

**(1) Petition for Settlement of Third Account Current and Report of Trustee, (2) Approval of Trustee and Attorney's Fees and Costs (Prob. C. 3600 et seq)**

<b>Age: 19 years</b>	<p><b>MIRNA FRAGA</b>, Trustee of the Juan Fraga Jr. Irrevocable Special Needs Trust ("Trust"), is Petitioner.</p> <p>Current bond: \$171,037.09 (sufficient)</p> <p>Account period: 7-18-10 through 7-17-11</p> <p>Accounting -           <b>\$ 109,046.23</b>                  Beginning POH -       <b>\$ 108,965.79</b>                  Ending POH     -       <b>\$ 83,670.05</b></p> <p>Trustee -                \$250.00                  (for preparation of this accounting)</p> <p>Costs Advanced by Trustee - \$716.25                  (For out-of-pocket costs, including co-payments for prescription medicine and medical services for Beneficiary Juan Fraga Jr.)</p> <p>Attorney -               \$3,950.00                  (Per Attorney Declaration and Itemization, 9.9 hours of attorney time and 16.5 hours of case assistant/paralegal time.)</p> <p>Costs -                   \$395.00                  (filing fee)</p> <p><b>Petitioner requests an Order that:</b></p> <p>1. The Third Account Current and Report be settled, allowed and approved and all transactions of Petitioner as set forth in it be ratified, confirmed and approved;</p> <p>2. Petitioner be allowed compensation of \$250.00 and out-of-pocket costs in the amount of \$716.25;</p> <p>3. Petitioner be authorized to pay her attorney \$3,950.00 in attorney fees and costs of \$395.00; and</p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>DOB: 6/10/1992</b>		
<b>Cont. from</b>		
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>		
<input type="checkbox"/> <b>Inventory</b>		
<input type="checkbox"/> <b>PTC</b>		
<input type="checkbox"/> <b>Not.Cred.</b>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>		
<input checked="" type="checkbox"/> <b>Aff.Mail</b>		
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input type="checkbox"/> <b>Conf. Screen</b>		
<input type="checkbox"/> <b>Letters</b>		
<input type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input checked="" type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
	<p><b>Reviewed by:</b> NRN</p> <p><b>Reviewed on:</b> 10/6/11</p> <p><b>Updates:</b> 10/12/11</p> <p><b>Recommendation:</b></p> <p><b>File 1 - Fraga</b></p>	

Atty Kruthers, Heather H., of County Counsel (for Public Guardian, Conservator)

Report of Sale and Petition for Order Confirming Sale of Real Property  
(Prob. C. 2540, 10308)

Age: 85 years	<b>PUBLIC GUARDIAN</b> , Conservator, is Petitioner.		<b>NEEDS/PROBLEMS/COMMENTS:</b>
DOB: 1/22/1926			
Cont. from	Sale price	- \$90,000.00	
	Overbid	- \$95,000.00	
Aff.Sub.Wit			
✓ Verified			
✓ Inventory	Appraisal	- \$100,000.00	
PTC	<i>(filed 3/4/2011)</i>		
Not.Cred.			
✓ Notice of Hrg	Property	- 4422 E. Home Ave. Fresno, CA 93703	
✓ Aff.Mail	W /		
✓ Aff.Pub.	Publication	- Fresno Bee	
✓ Sp.Ntc.	W /		
Pers.Serv.			
Conf. Screen	Buyer	- Augustine Valdivinos, a single man as his sole and separate property	
Letters			
Duties/S			
Objections	Broker	- \$5,400.00	
Video Receipt	<i>(6% payable to Realty World Strachan-Gamber)</i>		
CI Report			
9202			
✓ Order			
✓ Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
			Reviewed by: LEG
			Reviewed on: 10/6/11
			Updates:
			Recommendation:
			File 2 - Hart

**(1) Petition for Final Distribution on Waiver of Accounting and (2) Allowing  
 Statutory Fees and Commissions (Prob. C. 11640, 10810, 10800)**

<b>DOD: 07/19/06</b>	<b>C. MICHAEL FARMER</b> , Executor, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	Accounting is waived.	
<b>Cont. from</b>		
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	I & A - <b>\$216,956.97</b>	
<input checked="" type="checkbox"/> <b>Verified</b>	POH - <b>\$81,462.91</b> (\$1,462.91 is cash)	
<input checked="" type="checkbox"/> <b>Inventory</b>		
<input checked="" type="checkbox"/> <b>PTC</b>		
<input checked="" type="checkbox"/> <b>Not.Cred.</b>	Executor - <b>\$4,808.71</b>	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	(statutory) (to be paid outside of the estate from payments received on promissory note payable to the estate)	
<input checked="" type="checkbox"/> <b>Aff.Mail</b> w/o		
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>	Attorney - <b>\$4,808.71</b>	
<input type="checkbox"/> <b>Conf. Screen</b>	(statutory) (to be paid partially with proceeds of the estate and the remainder to be paid outside of the estate from payments received on installment note payable to the estate)	
<input type="checkbox"/> <b>Letters</b> 01/02/07		
<input type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input checked="" type="checkbox"/> <b>9202</b>	Costs - <b>\$395.00</b> (filing fees)	
<input checked="" type="checkbox"/> <b>Order</b>	(to be paid outside of the estate from payments received on promissory note payable to the estate)	
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input checked="" type="checkbox"/> <b>FTB Notice</b>	Closing - <b>\$200.00</b>	
	<b>Distribution, pursuant to decedent's Will, is to:</b>	
	Andrea Herbst - 1/3 interest in the installment note dated 05/11/11	
	Jordan Herbst III - 1/3 interest in the installment note dated 05/11/11	
	Alexander Herbst - 1/3 interest in the installment note dated 05/11/11	

**Reviewed by:** JF  
**Reviewed on:** 10/06/11  
**Updates:**  
**Recommendation:** SUBMITTED  
**File 3 - Thorsen**



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

<b>DOD: 3/15/11</b>		<p><b>GREGORY C. DOWDY</b>, grandson, is petitioner and requests appointment as Administrator with Will Annexed and with bond set at \$80,000.00.</p> <p>Full IAEA – o.k.</p> <p>Will dated: 12/21/1990</p> <p>Residence: Fresno          Publication: Fresno Business Journal</p> <p><u>Estimated value of the estate:</u>          Real property - \$80,000.00</p> <p><b>Probate Referee: Steven Diebert</b></p> <p><b>Objections of Ann Ross Matthees filed on 8/29/11. Objector states</b> she is the daughter of the decedent. She is currently incarcerated in Lincoln Nebraska. Her tentative release date is October 16, 2011. She is objecting to her son, Gregory Dowdy being appointed as Executor or to have any legal ability to sell the home in California, Nebraska or any such place noted belonging to the decedent. Objector feels that her son’s intentions are not in the best interest of the family, but for his own profit.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>For Petitioner:</u></p> <p>1. Need Order and Letters</p> <p><u>For Objector:</u></p> <p>1. Objections were not filed in the proper format. Objections were filed using a Notice of Proposed Action form. The Notice of Proposed Action form is for objecting to something the personal representative is proposing to do after they are appointed.</p> <p>2. Objections were not verified. Probate Code §1021.</p>
<b>Cont. from 090611</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b> S/P		
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b> W/		
<input checked="" type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b> X		
<input checked="" type="checkbox"/>	<b>Duties/Supp</b>		
<input checked="" type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input type="checkbox"/>	<b>Order</b> X		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
		<p><b>Reviewed by:</b> KT</p> <p><b>Reviewed on:</b> 10/6/11</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 5 - Johnson</b></p>	



