (<i>copy of retainer agreement attached as Exhibit A</i>); • Under the agreement, Petitioner prepared documentation to establish a conservatorship of the person and estate for Conservatee; • Petitioner also conferred with the Court-appointed attorney for Conservatee; • Petitioner appeared in Court to establish a temporary and permanent conservatorship of the person and estate of Conservatee; • Petitioner reviewed extensive documentation provided by David N. Washington to determine the separate property and the community property of Conservatee and her predeceased husband; • Petitioner also prepared documentation to preserve and protect Conservatee's interest and right in that action entitled Estate of David Lee Baker, Case 13CEPR00999; <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Notice of Non-Opposition was filed on 10/14/14 by Court-appointed Attorney DEBORAH BOYETT.</p> <p>1. Petition is signed by the Attorney, but is not verified by the Attorney as Petitioner pursuant to Probate Code § 1021 and CA Rule of Court 7.103.</p>	
Cont. from			
Aff.Sub.Wit.			
Verified			X
Inventory			
PTC			
Not.Cred.			
<input checked="" type="checkbox"/> Notice of Hrg			
<input checked="" type="checkbox"/> Aff.Mail			W/
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
<input checked="" type="checkbox"/> Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: LEG</p> <p>Reviewed on: 10/14/14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 13 – Baker</p>	

Petitioner states, continued:

- Petitioner has expended **39.43 hours** in this matter, plus estimates to spend another **2.50 hours** in preparation of the instant petition and attending the hearing on the same, for a total of **41.93 hours**, from **11/20/2013 to the present**, for the benefit of David N. Washington, Jr., the Conservator, resulting in a total fee of **\$9,750.15**; the filing fee for the instant petition is **\$435.00**; hourly attorney rates are from **\$175.00 to \$250.00** per hour; paralegal rate is **\$90.00** per hour (*copy of Petitioner's time records attached as Exhibit B*);
- Taking into consideration the time expended, the responsibility assumed, the complexity of the Conservatorship matter and of preserving Conservatee's interest and rights in the Estate matter, the expertise of Petitioner, the results achieved and the size of the estate, Petitioner believes that **\$9,750.15** is reasonable compensation for the services performed;
- Petitioner also incurred reimbursable costs of **\$324.26** for filing fees, process server fees, certification costs;
- **ERNEST BAKER**, the Executor of the Estate of David Baker, has paid to Petitioner the sum of **\$3,500.00** on account for the retainer and reimbursement of costs advanced by Petitioner.

Petitioner prays for an Order:

1. Directing payment by the Conservator to Petitioner the sum of **\$6,250.15 (\$9,750.15 less \$3,500.00)** from the Conservatee's estate for legal services rendered;
2. Ratifying and confirming the payment received on account for the retainer agreement and reimbursement of costs advanced; and
3. Directing payment by the Conservator to Petitioner the sum of **\$324.26 plus \$435.00 (total of \$759.26)** from the Conservatee's estate for reimbursement of costs advanced.

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 01/08/2014	DENNIS H. JOHNS , son was appointed Executor with limited IAEA authority without bond on 06/23/2014.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order of 08/28/2014: Dennis Johns appears via Courtcall. Status may come off calendar if filed.</p> <p>The following issues remain:</p> <ol style="list-style-type: none"> 1. The Inventory and Appraisal does not specify which partial number it is. Is this Partial No. 1 or No. 2? Need clarification. 2. Need Final 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.
	Letters were issued on 06/23/2014.	
Cont. from 082814	Minute Order of 06/23/2014 set this status hearing for the filing of the Inventory and Appraisal.	
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.	Inventory and Appraisal Partial No. ? filed 10/10/2014 lists real property valued at \$260,000.00.	
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 14 - Johns

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

Age: 81 years	<p>TIMOTHY WARREN FLETCHER, son, is petitioner and requests appointment as Conservator of the person with medical consent powers and dementia powers for the administration of dementia medications and secured placement and for conservator of the estate with bond set at \$380,129.64.</p> <p>Declaration of Pam Janda M.D., 9/22/14</p> <p>Estimated value of the estate: Personal property - \$333,000.00 Annual income - \$ 12,572.40 Total - \$345,572.40</p> <p>Petitioner states proposed conservatee has dementia and needs assistance with medications and care and supervision. The proposed conservatee has already been adjudicated as incapacitated in the Circuit Court of the State of Oregon. The proposed conservatee has been moved to California to be closer to the conservator and proceedings in California are now required.</p> <p>Court Investigator Jennifer Daniel's Report filed on 10/8/14.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Court Investigator advised rights on 9/26/14</p> <p>Voting rights affected need minute order.</p> <p>1. Declaration of Dr. Pam Janda <u>does not</u> support the administration of dementia medications.</p> <p>Note: If the petition is granted, status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Wednesday, November 12, 2014 at 9:00 a.m. in Department 303, for the filing of the bond. • Wednesday, February 18, 2015 at 9:00 a.m. in Department 303, for the filing of the inventory and appraisal. • Wednesday, December 9, 2015 at 9:00 a.m. in Department 303, for the filing of the first account or petition for final distribution. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.</p>
Cont. from		
<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 checked="" type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input checked="" type="checkbox"/> Video Receipt		
<input checked="" 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 checked="" type="checkbox"/> Citation W/		
<input type="checkbox"/> FTB Notice		
Reviewed by: KT		
Reviewed on: 10/15/14		
Updates:		
Recommendation:		
File 15 - Pace		

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

DOD: 6-28-14	JOE L. CABRERA, SR. , Brother, is Petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. A petition under this section must be brought by <u>all</u> of the successors in interest to the property. Need new petition brought by all four siblings. See Probate Code §13151.</p> <p>2. Need clarification: Attachment 14 indicates that Joe Cabrera, <u>Jr.</u>, is the decedent's brother; however, it appears this may be a typo, since all other references are to Petitioner Joe Cabrera, <u>Sr.</u> Is this a typo on Attachment 14, or is Joe Cabrera, <u>Jr.</u>, the brother?</p>
	40 days since DOD	
	No other proceedings	
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified	I&A: \$125,000.00 (real property located at 1401 Pine Street in Selma)	
<input checked="" type="checkbox"/> Inventory		
<input type="checkbox"/> PTC	Decedent died intestate	
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	Petitioner requests Court determination that the decedent's 100% interest in the real property passes to the decedent's four siblings, Joe L. Cabrera, Sr., Maria Teresa Cabrera-Sahagian, Maria Dolores Cabrera, and Omero Cabrera, as Tenants In Common, each with 25% interest.	
<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		
		Reviewed by: skc
		Reviewed on: 10-14-14
		Updates:
		Recommendation:
		File 16 - Cabrera

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

DOD: 08/22/2014		<p>MORGAN H. DEMING, 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>Estimated value of the Estate:</p> <table border="0"> <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>Total</td> <td>-</td> <td>\$129,163.00</td> </tr> </table> <p>Probate Referee: Steven Diebert</p>	Personal property	-	\$12,000.00	Real property	-	\$260,000.00	(Less encumbrances	-	-\$142,837.00)	Total	-	\$129,163.00	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: If the petition is granted status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Thursday, 02/19/2015 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal and • Thursday, 12/14/2015 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>
Personal property	-		\$12,000.00												
Real property	-		\$260,000.00												
(Less encumbrances	-		-\$142,837.00)												
Total	-		\$129,163.00												
Cont. from															
<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 checked="" type="checkbox"/>	Aff.Pub.														
<input type="checkbox"/>	Sp.Ntc.														
<input type="checkbox"/>	Pers.Serv.														
<input type="checkbox"/>	Conf. Screen														
<input checked="" type="checkbox"/>	Letters														
<input checked="" 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: LV</p> <p>Reviewed on: 10/14/2014</p> <p>Updates:</p> <p>Recommendation: Submitted</p> <p>File 18 - Deming</p>													