Atty Shepard, Jefferson S., of Shepard Shepard & Janian, Selma (for Petitioner Rosalinda Vasquez)

Spousal or Domestic Partner Property Petition (Prob. C. 13650)

DOD: 12/19/1997		ROSALINDA VASQUEZ, surviving spouse, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		No other proceedings.	1. Items 1 and 7 of the <i>Petition</i> are inconsistent. Item 1(b) of the <i>Petition</i> is <u>not</u> marked to request Court confirmation of property belonging to the Petitioner. However, Item 7(b) <u>is</u> marked and Attachment 7(b) is included describing the property to be confirmed as having belonged to Petitioner. Need clarification as to whether Petitioner requests Court confirmation of the property as belonging to Petitioner.
Cont. from			
	Aff.Sub.Wit.	Decedent died intestate.	2. <i>Attachment 7</i> to the <i>Petition</i> does not include sufficient facts pursuant to Probate Code § 13651(a)(3) for the Court to determine that the subject property is community property. Petitioner states the property was acquired by Decedent and Petitioner during their marriage, but does not indicate whether the property was acquired using community funds.
✓	Verified		
	Inventory	Petitioner states Decedent and Petitioner were married in Fresno on 11/24/1973, and all property described in the <i>Petition</i> was acquired by Decedent and Petitioner during their marriage.	
	PTC		
	Not.Cred.	Petitioner requests Court determination that ½ interest in real property located at 2160 Valley View Street, Selma, CA, passes to her.	
✓	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: 10/6/11
			Updates:
			Recommendation:
			File 7 – Vasquez

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

Age: 58	Temporary granted Ex Parte on 9-15-11 expires 9-26-11, extended to 10-17-11.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Court Investigator advised rights on 9-20-11, 10-3-11.</u>  <u>Court Investigator to provide report.</u>
DOB: 2-3-53		
	<b>DIANE M. SMALL and FORREST BRIAN FLEMING</b> , sister and brother, are Petitioners and request appointment as Co-Conservators of the Person and Estate with medical consent powers and orders authorizing powers under Probate Code §2591. Bond of \$187,000.00 (ok) was filed 9-21-11.	
Aff.Sub.Wit.		
✓ Verified	<b>Voting rights NOT affected.</b>	
Inventory	<b>Capacity Declaration filed 10-3-11 supports medical consent powers.</b>	
PTC	<b>Estimated Value of Estate:</b>	
Not.Cred.	Personal property:     \$ 160,000.00	
✓ Notice of Hrg	Annual income:         \$ 10,000.00	
✓ Aff.Mail           W	Cost of recovery:       \$ 17,000.00	
Aff.Pub.	Total Bond:             \$ 187,000.00 *	
Sp.Ntc.	* Bond of \$187,000.00 was filed 9-21-11.	
✓ Pers.Serv.       W	<b>Petitioners state</b> their brother suffered a physically and mentally debilitating stroke on 8-26-11 and later developed pneumonia from being on a ventilator and thrombosis in his arm. Extensive therapy and rehabilitation are expected and he is not able to return home at this time. At filing (9-9-11), he remains at Community Regional Medical Center.	
✓ Conf. Screen	Petitioners also request additional authority under Probate Code §2591 to operate and maintain the business.	
✓ Letters	Petitioners state the Proposed Conservatee is a lifelong cattle rancher who owns and lives on 200 acres of range land near Friant, California, where he is raising approx. 100 head of cattle.	
✓ Duties/Supp	Maintenance of the ranch requires constant and regular attention, including purchase of feed and supplies, feeding and watering the cattle, and inspecting the cattle for injury or illness.	
Objections	The temporary request (granted 9-15-11) indicated that approx. 1/3 of the 100 head of cattle were ready for market at that time, and it would be in the best interest of the Proposed Conservatee's estate to sell the cattle at auction while prices are favorable to the seller. This would provide a source of cash to the ranch and reduce the cost of caring for the cattle.	
✓ Video Receipt	<b>Court Investigator Jo Ann Morris filed a report on 10-6-11.</b>	
✓ CI Report	<b>Probate Referee: Rick Smith</b>	
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
✓ Citation		
FTB Notice		

Age: 88 years DOB: 3/30/1924	Temporary Granted <i>Ex Parte</i> by Judge Hamlin; <b><u>TEMPORARY EXPIRES 10/17/11</u></b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b><u>Court Investigator Advised Rights on 9/13/11</u></b>  <b><u>Voting Rights Affected Need Minute Order</u></b>  <b><u>Minute Order of 9/26/11 (Temporary Hearing) states: The Court will authorize payments for Joe Kirkpatrick's pharmaceutical needs notwithstanding a bond. No order to issue, the minute order will suffice. The Court extends the temporary to 10/17/11. The General Hearing remains set for 10/17/11.</u></b>  <b>1. Need <i>Capacity Declaration</i> and completed <i>Dementia Attachment</i> (Judicial Council Form GC-335A)</b> <b>2. Petition requests dementia powers; therefore need <i>Dementia Attachment</i> (Judicial Council Form GC-313).</b>
	<b>BOBBY KIRKPATRICK</b> , son, is petitioner and requests appointment as temporary conservator of the person and estate with bond set at \$45,000.00.	
<b>Cont. from</b>	<b><u>Estimated value of the Estate:</u></b> Personal property- \$38,136.86 Annual income- \$ 7,200.00 Recovery amount- \$ 4,533.68 <b>Total - \$49,870.54</b>	
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified	<b><u>*Need Capacity Declaration</u></b>	
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC	<b>Petitioner states</b> proposed conservatee is unable to provide his food, shelter and clothing. His bills are going unpaid and his mobile home will soon be sold for back rent. Medical consent powers are requested.	
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	<b>Court Investigator Jennifer Young's Report filed on 10/11/11.</b>	
<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 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		
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		
<input type="checkbox"/> FTB Notice		
		<b>Reviewed by: NRN</b>
		<b>Reviewed on: 10/7/11</b>
		<b>Updates: 10/14/11</b>
		<b>Recommendation:</b>
		<b>File 9 – Kirkpatrick</b>

Atty Coleman, William H., of Coleman & Horowitz (for Petitioner Glenn Yemoto)

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 2/21/2011		<p><b>GLENN YEMOTO</b>, son and third alternate named Executor without bond, is Petitioner. <i>(First named Executor is deceased; second named alternate Executor declines to act per attached Declination.)</i></p> <p>Full IAEA – o.k.</p> <p><b>Will dated: 10/4/1989</b></p> <p>Residence – Fresno Publication – Business Journal</p> <p><b>Estimated value of the Estate:</b></p> <table> <tr> <td>Personal property</td> <td>-</td> <td>\$608,000.00</td> </tr> <tr> <td>Real property</td> <td>-</td> <td>\$106,000.00</td> </tr> <tr> <td><b>Total</b></td> <td>-</td> <td><b>\$714,000.00</b></td> </tr> </table> <p><b>Probate Referee: Rick Smith</b></p>	Personal property	-	\$608,000.00	Real property	-	\$106,000.00	<b>Total</b>	-	<b>\$714,000.00</b>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. <i>Petition states Decedent’s spouse is deceased. Need date of death of spouse pursuant to Local Rule 7.1.1(D).—Attorney Coleman will file a Declaration with the Court providing the spouse’s date of death (6/1/1990.)</i></p>
Personal property	-		\$608,000.00									
Real property	-		\$106,000.00									
<b>Total</b>	-		<b>\$714,000.00</b>									
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 type="checkbox"/>	Aff. Posting											
<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 checked="" type="checkbox"/>	Letters											
<input type="checkbox"/>	Status Rpt											
<input type="checkbox"/>	UCCJEA											
<input type="checkbox"/>	Citation											
<input type="checkbox"/>	FTB Notice											
		<p>Reviewed by: LEG</p> <p>Reviewed on: 10/6/11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 10 – Yemoto</p>										

**Probate Status Hearing Re: Next Accounting**

<b>Age: 96</b>		<p><b>BEVERLY A. EDLUND</b>, Daughter, was appointed Conservator of the Person and Estate with \$30,000.00 bond on 11-19-08.</p> <p>On 8-23-10, the first account was settled and the Court set this status hearing for filing of the next account.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>1. Need second account pursuant to Probate Code §2620.</b></p>
<b>DOB: 2-8-15</b>			
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>			
<b>Aff.Mail</b>			
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>			
<b>Conf. Screen</b>			
<input checked="" type="checkbox"/> <b>Letters</b>	11-19-08		
<b>Duties/Supp</b>			
<b>Objections</b>			
<b>Video Receipt</b>			
<b>CI Report</b>			
<b>9202</b>			
<b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>	X		
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
		<p><b>Reviewed by:</b> skc</p>	
		<p><b>Reviewed on:</b> 10-6-11</p>	
		<p><b>Updates:</b></p>	
		<p><b>Recommendation:</b></p>	
		<p><b>File 11 – Greco</b></p>	

	<p><b>CRAIG ELIOT SHAMPHAN</b>, son, was appointed Executor on 12-17-08.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>
<p><b>DOD: 8-1-08</b></p>	<p><b>Background:</b> The estate consists of the decedent's residence and minimal cash. The two heirs are Executor (son) and Debby Kay Doyle (daughter). Executor filed a Petition for Final Distribution on 5-15-09 that proposed distribution of the residence in undivided interests to himself and his sister; however, per Minute Order 8-10-09, Ms. Doyle did not want the undivided interest, and the real property was to be placed for sale. The petition was denied and dismissed and status hearing was set for the filing of the next accounting on 8-2-10. On 8-2-10, the court requested information about the listing.</p>	<p><b>Note:</b> This is the <u>9<sup>th</sup></u> hearing originating from Executor's Petition for Final Distribution filed 5-15-09 (<u>over 2 years ago</u>) that proposed distribution of minimal cash and undivided 50% interests in the residence to the two heirs.</p>
<p><b>Cont. from 110810, 022811, 060611, 080111</b></p>	<p><b>Declaration 2-22-11</b> states the property was first listed in September 2009 for \$150,000.00. That listing was extended and was to expire 3-24-11. The list price was reduced to \$125,000.00; however, per the Executor, the property had not been shown since the reduction, and no offers received. This may be due to the current poor housing market and recent bad weather. Ms. Doyle spoke with Attorney Burnside of DAK and indicated she was considering taking title to the property with her brother as tenants-in-common. Ms. Doyle further indicated she would get back to Attorney Burnside after speaking with her tax advisor; however, Ms. Doyle has not yet indicated what she plans to do. The property is listed in the Fresno MLS online database and on the London Properties website, and a "For Sale" sign has been posted in the front yard.</p>	<p><b>Minute Order 8-1-11:</b> The Court orders the price reduced to <b>\$97,000.00</b>.</p>
<p><b>Aff.Sub.Wit.</b></p>	<p><b>On 2-28-11</b>, the court ordered the price reduced to \$100,000.00 and stated if a real estate professional deems it to be a higher price, the court will entertain it.</p>	<p><b>1. As of 10-6-11, nothing further has been filed. Need status of estate.</b></p>
<p><b>Verified</b></p>	<p><b>Declarations of Leigh Burnside filed 5-27-11 and 5-31-11</b> state the Executor entered into a new listing agreement with Century 21 Adanalian &amp; Vasquez that expires 7-27-11 for \$105,000.00 (attached). The house is listed in the Fresno MLS online database and there is a For Sale sign in the front yard; however, the house has not been shown and no offers have been received. Attorney Burnside states Mr. Shamphan understood the court's order to list the house for \$100,000.00 allowed the higher listing price, and acted on the advice of his agent without review by Attorney Burnside.</p>	<p><b>Updates:</b></p>
<p><b>Inventory</b></p>	<p><b>On 6-6-11</b>, Counsel informed the court that the property is currently listed at \$105,000.00, and the court advised counsel that it will allow a price of \$100,000.00 or \$99,950.00, and continued the matter to 8-1-11.</p>	<p><b>Contacts:</b> Reviewed 10-6-11</p>
<p><b>PTC</b></p>	<p><b>Declaration of Leigh Burnside filed 7-26-11</b> states that after the price was reduced to \$99,950.00, a number of prospective buyers have visited the property. The listing agreement expired 7-27-11, but was renewed for six months, and the agent has recommended a price reduction to \$97,000.00. <u>Attorney Burnside confirmed with heir Debby Doyle that she wants the property sold, and does not want to take a one-half interest in it.</u></p>	<p><b>Recommendation:</b></p>
<p><b>Not.Cred.</b></p>	<p style="text-align: center;"><b>SEE PAGE 2</b></p>	<p><b>Reviewed by:</b> skc</p>
<p><b>Notice of Hrg</b></p>		<p><b>File 12 - Shamphan</b></p>
<p><b>Aff.Mail</b></p>		
<p><b>Aff.Pub.</b></p>		
<p><b>Sp.Ntc.</b></p>		
<p><b>Pers.Serv.</b></p>		
<p><b>Conf. Screen</b></p>		
<p><b>Letters</b></p>		
<p><b>Duties/Supp</b></p>		
<p><b>Objections</b></p>		
<p><b>Video Receipt</b></p>		
<p><b>CI Report</b></p>		
<p><b>9202</b></p>		
<p><b>Order</b></p>		
<p><b>Aff. Posting</b></p>		
<p><input checked="" type="checkbox"/> <b>Status Rpt</b></p>		
<p><b>UCCJEA</b></p>		
<p><b>Citation</b></p>		
<p><b>FTB Notice</b></p>		