		<p>ROBERT A. MALLEK, JR., attorney for Named Executor DANIEL M. JONES, is Petitioner.</p> <p>Petitioner states the original will of Carolyn Irene Hahn Jones was inadvertently deposited with the Superior Court of the State of California, County of Fresno on 8-4-14.</p> <p>However, the decedent was a resident of Tulare County at the time of her death.</p> <p>Attorney Mallek respectfully requests that the original will be transferred to the Superior Court of the State of California, County of Tulare.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Probate Code §8203 provides for transfer of a will to a county in which a proceeding is pending. Petitioner does not state if a probate has been established in Tulare County for this decedent. Need Tulare County case number to which the will is to be transferred to. See applicable language in bold below:</p> <p>8203. If a will has been delivered to the clerk of the superior court in a county in which no proceeding is pending to administer the testator's estate, that court may order the will transferred to the clerk of the superior court in a county in which such a proceeding is pending. A petition for the transfer may be presented and heard without notice, but shall not be granted without proof that a copy of the petition has been mailed to the petitioner and any persons who have requested special notice in the proceeding in the court to which the will is to be transferred. The petition and order shall include the case number of the proceeding in the court to which transfer is prayed. Certified copies of the petition, any supporting documents, and the order shall be transmitted by the clerk along with the original will, and these copies shall be filed in the proceeding by the clerk of the recipient court.</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		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			<p>Reviewed by: skc</p> <p>Reviewed on: 10-15-14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 19 - Jones</p>

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

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

Age: 39 years	KENDRA L. BRENSON , sister, was appointed Successor Conservator of the Person and Estate on 8/2/2007.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Page 20B is the Status Hearing Re: Establishment of Conservatorship in Texas; and the Final Account.</p> <p>Continued from 6/18/2014. Minute Order states Counsel reports that the Petitioner and the Conservatee are both residing in Texas. Counsel further reports that escrow has not closed.</p> <p>1. Need proof of funds deposited into a blocked account in the State of Texas via filing of Judicial Council form <i>Receipt and Acknowledgment of Order for the Deposit of Money into Blocked Account</i>.</p>
Cont. from 061814	Petition for Order Confirming Sale of Real Property was filed by Conservator on 3/10/2014 , seeking Court confirmation of the real property interest owned by the Conservatorship, consisting of a 23.95% interest in the property valued at \$84,314.47 as of 3/31/2008.	
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.	Order Confirming Sale of Real Property was filed 5/19/2014 , and requires bond of \$42,000.00 .	
Notice of Hrg	Minute Order dated 5/19/2014 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 \$185,000.00 . There being no overbids in open Court, the sale price is confirmed at \$185,500.00 . The Court orders that there be no distribution of the proceeds pending further order of the Court.	
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters	Declaration of Lisa Horton filed 6/11/2014 for the previous Status Hearing states, in pertinent part:	
Duties/Supp	<ul style="list-style-type: none"> • Due to the Petitioner being out of state, being bonded is difficult; • 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; • 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. 	
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 20A - Harris

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

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

Age: 39 years	KENDRA L. BRENSON, sister, was appointed Successor Conservator of the Person and Estate on 8/2/2007.	NEEDS/PROBLEMS/COMMENTS: 1. Need proof of the establishment of conservatorship of the person and estate or its equivalent in the State of Texas. 2. Need first and final account of the conservatorship pursuant to Probate Code § 2620 et seq.
Cont. from	Order Fixing Residence Outside the State of California filed on 6/18/2014 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 within 4 months of the date of this order. Minute Order dated 6/18/2014 set this Status Hearing on 10/16/2014 for filing proof of establishment of conservatorship or its equivalent in Texas. Four months of the date of the <i>Order Fixing Residence</i> expires on 10/18/2014 .	
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: LEG Reviewed on: 10/14/14 Updates: Recommendation: File 20B - Harris

DOD: 01/08/14		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>OFF CALENDAR</p> <p><u>Inventory & Appraisal filed 06/11/2014</u></p> <p><u>Order Settling First and Final Account filed 10/08/2014</u></p>
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

Atty Blum, Mark A., of Henry, Logoluso & Blum (for Paul Anthony Tosto, Executor)

Status Hearing Re: Filing of the Inventory and Appraisal

DOD: 2/3/2014		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>OFF CALENDAR</p> <p><i>Final Inventory and Appraisal filed 9/2/2014.</i></p>
Cont. from		
<input type="checkbox"/>	Aff.Sub.Wit.	
<input type="checkbox"/>	Verified	
<input checked="" type="checkbox"/>	Inventory	
<input type="checkbox"/>	PTC	
<input type="checkbox"/>	Not.Cred.	
<input type="checkbox"/>	Notice of Hrg	
<input type="checkbox"/>	Aff.Mail	
<input type="checkbox"/>	Aff.Pub.	
<input type="checkbox"/>	Sp.Ntc.	
<input type="checkbox"/>	Pers.Serv.	
<input type="checkbox"/>	Conf. Screen	
<input type="checkbox"/>	Letters	
<input type="checkbox"/>	Duties/Supp	
<input type="checkbox"/>	Objections	
<input type="checkbox"/>	Video Receipt	
<input type="checkbox"/>	CI Report	
<input type="checkbox"/>	9202	
<input type="checkbox"/>	Order	
<input type="checkbox"/>	Aff. Posting	
<input type="checkbox"/>	Status Rpt	
<input type="checkbox"/>	UCCJEA	
<input type="checkbox"/>	Citation	
<input type="checkbox"/>	FTB Notice	
		Reviewed by: LEG
		Reviewed on: 10/15/14
		Updates:
		Recommendation:
		File 22 - Vallandingham

23 Gloria P. Pennington (Estate)

Case No. 14CEPR00486

Atty Johnson, Helen (Pro Per – Daughter – Petitioner)

Atty Thomas, Shacola (Pro Per – Granddaughter – Petitioner)

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

DOD: 1-5-14	HELEN JOHNSON, Daughter, and SHACOLA THOMAS, Granddaughter, are Petitioners and request appointment as Co-Administrators with Full IAEA.		NEEDS/PROBLEMS/COMMENTS: Continued from 7-10-14, 9-4-14. Nothing further has been filed.
Cont'd from 071014 090414	Petitioners do not address bond.		
<input type="checkbox"/> Aff.Sub.Wit.	Full IAEA – Need publication		<ol style="list-style-type: none"> 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. <p><u>Note:</u> This estate was opened with a fee waiver; however, if assets are distributed, filing fees will be due.</p> <p><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.</p>
<input checked="" type="checkbox"/> Verified	Decedent died intestate		
<input type="checkbox"/> Inventory	Residence: Fresno		
<input type="checkbox"/> PTC	Publication: Need publication		
<input type="checkbox"/> Not.Cred.	Estimated value of estate: Not addressed		
<input type="checkbox"/> Notice of Hrg	X	Probate Referee: Steven Diebert	
<input type="checkbox"/> Aff.Mail	X		
<input type="checkbox"/> Aff.Pub.	X		
<input type="checkbox"/> Sp.Ntc.			
<input type="checkbox"/> Pers.Serv.			
<input type="checkbox"/> Conf. Screen			
<input checked="" type="checkbox"/> Letters			
<input checked="" 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: skc
			Reviewed on: 10-14-14
			Updates:
			Recommendation:
			File 23 – Pennington

Atty Mendoza, Helen (Pro Per – Sister – Petitioner)

Atty Boyett, Deborah K. (Court appointed for Conservatee)

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

		NO TEMP REQUESTED	NEEDS/PROBLEMS/COMMENTS:
		HELEN MENDOZA , 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>
			<u>Voting rights affected – need minute order</u>
Cont. from 090414		Voting rights affected	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.
	Aff.Sub.Wit.		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>
✓	Verified	Capacity Declaration filed 8-25-14.	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.
	Inventory	Petitioner states the proposed Conservatee suffers from dementia, autism.	However, because the Capacity Declaration specifically does not address placement, the Court may require further information or a new Capacity Declaration.
	PTC		
	Not.Cred.		
✓	Notice of Hrg	Court Investigator Charlotte Bien filed a report on 8-14-14.	
✓	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
✓	Pers.Serv.		
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
✓	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
✓	Citation		
	FTB Notice		
			Reviewed by: skc
			Reviewed on: 10-14-14
			Updates:
			Recommendation:
			File 24 - Alvarez

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

Yaneli, 5	TEMPORARY EXPIRES 10/16/14		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need proof of service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent & Waiver of Notice for:</p> <ul style="list-style-type: none"> a. Kimberly's father (unknown) – personal service required b. Tomas Garcia (Yaneli's paternal grandfather) – service by mail sufficient c. Yolanda Garcia (Yaneli's paternal grandmother) – service by mail sufficient d. Kimberly's paternal grandparents (unknown) – service by mail sufficient <p>Note: Declarations of Due Diligence have been filed for all of the above stating that their identities and/or whereabouts are unknown to petitioner.</p>
Kimberly, 5 mos.	<p>MARTHA GONZALEZ, maternal grandmother, is Petitioner.</p> <p>Father (Yaneli): JESUS GARCIA – Consent & Waiver of Notice filed 08/21/14</p> <p>Father (Kimberly): UNKNOWN - Declaration of Due Diligence filed 08/14/14</p> <p>Mother: BEATRIZ JUAREZ – Currently incarcerated in Mexico; Court dispensed with Notice on 08/21/14</p> <p>Paternal grandfather (Yaneli): TOMAS GARCIA – Declaration of Due Diligence filed 08/27/14</p> <p>Paternal grandmother (Yaneli): YOLANDA GARCIA – Declaration of Due Diligence filed 08/27/14</p> <p>Paternal grandparents (Kimberly): UNKNOWN – Declarations of Due Diligence filed 08/14/14</p> <p>Maternal grandfather: BENEDICTO JUAREZ – Served by mail on 08/26/14</p> <p>Petitioner alleges that the mother is incarcerated in Mexico facing a 10 year sentence for drugs. Yaneli's father has a life with his current mate and is not involved in Yaneli's care. Kimberly's father is unknown.</p> <p>Court Investigator Julie Negrete filed a report on 09/22/14.</p>		
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail	w/		
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: 10/15/14			
Updates:			
Recommendation:			
File 25 - Juarez			

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

		TEMP EXPIRES 10-16-14	NEEDS/PROBLEMS/COMMENTS:
		CHRISTINA RENEE FLORES , Nonrelative, is Petitioner. Ms. Flores is the girlfriend of the minors' paternal uncle, Jack Carson.	1. Need Notice of Hearing for <u>this</u> hearing date.
	Aff.Sub.Wit.	Father: STEVEN DALE FOLSOM	2. Need proof of personal service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing pursuant to Probate Code §1511 <u>or</u> consent and waiver of notice for:
✓	Verified	Mother: AMBER DAWN SHIREY	- Steven Dale Folsom (Father)
	Inventory	Paternal Grandfather: Chester Folsom	- Amber Dawn Shirey (Mother)
	PTC	Paternal Grandmother: Julie Carson	3. Need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing <u>or</u> consent and waiver of notice for:
	Not.Cred.	Maternal Grandfather: Donnie Shirey	- Chester Folsom (Paternal Grandfather)
	Notice of Hrg	Maternal Grandmother: Sharon Shirey	- Julie Carson (Paternal Grandmother)
	Aff.Mail	Sibling: Anthony Shirey	- Donnie Shirey (Maternal Grandfather)
	Aff.Pub.	Petitioner states the minors have lived with her the majority of their lives. The parents are separated and both are homeless and unable to provide for the boys. They have lived with Petitioner and her fiancée (their uncle) full time since February 2014 and have lived with them many times in the past, including through CPS. Petitioner states their home is the only home the boys know, and they feel at home with Petitioner.	- Sharon Shirey (Maternal Grandmother)
	Sp.Ntc.		- Anthony Shirey (Sibling, if age 12 or older)
	Pers.Serv.		Note: The Notice of Hearing filed 8-21-14 was for the temporary hearing date of 8-21-14 only. That document indicates service regarding the temporary hearing on the parents and all grandparents.
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
✓	DSS Report	DSS Social Worker Maria Holguin filed a report on 10-9-14.	
✓	Clearances	Court Investigator: Charlotte Bien	
✓	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc
			Reviewed on: 10-15-14
			Updates:
			Recommendation:
			File 26 - Folsom

Pro Per Langston, Spring M. (Pro Per Petitioner, paternal aunt)

Pro Per Langston, Erin J. (Pro Per Petitioner, paternal uncle)

Petition for Appointment of Temporary Guardian of the Person

Alexander Age: 5 1/2 years		<p>TEMPORARY EXPIRES 08/26/2014; extended to 10/16/2014</p> <p>SPRING M. LANGSTON and ERIN J. LANGSTON, paternal aunt and uncle, are Petitioners.</p> <p>Father: JOSHUA LAYTON; <i>Personally served 8/19/2014.</i></p> <p>Mother: CHRISTINA STAGGS; <i>Personally served 8/18/2014.</i></p> <p>Paternal Grandfather: James Rodgerson; <i>consents and waives notice.</i> Paternal Grandmother: Tamorah Wilson; <i>consents and waives notice.</i></p> <p>Maternal Grandfather: Steven Staggs; <i>sent notice by mail 8/30/3014.</i> Maternal Grandmother: Darlene Staggs; <i>sent notice by mail 8/30/3014.</i></p> <p>Sibling age 12: Penelope Layne Staggs; <i>sent notice by mail 8/30/3014.</i></p> <p>Petitioners state the mother has been committed on a 5150 twice in the last four months and both parents show signs of possible substance abuse. Petitioners state the children need consistency and structure and neither parent is capable of providing this for them at this time, and Petitioners love the children and want to help the children to be happy and confident with the ability to make good choices until either or both parents are able to care for them.</p> <p>Court Investigator Jennifer Daniel's Report was filed on 10/8/2014.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Notes:</p> <ul style="list-style-type: none"> Minute Order dated 8/26/2014 from the hearing on the temporary petition states: Mother not in favor. Mother can visit with children at maternal grandparents every weekend. Petition for Appointment of Guardian of the Person filed on 9/30/2014 by DARLENE MARIE STAGGS for guardianship of PENELOPE LAYNE STAGGS, sibling of the subject children, is set for hearing on 12/8/2014. 	
D'arcy Age: 1				
	Aff.Sub.Wit.			
✓	Verified			
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✓	Clearances			
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✓	UCCJEA			
	Citation			
	FTB Notice			
		Reviewed by: LEG		
		Reviewed on: 10/15/14		
		Updates:		
		Recommendation:		
		File 27 – Layton		