**Status Report filed 10-7-11 states: The property has been listed for \$97,000.00; however, the only offer received was for \$64,000.00 and was deemed unreasonable and rejected. The Executor reported that the declining neighborhood where the property is located appears to be the cause of the lack of offers for the property at the current price-point. The agent reported that he believes the property is competitively priced, but has “requested the executor permit him to show the home during expanded hours” and the Executor agreed.**

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

Age: 81	<p><b>CAROL LOPEZ</b>, daughter, was appointed Conservator of the Person and Estate 02/09/11 and Letters were issued on 04/27/11.</p> <p><b>Notice of Status Hearing</b> filed 08/23/11 set this matter for hearing on 10/17/11.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Need Inventory &amp; Appraisal.</p> <p><u>Note:</u>  A hearing for Report of Sale and Petition for Order Confirming Sale of Real Property is set for hearing on 10/26/11.</p>	
DOB: 05/28/30			
Cont. from			
Aff.Sub.Wit.			
Verified			
Inventory			x
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: JF	
		Reviewed on: 10/07/11	
		Updates:	
		Recommendation:	
		File 13 - Eaton	

Atty Alanis, Christina G. (Pro Per – Maternal Grandmother – Guardian)

Atty Domenici, Connie Mae (Pro Per – Paternal Grandmother)

Petition for Termination of Guardianship (Prob. C. 1460, 1601, 2626, 2627, 2636)

Desiree Dominici Age: 13 DOB: 11-6-97	<b>CHRISTINA ALANIS</b> , Maternal Grandmother and Guardian, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  The Court Investigator recommends <u>this petition be continued to coincide with the hearing on Mrs. Domenici’s petition for guardianship that is scheduled for hearing on 12-5-11.</u>  Note: This petition is for termination of guardianship for Desiree only.  Note: Paternal Grandmother Connie Domenici filed for guardianship of Desiree on 10-3-11. Hearing is set for 12-5-11.  1. Need Notice of Hearing.  2. Need proof of service of Notice of Hearing at least 15 days prior to the hearing per Probate Code §1460(b)(5) or consent and waiver of notice or declaration of due diligence on: - Desiree Dominici (Minor age 13) - Jason Domenici (Father) - Richard Domenici (Paternal Grandfather) - Connie Domenici (Paternal Grandmother)
Diana M. Alanis Age: 11 DOB: 7-31-00		
	Petitioner was appointed Guardian of both minors on 2-23-04.	
	Father (Desiree): Jason Domenici Mother: Lisa M. Sandoval (Deceased)	
	Paternal Grandfather(Desiree): Richard Domenici Paternal Grandmother(Desiree): Connie Domenici	
	Maternal Grandfather: Deceased	
Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	Petitioner states Desiree wishes to stay with her paternal grandparents, Connie and Richard Domenici.	<input checked="" type="checkbox"/>
Aff.Mail		<input checked="" type="checkbox"/>
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.	Connie Domenici filed a petition for guardianship of Desiree that is set for hearing on 12-5-11.	
Conf. Screen		
Letters		
Duties/Supp	Court Investigator Jo Ann Morris recommends that this petition be continued to coincide with Mrs. Domenici’s petition for guardianship that is scheduled for hearing on 12-5-11.	
Objections		
Video Receipt		
CI Report		
9202		
<input checked="" type="checkbox"/> Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: skc
		Reviewed on: 10-7-11
		Updates:
		Recommendation:
		File 14 – Domenici & Alanis

Cesar Gonzalez Age: 7 years DOB: 11/22/2003	<b>CONCEPCION HERNANDEZ MINISTRO,</b> Mother, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
Marco Hernandez Age: 9 years DOB: 11/30/01	Isidoro Sanchez and Elizabeth Sanchez, non-	
	relatives, are the current guardians. They were	
<b>Cont. from</b>	appointed guardians of the minor Cesar	
<input type="checkbox"/> Aff.Sub.Wit.	Gonzalez on 9/28/09, and were appointed	
<input checked="" type="checkbox"/> Verified	guardians of the minor Marco Hernandez on	
<input type="checkbox"/> Inventory	3/22/10. Cesar and Marco are brothers.	
<input type="checkbox"/> PTC	<i>Guardians were sent notice by mail on</i>	
<input type="checkbox"/> Not.Cred.	<i>10/5/2011.</i>	
<input checked="" type="checkbox"/> Notice of Hrg	<b>Father: OCTAVIO LAZARO GONZALEZ</b>	
<input checked="" type="checkbox"/> Aff.Mail	<b>ARANA; sent notice by mail 10/5/2011;</b>	
<input type="checkbox"/> Aff.Pub.	Paternal grandfather: Alvaro Gonzalez	
<input type="checkbox"/> Sp.Ntc.	Fentunez, <i>deceased</i>	
<input type="checkbox"/> Pers.Serv.	Paternal grandmother: Maria Ocotlan Arana	
<input type="checkbox"/> Conf. Screen	Luna; <i>sent notice by mail 10/5/2011;</i>	
<input type="checkbox"/> Letters	Maternal grandfather: Alvaro Hernandez	
<input type="checkbox"/> Duties/Supp	Garcia; <i>sent notice by mail 10/5/2011;</i>	
<input type="checkbox"/> Objections	Maternal grandmother: Maria Gonzalez	
<input type="checkbox"/> Video Receipt	Ministro; <i>sent notice by mail 10/5/2011;</i>	
<input type="checkbox"/> CI Report	<b>Petition states</b> the guardianship should be	
<input type="checkbox"/> 9202	terminated in order to reunite the family once	
<input type="checkbox"/> Order	again.	
<input type="checkbox"/> Aff. Posting	<b><u>Need Court Investigator's report</u></b>	
<input type="checkbox"/> Status Rpt		<b>Reviewed by:</b> NRN / LEG
<input type="checkbox"/> UCCJEA		<b>Reviewed on:</b> 10/11/11
<input type="checkbox"/> Citation		<b>Updates:</b> 10/13/11; 10/14/11
<input type="checkbox"/> FTB Notice		<b>Recommendation:</b>
		<b>File 15 – Gonzalez &amp; Hernandez</b>

Pro Per Cerda, Sr., Jose (Pro Per Petitioner, maternal grandfather)  
 Pro Per Cerda, Maria (Pro Per Petitioner, maternal grandfather)