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

Age:18		<u>TEMPORARY EXPIRES 10/16/2014</u>	NEEDS/PROBLEMS/COMMENTS:
		<u>GENERAL HEARING 12/11/2014</u>	
Cont. from		MARLON OMAR AYALA ORELLANA , minor, is petitioner and requests that RAUL AYALA ALVARENGA , grandfather, be appointed as his Temporary Guardian.	<ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of personal service five(5) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Temporary Guardian or consent and waiver for: <ul style="list-style-type: none"> • Jose Ayala (Father) – Unless the Court dispenses with notice
<input type="checkbox"/> Aff.Sub.Wit.		Father: JOSE AYALA , Declaration of Due Diligence filed 10/14/2014	
<input checked="" type="checkbox"/> Verified		Mother: ROSA ORELLANA , Declaration of Due Diligence filed 10/14/2014	<ul style="list-style-type: none"> • Rosa Orellana (Mother) – Unless the Court dispenses with notice
<input type="checkbox"/> Inventory		Paternal Grandparents: Not Listed	
<input type="checkbox"/> PTC		Maternal Grandparents: Not Listed	<p>Note: Declaration of Due Diligence filed 10/14/2014 states both parents are in El Salvador at an unknown address. Last contact with him was on or about April of 2014.</p>
<input type="checkbox"/> Not.Cred.		Petitioner states: guardianship is necessary because he has been neglected by both of his parents. Guardianship by his grandfather is necessary and in the best interest of the minor to provide him with a safe and stable living environment. Reunification with one or both parents would be detrimental to the minor and the child needs to have a guardian appointed to qualify for Special Immigrant Juvenile Status. Temporary guardianship is necessary and convenient so that the child may attend school and to obtain expedient medical care.	
<input type="checkbox"/> Notice of Hrg	x		<p>Note: Declaration of Due Diligence filed 10/14/2014 states both parents are in El Salvador at an unknown address. Last contact with her was on or about April of 2014.</p>
<input type="checkbox"/> Aff.Mail			
<input type="checkbox"/> Aff.Pub.			<p>Reviewed by: LV</p> <p>Reviewed on: 10/15/2014</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 28 - Orellana</p>
<input type="checkbox"/> Sp.Ntc.			
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<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 checked="" type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			

Memorandum of Points and Authorities in Support of Request for Order Regarding Minor's Eligibility for Special Immigrant Juvenile Status filed on 10/08/2014 states for purposes of eligibility for SIJS, Marlon Omar Ayala Orellana has been legally committed to and placed under the custody of an individual Raul Ayala Alvarenga by the juvenile court and reunification with their parents is not viable due to abandonment. It is not in his best interest to be returned to his previous country of nationality or country of habitual residence – El Salvador. It is in Marlon Omar Ayala Orellano's best interest to remain in the United States. This Court's findings will allow him to apply for lawful permanent residence in the United States. This Court's findings will allow him to apply for lawful permanent residence in the United States and remain in the stable and loving home of his guardian. Without this Court's approval and findings, Marlon Omar Ayala Orellana will not qualify for immigration relief under the INA and may face deportation.

Petition to Invalidate Trust Dated October 1, 2013 and any Amendments on the Grounds of Undue Influence and Incapacity; to Confirm Validity of Trust Dated April 5, 2005 as Restated on August 25, 2006 and Amended on January 14, 2009 and all Assets Held by 2005 Trust; Petition to Determine Validity of Transfer of 2005 Trust Assets; Fraud; Breach of Trust; for Financial Elder Abuse of a Dependent Adult; for Imposition of a Constructive Trust on Wrongfully Transferred Assets; for Trust Accounting; for Double Damages; for Attorney Fees and Cost of Suit; and for Punitive Damages

DOD: 10/14/13		<p>ANTON KREMER, trustee of the GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT dated 04/05/05 as Restated on 08/24/06 and Amended on 01/14/09, and intestate heir of GLORIA E. ZSIBA, is Petitioner.</p> <p>Petitioner alleges:</p> <ol style="list-style-type: none"> GLORIA ELIZABETH ZSIBA aka GLORIA E. ZSIBA (hereinafter referred to as "Decedent") died on 10/14/13. At the time of her death, she was a resident of Fresno County and left real and personal property in Fresno County. Decedent had three living children, Petitioner, Kevin Lee Tracy (hereinafter "Respondent"), and Kenton N. Tracy; and one deceased daughter, Teresa Chambless. In addition, Decedent had 7 grandchildren. Decedent's spouse, Alexander J. Zsiba predeceased her. On 04/05/05, Decedent executed THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT (the "2005 Trust"). Respondent was named as the successor trustee. According to the 2005 Trust, the trust estate was to be distributed as follows to her Spouse, if he survived her: <ol style="list-style-type: none"> A life estate in decedent's residence, and the sum of \$70,000 to be set aside and paid monthly in the sum of \$1,000 for his living expenses. <p>Upon either her spouse's death or if he failed to survive her, the trust estate balance was to be distributed as follows:</p> <ol style="list-style-type: none"> 3/4 equally to Decedent's three children – Respondent, Kenton Tracy, and Petitioner. 1/4 equally to the children of decedents deceased daughter, Teresa Chambless. <p style="text-align: center;">Continued on Page 2</p>	<p>NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 10/14/14</u></p> <ol style="list-style-type: none"> Need Order. Petitioners have requested relief related to elder abuse and undue influence allegations and request an award of punitive damages. Probate Code §17200 states a trust petition can be filed concerning the internal affairs of a trust or to determine the existence of a trust. This does not include provisions for elder abuse. The allegations in the pleadings are primarily brought under the Welfare and Institutions Code concerning elder abuse, therefore, this case may be more appropriately heard in the civil court rather than the probate court. Need proof of service by mail at least 30 days before the hearing of all persons entitled to notice in this matter. Note: Proof of service has only been filed reflecting personal service on Peter Russo on behalf of his client, Kevin Lee Tracy. It is insufficient to serve a party in "care of" another, therefore also need proof of service by mail at least 30 days before the hearing on Kevin Lee Tracy.
Cont. from 030314 060214, 101414			
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<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
Reviewed by: JF			
Reviewed on: 10/15/14			
Updates:			
Recommendation:			
File 29A – Zsiba			

5. Also on 04/05/05, decedent signed a Grant Deed to Trust ("2005 Deed") transferring her residence located at 3260 E. Kerchoff in Fresno to herself as trustee under the 2005 Trust. Decedent did not execute or record any grant deed thereafter, so the decedent's real property remained in the 2005 Trust until decedent's death.
6. Petitioner alleges that decedent made a subsequent amendment to the 2005 Trust placing Petitioner as successor trustee.
7. On 08/24/06, decedent executed THE RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT ("2006 Restatement"). The 2006 Restatement revoked the prior amendment(s) made to the 2005 Trust and placed Respondent back as successor trustee. Petitioner alleges that the 2006 Restatement was drafted by Respondent after he learned that decedent had made an amendment to her 2005 Trust placing Petitioner as successor trustee.
8. Petitioner states that decedent owned a Merrill Lynch (also known as Merrill Edge) account ending in 5148 and held cash and mutual funds. This account was titled and held in the name of the 2006 Restatement. Petitioner states that the title of this account was never changed and her assets in the Merrill Lynch account remained in the name of the 2006 Restatement until her death.
9. On 01/14/09, decedent executed an AMENDMENT TO RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT (the "2009 Amendment"). The 2009 Amendment revoked Article IV of the 2006 Restatement and placed Petitioner as successor trustee with Respondent as the second alternate successor trustee. Decedent did not change the prior distribution of the trust estate.
10. Petitioner alleges that decedent also executed a LAST WILL AND TESTAMENT OF GLORIA E. ZSIBA (the "2009 Will"). The 2009 Will states specific bequests of personal items and furniture to all three of her children and then sets forth distribution of all of her furniture, furnishings, household equipment and any vehicle(s) owned to be distributed $\frac{3}{4}$ equally to her three living children and $\frac{1}{4}$ equally to the children of her deceased daughter. This follows the same distribution set forth in the 2005 Trust and 2006 Restatement.
11. The 2009 Will not only states that decedent had a deceased daughter, but it also specifically names her daughter's heirs at law. The 2009 Will also nominates Petitioner as the first executor and Respondent as the alternate executor.
12. Petitioner states that he took care of and handled decedent's day to day needs from 1997 to 09/09/13. Petitioner alleges that Respondent and his other brother, Kenton Tracy, went years without contact with decedent, and on or about the third week of August 2013, Respondent showed up at decedent's residence. Petitioner states that decedent informed Respondent that she intended to change the 2006 Restatement to leave her home to Petitioner so that the house remained in the family and Petitioner would take care of her cats. Petitioner alleges that this amendment was prepared and signed, but decedent was not able to have it notarized.
13. Petitioner states that decedent wanted to die at home, in her bed with her beloved cats nearby.
14. Petitioner states that on or about 09/09/13 and thereafter, Respondent kept Petitioner away from decedent, which was against decedent's wishes.
15. Petitioner alleges that during the week of 09/09/13, Respondent removed the decedent's check book and debit card from her possession and never returned them.
16. Petitioner alleges that on 09/16/13, Respondent took possession of the decedent's vehicle.
17. Petitioner alleges that from 09/09/13 to present, he has been denied access to decedent's house and cats, under threats of physical violence. Petitioner's vehicle is in the garage at decedent's residence and Respondent will not let Petitioner have access to it.
18. Petitioner alleges that around 09/20/13, Respondent attempted to file a Power of Attorney with Merrill Lynch granting himself control of decedent's Merrill Lynch account. On or about 09/25/13, the Power of Attorney was returned by Merrill Lynch as unacceptable.

Continued on Page 3

19. Petitioner alleges that decedent's health declined significantly after Respondent prevented Petitioner from seeing and caring for decedent beginning on or about 09/09/13.
20. Petitioner alleges that on 09/26/13, due to Respondent's inadequate care of her health needs, decedent became very ill and her left foot became gangrenous which required amputation.
21. Petitioner alleges that on or about the night of 10/01/13, Respondent coordinated the drafting of a new Living Trust and Will with APS Document Service and hired them to come to decedent's hospital room at Kaiser. Decedent was scheduled to have her left foot amputated the next day. Petitioner alleges that decedent did not hire APS Document Service nor were they hired at her request. Petitioner alleges that while decedent was heavily medicated, she executed THE GLORIA ELIZABETH ZSIBA LIVING TRUST (the "2013 Trust").
22. Petitioner alleges that under the terms of the 2013 Trust, Respondent is the only named successor trustee. The 2013 Trust also sets forth a completely different distribution plan than any of her previous estate planning documents. Under the 2013 Trust the distribution of the trust estate will solely go to five of Decedent's grandchildren. The 2013 Trust specifically left nothing to Decedent's three living sons, never mentioned her deceased daughter and forgot two of decedent's grandchildren.
23. Petitioner alleges that along with the 2013 Trust, while decedent was heavily medicated and very ill, she executed THE LAST WILL AND TESTAMENT OF GLORIA ELIZABETH ZSIBA (the "2013 Will").
24. Petitioner alleges that the 2013 Will only mentions decedent's three living sons. It does not state that she had a predeceased daughter, nor does it mention the predeceased daughter's heirs at law. The 2013 Will gives all of the Decedent's real and personal property to the 2013 Trust and nominates only Respondent as the Executor.
25. Petitioner alleges that at the time decedent signed the 2013 Trust and the 2013 Will, Kaiser Permanente Hospital believed she was incompetent for the purposes of making medical decisions. Respondent was using a medical Power of Attorney or an Advanced Health Care Directive to make medical decisions for decedent.
26. Petitioner alleges that on 10/03/13 during a bone biopsy, a blood clot caused decedent to have a massive stroke. Petitioner alleges that Kaiser wanted to coordinate in home care so that decedent could live the rest of her days comfortably in her own home as she wanted.
27. Petitioner alleges that Respondent instead transferred decedent to Hinds Hospice and rented out all of decedent's rooms in her home.
28. Petitioner states that decedent did not recover from the stroke, remained unable to speak or communicate for two days and was then unconscious until her death 12 days later. Petitioner alleges that decedent was alienated from her family and left to die alone, in a strange place. Decedent was 79 years old at the time of her death.
29. Petitioner as the named successor trustee under the 2009 Amendment to the 2006 Restatement recorded an Affidavit of Successor Trustee-Death of Trustee and Trustee's Certification on 11/05/13.
30. Petitioner states that after decedent's death, he sent a Trustee Certification form to Merrill Lynch along with copies of the 2006 Restatement and 2009 Amendment so that Petitioner could collect the funds from decedent's Merrill Lynch account to administer them under the 2006 Restatement.
31. Petitioner alleges that Respondent separately filled out the forms and sent copies of trust documents to Merrill Lynch. Petitioner alleges that Merrill Lynch was fully aware that both Petitioner and Respondent were claiming to be decedent's successors in interest to the funds.
32. Petitioner alleges that on 11/14/13 or thereafter, Merrill Lynch transferred approximately over \$40,000.00 from the decedent's account ending in 5148 to an account a Bank of America in Respondent's name. Petitioner alleges that he and his counsel have tried several times to get information from Merrill Lynch regarding the distribution, specifically what forms were submitted by Respondent to attain the funds and why Merrill Lynch distributed the funds to Respondent instead of depositing the funds with the Court.