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

Joseph Age: 16 yrs DOB: 6/21/1995	<p><b>TEMPORARY EXPIRES 10/17/2011</b></p> <p><b>JOSE CERDA, SR. and MARIA CERDA</b>, maternal grandparents, are Petitioners.</p> <p>Father: <b>ISRAEL PEÑA</b>; <i>Declaration of Due Diligence filed 9/6/2011</i>;</p> <p>Mother: <b>SONIA C. PEÑA</b>; <i>Declaration of Due Diligence filed 9/6/2011</i>;</p> <p><i>Proposed wards Joseph Peña, Christian Peña, and Savannah Peña were personally served with notice on 8/28/2011</i>;</p> <p>Paternal grandfather: Israel Peña, Sr.; <i>sent notice by mail 8/27/2011</i>;</p> <p>Paternal grandmother: Maclovia Peña; <i>sent notice by mail 8/27/2011</i>;</p> <p><b>Petitioners state</b> the children have lived with them for over 12 years, and they have provided the children with the only loving, safe and stable home they have ever known. Petitioners state the mother has been on drugs for a number of years, she comes in and out of the children’s lives, and she has not returned for over a year. Petitioners state the father has not been in the children’s lives and they also do not know his whereabouts. Petitioners believe this guardianship is necessary for the safety and stability of the children and for emergency purposes.</p> <p><b>Court Investigator Samantha Henson’s Report was filed on 9/6/2011.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Continued from 9/12/2011. Minute Order [Judge Hamlin] states examiner notes are provided to the Petitioners. Petitioners are directed to cure the defects. A temporary guardianship is requested by the Petitioners and granted by the Court. The temporary expires on 10/17/2011. Matter continued to 10/17/2011.</u></p>
Christian Age: 14 yrs DOB: 3/20/1997		
Savannah Age: 12 yrs DOB: 3/18/1999		
Cont. from 091211		
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
✓ Notice of Hrg		
✓ Aff.Mail w/		
Aff.Pub.		
Sp.Ntc.		
✓ Pers.Serv. w/		
✓ Conf. Screen		
Aff. Posting		
✓ Duties/Supp		
Objections		
Video Receipt		
✓ CI Report		
✓ Clearances		
✓ Order		
✓ Letters		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		
	<p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 10/6/11</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p>File 16 – Pena</p>	



Petition for Probate of Will and for Letters of Administration With Will Annexed  
 (Prob. C. 8002, 10450)

DOD: 06/13/11		<b>TONI SCHROEDER RICHARDSON</b> , daughter, is Petitioner, and requests appointment as Administrator with Annexed.  Full IAEA – <b>NEED</b>  Will dated - ???? [copy of Will not attached]  Residence: Fresno Publication: <b>NEED</b>  <u>Estimated Value of the Estate:</u> Real property - \$78,000.00  Probate Referee: <b>STEVEN DIEBERT</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Need copy of the Will. 2. Petition requests appointment as Administrator with Will Annexed. The Examiner is unable to determine if this is the correct appointment without copy of the Will. 3. Item 2(d) of the Petition is incomplete regarding bond. <i>It is noted that Item 3(d) of the Petition is marked indicating that the Will waives bond, however, the Examiner is unable to verify this without a copy of the Will.</i> 4. Item 3(e)(2) of the Petition is not marked regarding decedent's Will. 5. Item 3(f)(1)(d) states that Petitioner is the decedent's daughter, however it fails to state whether the person named as Executor in the decedent's Will cannot act due to death or declination or other reason. 6. Item 5(a)(2) regarding spouse of the decedent is incomplete, either option (a) divorced or never married; or (b) spouse deceased. <i>It is noted that item 7(b) of the Petition is marked stating that the decedent had a predeceased spouse. If the decedent did have a predeceased spouse, the name and date of death of the deceased spouse should be stated in item 8 of Petition Pursuant to Local Rule 7.1.1D.</i> 7. Item 8 of the Petition is not complete. The relationship to the decedent and age of each person listed must be included; also, the Petitioner states that she is the decedent's daughter, but she is not listed in item 8. Further, if the decedent had a predeceased spouse, the spouses name and date of death should also be listed in item 8 of the Petition.	
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.			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: JF		
		Reviewed on: 10/07/11		
		Updates: 10/11/11		
		Recommendation:		
		File 18 - Bonham		

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

Age: 19 years DOB: 2/1/1992		<p><b>TEMPORARY EXPIRES ON 10/17/11</b></p> <p><b>LORRAINE RUIZ</b>, mother, is petitioner and requests appointment as conservator of the person with medical consent powers.</p> <p>Capacity Declaration filed on 10/14/11.</p> <p><b>Petitioner states</b> Anthony suffers from schizophrenia that manifests in paranoid ideation. When Anthony takes his medications his symptoms are manageable. However, Anthony refuses to take his medication and has been increasingly a danger to himself and others.</p> <p><b>Court Investigator Charlotte Bien's Report was filed on 10/4/11.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Court Investigator advised rights on 9/29/11.</b></p> <ol style="list-style-type: none"> <li><b>Petitioner's check for the filing fee was returned for non-sufficient funds. Therefore the Petitioner owed \$437.00 (\$395.00 for the filing fee and \$42.00 for the returned check charge). Notice of Returned Check was mailed to Petitioner on 9/21/11. (Note to Judge: Petitioner telephoned and requested an additional two weeks to pay the fees owed.)</b></li> <li><b>Need Citation.</b></li> <li><b>Need proof of personal service of the Citation on:</b> <ol style="list-style-type: none"> <li><b>Anthony De La Isla (proposed conservatee)</b></li> </ol> </li> </ol>
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.	X	
<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 type="checkbox"/>	Citation	X	
<input type="checkbox"/>	FTB Notice		
		<p><b>Reviewed by: KT</b></p> <p><b>Reviewed on: 10/7/11</b></p> <p><b>Updates: 10/14/11</b></p> <p><b>Recommendation:</b></p> <p><b>File 19 – De La Isla</b></p>	

Atty Gonzales, Marlene (pro per – paternal aunt/Petitioner)  
 Atty Lemus, Guadalupe (pro per – paternal grandmother/Petitioner)  
 Atty Gonzales, Carlos (pro per – paternal uncle/Petitioner)

Petition for Appointment of Temporary Guardianship of the Person

Emily, 15 DOB: 03/16/96	<p align="center"><b><u>GENERAL HEARING 12/05/11</u></b></p> <p><b>GUADALUPE LEMUS</b>, paternal grandmother, <b>MARLENE GONZALES</b> and <b>CARLOS GONZALES</b>, paternal aunt and uncle, are Petitioners.</p> <p>Father: <b>DAVID NAJERA</b> – <i>deceased</i></p> <p>Mother: <b>MARIA NAJERA</b> – <i>deceased</i></p> <p>Paternal grandfather: NOT LISTED</p> <p>Maternal grandfather: UNKNOWN</p> <p>Maternal grandmother: MARIA LOPEZ</p> <p>Petitioners state that a temporary guardianship is necessary because both of the parents are deceased.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. <i>Confidential Guardian Screening Form</i> of Guadalupe Lemus is incomplete at item 13 – I have or may have/I do not have an adverse interest the court may consider to be a risk to or have an effect on my ability to perform the duties of guardian; 14 – I have/have not previously been appointed guardian, conservator, executor, or fiduciary in any other proceeding; 15 – I have/have not been removed as guardian, conservator, executor, or fiduciary in any other proceeding.</p>	
David, 14 DOB: 03/23/97			
Romano, 7 DOB: 08/17/04			
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 type="checkbox"/> Notice of Hrg			n/a
<input type="checkbox"/> Aff.Mail			
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.			
<input type="checkbox"/> Pers.Serv.			n/a
<input checked="" 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 checked="" type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
		<p>Reviewed by: JF</p> <p>Reviewed on: 10/07/11</p> <p>Updates: 10/11/11</p> <p>Recommendation: copy of notes in file</p> <p>File 20 - Lemus</p>	