Continued on Page 4

33. Petitioner alleges that the transfer of the funds from decedent's Merrill Lynch account to Respondent was not a valid transfer. The account was held in the name of decedent's 2006 Restatement and the funds should have been transferred to Petitioner as the named successor trustee under the 2009 Amendment. Petitioner requests that the Court find the transfer of funds from decedent's Merrill Lynch account was not valid.
34. Petitioner alleges that Respondent is currently in possession of over \$40,000.00 in funds belonging to decedent's 2006 Restatement of Trust. Petitioner requests that these funds be transferred to Petitioner as successor trustee of the 2006 Restatement.
35. Petitioner alleges that decedent also owned a 2003 Saturn L3, a Bank of America checking account with approximately \$7,000.00 and another bank account.
36. Petitioner alleges that Respondent has possession of and is using decedent's Saturn L3 and has taken all of the funds from her Bank of America checking account. Petitioner requests that all of decedent's personal property be transferred to Petitioner as named Executor of the 2009 Will.
37. Petitioner alleges that on or about 12/10/13, Respondent recorded an Affidavit of Death of Trustee (the "December Affidavit"). Petitioner alleges that the December Affidavit states that Respondent is the successor trustee of the 2005 Trust and "designated and empowered pursuant to the terms of the trust to serve as Trustee thereof." Petitioner alleges that there are no amendments or documents known to Petitioner placing Respondent as the successor trustee of the 2005 Trust or the successor trustee of the 2006 Restatement.
38. Petitioner alleges that Respondent fraudulently recorded the December Affidavit when he was not in fact the successor trustee of the 2005 Trust and had knowledge that Petitioner was the named successor under the 2009 Amendment.
39. Petitioner alleges that the 2013 Trust and 2013 Will were executed at the direct result of undue influence exerted by Respondent over decedent, and that decedent lacked capacity to execute testamentary instruments when the 2013 Trust and Will were executed. Petitioner alleges that decedent was mentally and physically impaired due to being medicated for her severe illness as well as going through withdrawals from Ativan. Petitioner alleges that Kaiser Permanente believed decedent lacked capacity to make medical decisions.
40. Petitioner alleges that the 2013 Trust is contrary to decedent's previous expressed intent and estate plan that decedent had in place for several years and that her mental and physical condition were so deteriorated that Respondent was able to subvert his will over her to execute the 2013 Trust and Will causing her to dispose of her property differently than she would otherwise have done.
41. Petitioner has been damaged by the actions of Respondent, Respondent knew or should have known his conduct was likely to be harmful to Petitioner.
42. At all relevant times, the decedent was a dependent adult as defined by WIC § 15610.30 in that she was over the age of 65 when the alleged actions took place. Respondent had the care and custody of decedent three weeks prior to her being hospitalized.
43. Petitioner alleges that during this period of time, Respondent was influencing decedent in her affairs, secreting her from family, and causing her to make drastic changes to her estate plan that had been in place for some time. Respondent's conduct constituted financial abuse under WIC § 15610.30. Respondent is therefore liable for reasonable attorney fees and costs under WIC § 15657.5.
44. Respondent is guilty of recklessness and oppression and fraud in the commission of the abuse described in this petition.
45. Petitioner alleges that Respondent placed himself in a position of successor trustee of the 2013 Trust and took actions that altered the intended disposition of decedent's estate as set forth in her 2006 Restatement, all to the detriment of Petitioner and other family members. As a result of his actions, Respondent should be removed as trustee and should be held to account for all actions taken by him as successor trustee of the 2013 Trust and all assets he has wrongfully taken from the 2006 Restatement. Petitioner requests that the Court order Respondent to file an accounting with the Court detailing his acts as trustee of the 2013 Trust, and direct that said accounting be filed no later than thirty (30) days after the court makes its order.

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46. Petitioner states that under Probate Code § 859, Respondent is liable for an amount equal to twice the value of the property recovered from the invalid transfer of funds from decedent's Merrill Lynch account and the decedent's real and personal property and under Civil Code § 3294, Respondent is liable for punitive damages.

Petitioner prays for an Order:

1. The Court revoke and rescind the GLORIA ELIZABETH ZSIBA LIVING TRUST dated 10/01/13;
2. Confirming that the RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT executed 08/24/06 and the AMENDMENT TO RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT executed 01/14/09 are valid;
3. Confirming that decedent's real property residence located at 3260 E. Kerckhoff in Fresno belongs to and is an asset of the GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT dated 04/05/05 as Restated on 08/24/06;
4. Confirming the decedent's remaining personal property not titled in the name of her trust should be distributed in accordance with the LAST WILL AND TESTAMENT OF GLORIA E. ZSIBA executed on 01/14/09;
5. Confirming that the funds previously held in decedent's Merrill Lynch account ending in 5148 belong to and is an asset of the RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT executed 08/24/06;
6. Determining that the transfer of all funds from Merrill Lynch account ending in 5148 to Respondent, Kevin Lee Tracy, be deemed invalid;
7. Imposing a constructive trust on all real and personal property held by Respondent obtained by the GLORIA ELIZABETH ZSIBA LIVING TRUST dated 10/01/13 and the LAST WILL AND TESTAMENT OF GLORIA ELIZABETH ZSIBA dated 10/01/13;
8. Declaring that Respondent, Kevin Lee Tracy, committed fiduciary abuse and financial elder abuse as those terms are defined in WIC §§ 15610.30 and 15657.5;
9. For costs of suit including reasonable attorney's fees, as provided by law;
10. For an amount equal to twice the value of the property recovered, pursuant to Probate Code § 859;
11. For punitive damages as provided by law; and
12. For other relief the Court deems just and proper.

Objections by Respondent, Kevin Lee Tracy, to Petitioner's Petition to Invalidate Trust Dated 10/01/13 and Any Amendments on the Grounds of Undue Influence and Incapacity, etc. filed 04/01/14 states: Respondent objects to all allegations as alleged on the grounds that the GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT dated April 5, 2005 as Restated on August 24, 2006 and Amended on January 14, 2009 is a revocable living trust which was revoked when the new and correct 2013 Trust was created. Respondent admits and denies various allegations in the Petition and further states/alleges:

1. The 2006 Trust and any will alleged to have been executed on or about 2006 as well as the Restatement in 2009 were revoked by the decedent with the execution of the 2013 Trust and 2013 Will dated 10/01/13.
2. Decedent made an amendment to the 2005 Trust placing the Petitioner as successor trustee while she was highly medicated and incapacitated. Decedent was manipulated by Petitioner and Decedent in fact did not remember what changes had been made due to her condition of sedation. Petitioner financially abused Decedent for years preceding her death.
3. On 08/26/06, Decedent executed "THE RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT" ("2006 Restatement"). The 2006 Restatement revoked the prior amendment(s) made to the 2005 Trust and placed Respondent back as Successor Trustee. The 2006 Restatement was drafted after mishandling of the Decedent's funds was discovered, perpetrated by Petitioner. The Decedent was so incapacitated during the time the amendments to the 2005 Trust were drafted; she did not even know what the Amendments entailed. No one received copies of the amendments, including the decedent. Wanting her true and correct wishes to be carried out, she revoked all amendments by drafting the 2006 Restatement.
4. The 2009 Amendment revoked Article IV of the 2006 Restatement and placed Petitioner as Successor Trustee with Respondent as the second alternate successor trustee. Decedent did not change the prior distribution of the trust estate. Decedent was still under heavy sedation due to her misuse of the drug Ativan. Petitioner once again took advantage of her debilitated state and manipulated the Decedent into making the 2009 Amendment.