(1) First Account and Status Report of Executor and Petition for: (2) 1. Approval of First Account and Report; (3) 2. Instructions Re Pre-Mortem Check and ATM Withdrawals, Approval of Associated Actions and Request for Authority to Loan \$20,000 to Colombian Representatives; (4) 3. Determination of Entitlement to Met Life Annuity Proceeds; (5) 4. Construction of Will Re \$20,000 Advances; (6) 5. Construction of Will Re Application of Tiaa-Cref Policy Proceeds; (7) 6. Request for Preliminary Distribution Dependent on Receipt of Metlife Annuity Proceeds; (8) 7. Allowance of Partial Statutory Executor Commission, Partial Statutory Attorney Fees and Reimbursement of Costs; (9) 8. Allowance of Interim Extraordinary Attorney Fees; and (10) 9. Authorization to Continue Estate Administration (Probate Code 850, 5000(b)(1) & (b)(3), 12003, 12200 & 21102)

DOD: 4/13/10	JOACHIM VOSS, Executor with bond of \$1,010,000.00, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
	Account period: 4/13/10 – 3/31/11	
	Accounting - \$420,531.97	
Cont. from 081111	Beginning POH - \$373,450.15	
Aff.Sub.Wit.	Ending POH - \$372,840.47	
✓ Verified	Executor (50% of statutory) - \$5,200.00	<b><u>Continued to 10/31/11 at 11:00 a.m. in Dept. 303.</u></b>
Inventory	Attorney (50% of statutory) - \$5,200.00	<u>Note:</u> The Court approved the request for executor's commissions, attorney fees and costs as prayed on 8/31/11. The remaining issues were continued to 10/17/11.
PTC	Attorney X/O - \$68,343.75	Minute Order dated 8/11/11 the Court appointed Joanne Sanoian as Guardian Ad Litem for former minor beneficiary, Claire Baltasar, Curtis Rindlisbacher as Guardian Ad Litem for minor beneficiary, Nicole Vargas, and Marvin Helon as Guardian Ad Litem for minor beneficiary Dana Montoya.
Not.Cred.	Costs - \$1,712.20	
✓ Notice of Hrg	<b>Petitioner states</b> the Decedent was unmarried at the time of his death. He was survived by three minor children:	
✓ Aff.Mail W/	<b>Claire Atsuko Baltasar</b> – (age 18, DOB: 9/24/1993) a resident and citizen of the Philippines her mother <b>Pia “Peachy” G.J. Baltasar</b> , is a resident and citizen of the Philipines;	<i>Please see additional page re: Needs/Problems/Comments:</i>
Aff.Pub.	<b>Nicole Vargas</b> – (age 11, DOB: 10/26/1999) a resident and citizen of Spain. Her mother <b>Ana Melena Vargas Mairongo</b> is a resident and citizen of Spain, and;	
Sp.Ntc.	<b>Dana Zsofia Calderon Montoya</b> – (age 8, DOB: 9/26/2003) – a resident and citizen of Columbia. Her mother, <b>Marisol Calderon Montoya</b> is a resident and citizen of Columbia.	
Pers.Serv.	<i>Please see additional pages</i>	
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order X		Reviewed by: KT
Aff. Posting		Reviewed on: 10/7/11
Status Rpt		Updates:
UCCJEA		Recommendation:
Citation		File 21 - Fujisaka
FTB Notice		

**Petitioner states** just prior to the Decedent's death he became concerned that his daughters and their mothers would suffer severe financial hardship from a lack of funds following his demise. He also had concerns regarding the handling of his affairs in Columbia as he left no funds or bank account there for management of his Columbian property or affairs. To address this Decedent gave Petitioner a check for \$85,000.00 two days prior to his death and his ATM card and PIN, directed Petitioner to cash the check and make withdrawals from the ATM and provided Petitioner with explicit instructions as how to expend the funds.

Petitioner has elected to account for the receipt and expenditures of the funds collected outside of the Estate, because those expenditures are integrally related and pertain to the administration of the Estate. The amount received outside of the Estate amount to \$90,173.56 ("non-probate funds") and as reported arose from the \$85,000.00 check given to Petitioner two days prior to his death and ATM withdrawals totaling \$5,173.56 made by Petitioner seven to eight days after Decedent's death.

Using the non-probate funds Petitioner transferred \$20,000.00 to each mother of Decedent's three daughters, which was intended to be made on account of the \$60,000.00 gift Decedent directed in his Will be made to each of said mothers; \$1,036.00 was paid to CIAT (Decedent's employer) to satisfy decedent's debt for health insurance premiums; \$5,609.38 was expended for estate administration expenses and \$20,000.00 was transferred to Decedent's representatives in Columbia for administration of Decedent's affairs in Columbia; leaving non-probate funds on hand of \$3,528.18. (Note: Petition indicates that the "Decedent's representatives" in Columbia are other trusted friends of the Decedent in Columbia.)

Petitioner states the Decedent instructed him to pay \$20,000 to each mother from the proceeds of the \$85,000.00 on account of and to reduce the \$60,000.00 gift to each of them under his Will. **Petitioner requests an instruction from this court that the payment of \$20,000.00 to each mother constitutes an advance on the \$60,000.00 gift directed to be made to each of them under Decedent's Will.**

As of his death, Decedent was indebted to his employer CIAT, in Cali Columbia, in the amount of \$1,036.00 for health insurance premiums. Petitioner waived the presentation of a formal claim and paid Decedent's debt because it was just, due and reasonable.

Petitioner was required to incur significant expenses, both prior to and since his appointment as Executor, including travel to Columbia to assist Decedent and travel to California to locate Decedent's assets and retain counsel for his appointment as Executor and the administration of Decedent's Estate. Although Petitioner resides in Canada, he was in the Philippines from October 2010 until late April 2011. As Petitioner was unable to gain access to Decedent's funds in the United States until recently, the Estate's initial expenses were paid from the non-probate funds. **Petitioner hereby requests approval of his payment of travel, administration and miscellaneous expenses in the total amount of \$5,609.38. Notably the administration expenses are in excess of the ATM withdrawals of \$5,173.56.**

Petitioner transferred \$20,000.00 to the persons managing Decedent's Columbian affairs. The expenditure of these funds, and the additional funds collected in Columbia from cash found is the Decedent's apartment (\$442) and the proceeds from the sale of Decedent's automobile (\$8,485) are set forth in Exhibit B-1 of the petition. At the time of his death, Decedent was supporting his 6-year old daughter Dana, as well as her mother Marisol, with whom he shared custody.