5. At the same time Decedent was manipulated into making the 2009 Amendment, she also executed a "LAST WILL AND TESTAMENT OF GLORIA E. ZSIBA" ("2009 Will"). The 2009 Will states specific bequests of personal items and furniture to all three of her children and then set forth distribution of all her furniture, furnishings, household equipment, any vehicle(s) owned by decedent to be distributed 3/4ths equally to decedent's 3 children, Respondent, Petitioner, and Kenton Tracy and 1/4th equally to the children of Decedent's predeceased daughter. This was done while the Decedent was heavily sedated and highly addicted to Ativan. Decedent was not lucid or with a clear mind. Petitioner coerced Decedent into these changes for self-serving purposes.
6. Respondent alleges that Petitioner was known to the family as a drug abuser and would only come around the Decedent's home at night. Kenton Tracy lived out of town and would visit when he could and called often. Respondent visited often as work permitted and called Decedent daily. Petitioner shopped occasionally for Decedent which required use of her vehicle, credit cards, and checks. Petitioner would disappear with Decedent's car and funds for weeks at a time and refuse to return them. Petitioner only helped Decedent when it benefitted him with the use of the car and/or gain funds from her accounts.
7. Petitioner refused to visit Decedent after he was unable to maintain a hold of her finances and the mishandling of her funds by him was brought to light. He was upset he could no longer manipulate her so he refused to see her.
8. Respondent, upon request of the Decedent did remove the vehicle from Petitioner's possession and return the vehicle to Decedent. Petitioner had again mishandled funds and taken control of the Decedent's vehicle. Decedent had requested Petitioner return the vehicle and he had refused. Only after Petitioner refused to return the vehicle did Decedent give Respondent the spare key to take possession of the vehicle and return it to its owner, the Decedent.
9. Petitioner did and would have continued to mishandle and financially abuse his elderly mother, the Decedent. Decedent had been take off the Ativan she was overmedicating with and was again alert and lucid. At that time she was done getting mistreated by the Petitioner and no longer wished him to have access to her funds.
10. Petitioner refused to see his mother and was angry that he had been discovered to be financially abusing decedent and no longer had access to her funds.
11. With surgery pending, Decedent wanted her affairs to be in order in the event surgery didn't go well. She wanted her true and final wishes to be carried out. Decedent was completely alert and aware of what she was doing when she executed THE GLORIA ELIZABETH ZSIBA LIVING TRUST ("2013 Trust").
12. Under the terms of the 2013 Trust, Respondent is the only names successor trustee. This is because the Decedent had lost all trust and confidence in the Petitioner after learning he had been financially abusing her for years. The 2013 Trust also set forth a completely different distribution plan than any of her previous estate planning documents. The events in the previous years leading up to the drafting of the 2013 Trust created and enforced her desire to leave the entirety of her estate to her five grandchildren she had contact and relationships with. She did not "forget" two of her grandchildren. It was her specific intent to leave them out as well as her children, whom she felt had already received enough from her, as specifically stated in the 2013 Trust.
13. Decedent was alert, lucid, and with a clear mind when she executed THE LAST WILL AND TESTAMENT OF GLORIA ELIZABETH ZSIBA ("2013 Will").
14. Decedent was completely competent for the purpose of making medical decisions when Kaiser Permanente Hospital asked her to name a medical Power of Attorney in the event her amputation did not go well. Had she been incompetent, Kaiser would not have allowed her to choose a medical Power of Attorney herself and would have instead appointed one for her. The Decedent herself appointed the Respondent as her medical Power of Attorney in direct contradiction of the allegation that she was incompetent to make her own decisions.
15. After the foot amputation went well, Respondent had high hopes she would be able to return home, but unfortunately, a few days later a blood clot reached her brain and she became brain dead. Respondent moved her to Hinds Hospice where she spent her last days in the company of all of her loved ones, except for Petitioner, who refused to visit her. Respondent felt Hinds Hospice was the most appropriately equipped facility to care for Decedent during her final days.

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16. Decedent was surrounded by her loved ones while at Hinds Hospice with the exception of Petitioner who refused to visit her in her final days. Petitioner abandoned his mother the moment his self-serving manipulations no longer were effective. Petitioner has always and continues to only think of himself and financial gain through fraud, manipulation and lies.
17. Petitioner, through invalid trust documents, unlawfully recorded through Affidavit the deed to Decedent's house with an outdated trust, claiming to be trustee for his sole financial gain. Petitioner knew of the 2013 Trust and had a copy. He submitted outdated, invalid documents knowing they were not valid with the intention of defrauding Decedent's grandchildren.
18. Petitioner also tried to collect funds from Decedent's Merrill Lynch account using the outdated/invalid documents, claiming to be trustee for his sole financial gain. He knew the documents were not valid. Merrill Lynch eventually recognized the 2013 Trust as the true and correct trust document.
19. Respondent sent copies of the 2013 Trust, the true, correct and complete trust as desired by Decedent. Merrill Lynch was fully aware both Petitioner and Respondent were claiming to be Decedent's successor in interest to the funds. Merrill Lynch, after a brief investigation, held that the 2013 Trust was the valid trust and monies were released to Respondent who in turn executed the wishes of the Decedent by disbursing the funds to the heirs, her grandchildren she had contact with, as outlined in the 2013 Trust.
20. Decedent's 2013 Trust was the final, complete and correct trust, revoking all others. Respondent is requesting the court find the transfer of funds from the Decedent's Merrill Lynch account be held as valid.
21. All funds released to Respondent as trustee of the 2013 Trust were disbursed to the Decedent's grandchildren she had contact with per her wishes as outlined in the 2013 Trust.
22. On or about 12/09/13, Respondent recorded an Affidavit of Death of Trustee.
23. The 2013 Trust and 2013 Will were executed as a direct result of the previous undue influence exerted by Petitioner on numerous occasions while Decedent was under the influence and heavily sedated with the drug Ativan. The 2013 Trust and 2013 Will were drafted and executed by the Decedent because she finally had a clear mind without the use of the Ativan and she no longer wanted to be financially abused by Petitioner, as evidenced by her 2013 Trust leaving nothing to her children and everything to her grandchildren.
24. Decedent was more lucid than she had been in years, finally being free from Ativan. She was clear headed and her mental capacities and abilities were completely intact. In fact, she was less likely to be influenced by others than she had been in years, and having been financially abused by the Petitioner for many years, she wanted her wishes to be restated and all other previous trusts to be revoked by the drafting and execution of the 2013 Trust and 2013 Will, which she signed in front of a witness and a notary, surrounded by people who love her.
25. Decedent did place her trust in Respondent after she lost all trust in Petitioner following his mishandling of her funds and theft of tens of thousands of dollars of Decedent's money. Decedent was never secluded from Petitioner through anyone's decision but his own, when he chose to abuse his mother and take advantage of her confused state. Petitioner is in fact the one who refused to be with his mother throughout her last days and essentially abandoned her after he lost control of her finances.
26. Respondent states that he acted in good faith following the 2013 Will and 2013 Trust and requests that if the Court finds for the Petitioner, Respondent be excused from any punitive damages under Probate Code § 9601 (b).