*Please see additional page*

Decedent did not maintain a bank account in Columbia. Decedent's Colombian representatives had no funds with which to manage his property or affairs in Columbia. As reported on Exhibit B-1, the Colombian representatives expended the combined funds for miscellaneous estate administrative expenses, to make repairs and paint the Decedent's apartment to prepare it for sale or rental, to pay apartment fees, taxes, utilities, to obtain an appraisal of the apartment, and for the benefit of Dana and Marisol. As reported in Exhibit B-1 the Colombian account is over-expended by \$2,713.00 and the Colombian representatives are in need of additional funding. **Petitioner hereby requests Court approval of this transfer of \$20,000.00 to Decedent's Colombian representatives which were made with Decedent's explicit instructions from the non-probate transfer of funds transferred to him. Petitioner also requests authority to loan, with interest at the sort term Applicable Federal Rate, an additional \$20,000.00 of Estate funds to the Colombian representatives, to be repaid from the sale or rental proceeds of Decedent's apartment.**

**For ease of Administration, Petitioner requests authority to account for the non-probate funds he collected within the Estate and to combine the remaining non-probate funds with the assets of the Estate.**

In addition to the assets reported on the Final Inventory and the non-probate funds described above, Decedent also owned, and in his Will expressly referred to:

- a) Real property located in Lake Wallowa, Oregon, which is subject to an ancillary probate in the Circuit Court of the State of Oregon for the County of Wallawa (No. 2946);
- b) A TIAA-CREF "retirement account" with a date-of-death value of \$280,314.75, which Petitioner believes has a beneficiary designation in favor of Claire and/or her mother Peachy;
- c) MetLife Annuity Contract No. 0550516, for which MetLife had a reported value of \$589,913.31 as of Decedent's date of death which Decedent described in his Will as "Citi-Invest Account #23F-00532-15" (the "MetLife Annuity");
- d) Assets in Cali Columbia, consisting of an apartment with an estimated value of \$77,000-\$79,000, a cabin with no appreciable value, and an automobile.

**Petitioner states** he advised his counsel that Decedent did not file individual U.S. income tax returns for calendar years 2005-2009, apparently believing that no income taxes were due as a result of having earned his income abroad. Petitioner issued an IRS Form 2848 Power of Attorney to authorize his counsel to represent the estate as to Decedent's tax matters. After Letters were issued, Petitioner's counsel contacted the IRS and was advised that it was seeking significant taxes, interest and penalties. From 2005 alone the IRS had prepared a substitute return and sought in excess of \$307,000.00 including taxes, interest and penalties. The returns were successfully prepared and filed, and the taxes shown to be due thereon (including those due from 2005) in the aggregate amount of \$40,828.00 which were paid on March 4, 2011 (without interest or penalties). Petitioner's counsel prepared and submitted a request, with the filed returns, seeking a waiver of penalties on the basis of reasonable cause and the IRS Manual.

*Please see additional page*

**Petitioner states** Decedent's MetLife Annuity is by far his largest asset, with a reported market value at the date of death of \$589,913.31. Decedent expressly intended that his MetLife Annuity Policy No. 0550516 be included as part of his probate estate and distributed pursuant to his Will. On page 2 of his Will, following a list of his "financial assets" which specifically includes the MetLife Annuity, Decedent stated:

"Account Citi-Invest OAF045772 or 23F-00532-15 M98 already includes a provision for distribution of my assets upon my death. That statement is null and void and this statement supersedes and replaces it." [Emphasis added]

On page 3 of his Will, Decedent continues by stating:

"From these accounts, I want US\$ 60,000 each to go to the three mothers of my children: Marisol Calderon, Peachy Baltasar, Ana Meina Vargas Mairongo. The remaining income from these accounts should be distributed among my daughters in the following way:

45% to Dana Zsofia Fugisaka Calderon

35% to Claire Atsuko Balasar

20% to Nicole Vargas

The funds described above are to be held in trust by the executor of my estate, Dr. Joachim Voss, until each daughters 21<sup>st</sup> birthday, at which time each daughter obtains full control and responsibility for her portion of the principal sum according to the above established percentage allocation. In the interim the executor shall manage these funds prudently and disburse them according to my daughter's reasonable livelihood needs and best interest."

Decedent's Will was self-prepared in September 2009, after he had been diagnosed with pancreatic cancer and was preparing to undergo a serious operation with a 50% probability of survival. The 2009 surgery confirmed that the cancer had spread such that his survival prognosis was only six months. Nonetheless, Decedent's initial rebound from surgery gave him a false sense of hope for his survival and resulted in his delay in completing a "formal" estate plan.

September 11, 2009 (six days after his Will) Decedent signed a Columbian power of attorney/proxy ("Poder Especial") the terms of which expressly survive a principal's death under Columbian Law. This instrument restated Decedent's instructions regarding the funding of the trusts to be established for his daughters, as follows:

"This trust is composed of the following assets; (i) With my savings at Citibank, at TIAA-CREF retirement fund, at Schwab Mutual Investment Fund and with any deposits, investments or savings I may have in the United States of America, after deducting the USD 180,000 mentioned previously [\$60,000 give to PEACHY, ANA and MARISOL] ... The instructions herein contained revoke and void the decisions taken before Citibank, regarding my Citi-Invest OAF045772 y 23-F00532-15 M98 accounts" [Emph. Added].

*Please see additional page*

Following his surgery, Decedent referred to and contacted the New Jersey law firm of Borteck, Sanders & Torzewski, LLP, which specializes in international estate planning, to initiate trusts for his daughters. Decedent was awaiting Petitioners arrival in Columbia to assist him with working with that firm; however, Decedent's health declined and he died shortly after Petitioner's arrival. While preparing to proceed with the Borteck firm, Petitioner became concerned that the disposition of the MetLife Annuity under his Will might not suffice and he tried to change the beneficiary designation online to no avail. Decedent's attempts to change the beneficiary online are documented in his April 10, 2010 e-mail to Mary Cardenas, and employee of CitiBank in Fresno. A copy of the chain of e-mail is attached to the petition as Exhibit F.

MetLife has advised Petitioner that their beneficiary designation for the MetLife Annuity reflects the following:

Marisol Calderon	wife[ <i>sic</i> ]	20%
Dana Zsofia Fujasaka	daughter	40%
Claire Atsuko Fujasaka	daughter	20%
Nicole Vargas	friend[ <i>sic</i> ]	20%

Decedent's attorney sent several letters to MetLife, advising them of Decedent's intended disposition of the MetLife Annuity in accordance with his Will. Initially Counsel was advised MetLife would only pay the proceeds to the designated beneficiaries. Counsel was able to discuss this matter with Sheila McDermott, a MetLife representative with authority. During this conversation, Ms. McDermott informed Petitioner's counsel that none of the designated beneficiaries had filed a claim for her share of the MetLife Annuity proceeds. By it letter dated 2/24/11, MetLife agreed to place a restraint on the payment of death benefits of the MetLife Annuity until a petition could be filed in this matter and stated that it would have no objection to a court order directing payment of those proceeds.

Petitioner states he is personally aware that Decedent had many important reasons for directing that the MetLife Annuity be collected by Petitioner, as his Executor, and used to fund a testamentary trust for each of his daughters.

The Decedent's daughters were minors at his death. The Will clearly conveys his intention that Petitioner manage the assets designated for his daughters, including the MetLife Annuity, until each daughter attains age 21. Petitioner is uniquely qualified for this role, as he knows all of the Decedent's daughters and their mothers and is fluent in the written and spoken languages used by them.

The costs of collecting the MetLife Annuity by the designated beneficiaries would be prohibitive and are completely avoidable by paying the proceeds to Petitioner, as the Executor of Decedent's Will. MetLife advised that each minor daughter must have her claim completed by a legally appointed guardian. This requirement would necessitate establishing a guardianship in three different countries, coupled with official translations and verifications through the applicable U.S. Embassies. The payment of the MetLife Annuity proceeds to Petitioner, as Executor, completely avoids the costs, confusion and time delays inherent in establishing guardianship in foreign countries.

*Please see additional page*

In general, a contract pertaining to a non-probate assets, such as the MetLife Annuity requires some type of written instrument to be delivered to the insurer prior to and insured or annuitant's death, in order to effectively change the beneficiary designation. However, the Supreme Court in Pimentel v. Conselho Supremo de Uniao Portuguesa do Estado, (1936) 6 Cal. 2d 182, 187-188 held that there are three exceptions to the foregoing rule, which include:

- 1) Where the carrier has waived its own rules and, at the insured's request, issued a new certificate;
- 2) Where it was beyond the power of the insured to literally comply with the formalities; or
- 3) The insured pursues the course set out in the policy and does all in his power to change the beneficiary, but before the new policy is actually issued, the insured dies.

*Pimentel* clarifies these exceptions by stating on page 188:

“We think that where an insurer is not contesting the change the rule is not to be applied rigorously and where the insured makes every reasonable effort under the circumstances, complying as far as he is able with the rules, and there is a clear manifestation of intent to make the change, which the insured has put into the execution as best he can, equity should regard the change as effected.”

As noted above, MetLife placed a restraint on the payment of the MetLife Annuity proceeds pending this Petition and stated that it would not have any objection to the court order Mr. Voss seeks.

Petitioner is aware that an asset passes by beneficiary designation, such as life insurance or the MetLife Annuity at issue herein, is generally treated as a “nonprobate” transfer and is a matter of contract. However, Petitioner believes that Probate Code §5000 (b)(1) and/or (b)(3) serve to validate the provisions in Decedent's Will wherein he expressly “voided and superseded” the MetLife Annuity Beneficiary Designation.

Petitioner believes he is legally compelled to honor the directives in Decedent's Will.

**Petitioner states** Decedent's Will references “TIAA-CREF/\$210,498/Retirement/TIAA-CREF” (“TIAA-CREF”) among his financial assets on page 2 and, on page 3 states: “From these accounts, I want US\$ 60,000 each to go to the three mothers of my children . . .The remaining income from these funds should be distributed to my daughters in the following way:

45% to Dana Zsofia Fujisaka Caldron  
35% to Claire Atsuko Baltasar  
20% to Nicole Vargas”

Petitioner is informed and believes that the TIAA-CREF beneficiary designation in favor of PEACHY and CLAIRE and further, that PEACHY has considered disclaiming her interest in favor of CLAIRE. Petitioner requests that, subject to its further consideration, review and findings of the actual facts of distribution of the TIAA-CREF account (including whether it is actually received by PEACHY and/or CLAIRE), this Court consider said asset an asset of this Estate for purposes of determining PEACHY and/or CLAIRE'S entitlement to allocations and/or distributions of other property of this Estate pursuant to decedent's Will.

*Please see additional page*

**Wherefore Petitioner prays for an Order:**

1. Petitioner's first account for the period of April 13, 2010 through March 31, 2011, be settled, allowed and approved as filed;
2. All acts and proceedings of Petitioner as Executor, as disclosed in his First Account and this Status Report and Petition, be confirmed, ratified and approved;
3. The payments made by Petitioner, from Decedent's pre-mortem check and ATM withdrawals totaling \$90,173.56, for advances on specific cash bequests, administration and travel expenses, and Decedent's personal obligation, including costs pertaining to his Columbian real property as described on Exhibit B hereto, be approved and all remaining non-probate funds be deposited into the Estate account;
4. Petitioner be authorized to loan \$20,000 to Decedent's Columbian representatives for the administration of Decedent's Columbian real assets, to be repaid with interest at the short-term Applicable Federal Rate in effect at the date the loan is made, with proceeds from the sale of the rental of the Columbian apartment;
5. The proceeds of Decedent's MetLife Annuity Contract No. 0550516 be paid to Petitioner, as Executor herein, for administration in this Estate, as directed in Decedent's Will;
6. The \$20,000 payment to each of PEACHY, ANA and MARISOL be credited as an advance on the \$60,000 gift to her under Decedent's Will, such that the remaining amount due each PEACHY, ANA and MARISOL pursuant to Decedent's Will is \$40,000, plus the statutory interest thereon computed from April 14, 2011 through the date of payment;
7. The proceeds from Decedent's TIAA-CREF retirement policy, when, if and to the extent that it is received by PEACHY and/or CLAIRE, be counted as an asset of the Estate, for purposes of determining their entitlement to distribution under Decedent's Will, subject to the further review and findings of this Court;
8. Subject to this Court's determination that (i) the MetLife Annuity proceeds be distributed to the Executor of this Estate, (ii) the \$20,000 payments by Petitioner are advances on the \$60,000 gift otherwise payable to each of PEACHY, ANA and MARISOL; and (iii) further consideration and findings regarding any actual distribution and payment of the TIAA-CREF account to PEACHY and its partial satisfaction of her specific cash gift; Petitioner be directed to make a preliminary distribution of \$40,000, representing the unpaid portion of the specific gift of \$60,000 to each of PEACHY, ANA and MARISOL, with interest computed per Probate Code §12003;
9. An extension of time for 18 months from the date of the Court's Order, in which to complete Estate administration be granted.

*Please see additional page*

**NEEDS/PROBLEMS/COMMENTS:**

1. **Petitioner states \$20,000.00 was given to each mother of Decedent's three daughters as part of their \$60,000 devise in Decedent's Will. Need receipt for these preliminary distributions to Marisol Montoya. –**  
*Declaration re: \$20,000 payments to each Mother of Decedent's Daughters filed on 8/9/11 showing a cancelled check paid to Glenn Hyman. Declaration includes an e-mail (written in Spanish without a translation) which states the e-mail confirms Marisol's receipt of the \$20,000.00. California Rules of Court Rule 3.1110 (g) states exhibits written in a foreign language must be accompanied by an English translation, certified under oath by a qualified interpreter.*
2. **Petition request payment of \$40,000 to each of the mothers of the Decedent's three children (a total of \$120,000) to satisfy their specific gifts in the Decedent's Will. Petition also states that the IRS has not yet informed Petitioner of its acceptance of the filed returns or the actions it will take with respect to the assessment of penalties and interest on the Decedent's late filed returns. Therefore there is a potential that the Decedent may owe the entire penalty assessed by the IRS an amount in excess of \$307,000. It appears premature to allow distribution to beneficiaries until it has been determined that the decedent will not owe IRS penalties and interest in excess of \$307,000.**
3. **Need order.**