Respondent prays as follows:

1. The Court upholds and validates the GLORIA ELIZABETH ZSIBA LIBING TRUST dated 10/01/13;
2. Revoke and rescind the RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT executed 08/24/06 and the AMENDMENT TO RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT executed January 14, 2009 and hold they were revoked with the execution of the 2013 Will and 2013 Trust;
3. Deny that Decedent's real property located at 3620 E. Kerckhoff, Fresno belongs to and is an asset of the GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT dated 04/05/05 and Restated on 08/24/06;
4. Deny that the Decedent's remaining personal property not titled in the name of her trust be distributed in accordance with the LAST WILL AND TESTAMENT OF GLORIA E. ZSIBA executed on 01/14/09;

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5. Deny that the funds previously held in Decedent's Merrill Lynch account ending in 5148 belong to and is an asset of the RESTATEMENT OF THE GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT dated 08/24/06;
6. Order the transfer of all funds from Merrill Lynch account ending in 5148 to Respondent, Kevin Lee Tracy, be deemed valid;
7. Prevent imposition of a constructive trust on all real and personal property held by Respondent, Kevin Lee Tracy, obtained by use of the GLORIA ELIZABETH ZSIBA LIVING TRUST dated 10/01/13 and the LAST WILL AND TESTAMENT OF GLORIZ ELIZABETH ZSIBA dated 10/01/13;
8. Order Petitioner disclose and release any assets he may have gained through the safe deposit box or any other means with the outdated documents;
9. For a declaration holding Respondent, Kevin Lee Tracy, innocent of fiduciary abuse and financial elder abuse as those terms are defined in Welfare and Institutions Code §§ 15610.30 and 15657.5;
10. For a declaration holding Petitioner, Anton Kremer, guilty of fiduciary abuse and financial elder abuse as those terms are defined in WIC § 15610.30;
11. For a declaration holding Petitioner, Anton Kremer, guilty of fraud as those terms are defined in Penal Code § 484;
12. For costs of suit including reasonable attorney fees and extraordinary expenses as provided by law, awarded to Respondent, Kevin Lee Tracy;
13. Deny any request for an amount equal to twice the value of the property recovered, pursuant to Probate Code § 859;
14. Punitive damages awarded to Respondent, as provided by law.

Declaration of Kevin Lee Tracy in Support of His Objections filed 04/01/14 states:

1. Gloria Zsiba ("Decedent") has three surviving children, Anton Kremer, Kenton Tracy and Kevin Tracy. She has a total of 7 grandchildren, five of whom she had contact with – Christian Chambless, Ronald Mears, Anton Kremer, Mathew Tracy, and Cosmo Tracy. Kyle and Zachery, last names unknown, she has never been in contact with. Her husband, Alexander Zsiba, predeceased her.
2. In 2006, Alexander and Gloria, named Respondent (Kevin Tracy), as trustee of their estate.
3. In or about 2008, Alexander passed away. Gloria became depressed and her health declined. She began taking anti-depressants and anti-anxiety medications, including Ativan, a powerful and highly addictive drug. She began displaying side effects including sedation. While on these medications she could barely get out of bed.
4. In or about 2009, while Gloria was heavily medicated and incapacitated, her son Anton Kremer had her amend her 2006 trust.
5. No one was given copies of this amended trust and Gloria was so sedated she could not recall what changes were made.
6. Gloria relied heavily on others for her care. She did not leave the house and was heavily medicated. Her sons, Anton, Kenton & Respondent all assisted.
7. Anton (Petitioner) is known to the family to abuse drugs and only came around at night. Occasionally he would assist Decedent by doing her shopping which required him to use her vehicle, checks and credit cards. In time, Anton took over her accounts and took full possession of her vehicle.
8. In or about 2011, I received a call from Decedent's stock broker at Wells Fargo who was concerned about the amount that was being withdrawn, knowing Decedent was incapacitated and confined to her home. He stated that he called Adult Protective Services and made a report.
9. Upon investigation, Respondent learned that Anton had been taking the mail to hide the bank statements. Decedent requested duplicates and after sitting down with her stock broker it was discovered that Anton had been pilfering through her accounts and stealing tens of thousands of dollars.
10. On the advice of her broker, Decedent changed her account numbers, and got new checks and credit cards with Respondent's assistance. They also closed numerous credit cards Anton had opened in Decedent's name for his sole use and benefit. Respondent urged Decedent to pursue criminal charges for identity theft, fraud, and embezzlement, but Decedent could not bring herself to report her son.

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11. It was also discovered that Anton had both sets of keys to Decedent's safety deposit box and he refused to return them to Decedent upon request.
12. Decedent remained heavily medicated at this time and Anton eventually was able to access her accounts once again. At this time, Anton even persuaded Decedent to change her stock holding again, allowing him to secure hold over her finances.
13. In 2013, after Decedent became so ill she called an ambulance, the doctors determined that she was extremely over-medicating and was in fact addicted to Ativan. The doctors determined that she needed to be taken off the medication completely.
14. After being taken off the medications, her anxiety and panic attacks returned in full force. Respondent called on the family for help, making a daily rotation so that she was never alone. Eventually a full time, live in caretaker was hired. Anton stopped coming around and was nowhere to be found. He had abandoned the Decedent, taking her car and two checks for \$1,000 each with him.
15. As Decedent's medication wore off and the haze of the Ativan faded, she had many discussions with Respondent and her other son Kenton along with their wives and children. Anton's mishandling of her funds was discussed and Decedent wondered what changes had been made to her trust while she was plagued with the mental fog caused by the Ativan.
16. Decedent decided to make a new living trust leaving everything to her five grandchildren she had contact with and her only great-grandchild. To carry out her wishes she wanted Respondent to be appointed as trustee. Decedent also requested that Respondent retrieve her vehicle from Anton.
17. Eventually Decedent developed clots in her legs. Facing partial amputation of her foot, she wanted all of her affairs in order. With a clear mind and surrounded by her family, she signed a new living trust in the presence of a notary and a witness. At the same time, the hospital required her to make someone her medical power of attorney in case she could not make her own decisions. Knowing Respondent would always keep her best interests in mind, Decedent appointed him as power of attorney.
18. The foot surgery went well, but unfortunately, a few days later a blood clot reached her brain and she became brain dead, went to hospice and passed away thereafter. Anton refused to visit her during this time.
19. On the day she passed, Anton was provided with a copy of the 2013 Trust.
20. Respondent began to carry out Decedent's wishes according to the 2013 Trust. During this process, it was discovered that Anton had cleared out Decedent's safety deposit box.
21. Now Anton is trying to steal Decedent's grandchildren's inheritance, much like he stole continuously from the Decedent while she was alive.

	On 01/14/14, ANTON KREMER , trustee of the GLORIA E. ZSIBA REVOCABLE TRUST AGREEMENT dated 04/05/05 as Restated on 08/24/06 and Amended on 01/14/09, and intestate heir of GLORIA E. ZSIBA, filed a Petition to Invalidate Trust Dated October 1, 2013 and any amendments on the Grounds of Undue Influence and Incapacity, etc.	NEEDS/PROBLEMS/COMMENTS:
	The matter was continued from 03/03/14 to 06/02/14 to 10/14/14.	
Cont. from	Minute Order from hearing on 10/14/14 set this matter for a status hearing re: Acceptance of Terms and Conditions of the Proposed Agreement.	
<input type="checkbox"/> Aff.Sub.Wit.		
<input type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg		
<input type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed on: 10/15/14
		Updates:
		Recommendation:
		File 29B – Zsiba