

Atty Alabart, Javier A. (for Petitioners Alfredo Banda Arriaga and Remedios Nieto Rodriguez, parents)
 Atty Ruiz, Eddie (co-counsel by association for Petitioners Alfredo Banda Arriaga and Remedios Nieto Rodriguez, parents)
 Atty Fanucchi, Edward L. (for Maria Luisa Sanchez, Respondent, purported spouse)
 Atty Kruthers, Heather H. (for Public Administrator, Administrator of the Estate)
 Atty Williams, Robert; Perez, Holley, of Perez, Williams & Medina (*Request for Special Notice* filed 11/17/2009)

Status Conference Re: Trial Setting for Petition to Vacate

DOD: 5/14/2004	ALFREDO BANDA ARRIAGA and REMEDIOS NIETO RODRIGUEZ , parents, filed a <i>Petition to Vacate, Void, Strike and Revoke Any and All Prior Orders Adverse to Petitioners After the March 12, 2007 Order of Distribution, etc.</i> , on 8/17/2010.	NEEDS/PROBLEMS/COMMENTS:
		Page 1B is the Status Hearing Re: Accounting.
Cont. from 071211, 083011	Petitioners seek to have reinstated the <i>Order Settling First and Final Account and Report of Administrator and Allowing Ordinary Commissions and Fees and for Distribution</i> signed on 3/12/2007, finding that distribution of the remaining estate in the amount of \$189,958.21 is to be made by the Public Administrator to the Petitioners.	Continued from 8/30/2011. Minute Order states parties agree to set the matter for Status Conference re: Trial Setting on 10/18/2011.
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg	Petitioners seek to have vacated all orders adverse to Petitioners after the 3/12/2007 <i>Order</i> , including but not limited to the following:	
Aff.Mail		
Aff.Pub.		
Sp.Ntc.	<ul style="list-style-type: none"> The <i>Order on Motion for Reconsideration of First and Final Account...and for Distribution</i> signed on 10/12/2007, which revoked the <i>Order Settling First and Final Account</i> and reopened the matter to allow presentation of evidence of the events which took place in the Probate Case in Mexico; The <i>Minute Order</i> dated 11/5/2007 on the <i>Motion/Petition for Reconsideration</i> stating that the Court confirms that it had previously granted the motion for reconsideration on 10/12/2007 and specifically made a finding that the Mexico decree is the valid one; Court approved a preliminary distribution to MARIA LUISA SANCHEZ in the amount of \$103,000.00, with Attorney Fanucchi to prepare an order as to the said distribution. 	
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	~Please see additional page~	
		Reviewed by: LEG
		Reviewed on: 10/7/11
		Updates:
		Recommendation:
		File 1B – Banda-Nieto

Order After Hearing signed on 5/4/2011 re: the hearing on the *Petition to Vacate* held on 4/26/2011 finds that after an in-chambers meeting with Attorneys Fanucchi and Alabart the Court orders:

1. That the attorneys meet to decide upon issues which are solely legal and issues which are solely factual or mixed factual and legal;
2. The parties are to report in writing to the Court and confer with the Court; and
3. The parties will appear for a Status Hearing on 5/10/2011 at 9:00 a.m.

Status Report filed on 5/6/2011 by Attorney Alabart states:

- It was agreed per *in camera* discussions that Attorney Fanucchi, on behalf of **MARIA LUISA SANCHEZ**, and Attorney Alabart, on behalf of the Petitioners **ALFREDO BANDA ARRIAGA and REMEDIOS NIETO RODRIGUEZ**, would meet and confer to determine what issues raised in the *Petition to Vacate* and in the papers in support, and in the opposition to the *Petition*, can be decided by this Court as matters of law;
- In compliance with the Court's instructions he hand-delivered to Attorney Fanucchi his meet-and-confer letter dated 5/4/2011 (*copy attached as Exhibit A*), in which he set forth the issues he believes can be dispositive of the issues raised in the *Petition* as a matter of law, as follows [*in brief sum*]:
 1. Was Maria Sanchez' *Petition for Reconsideration* filed 4/20/2007 barred by the 120-day statute of limitations provided for in Probate Code § 8270(a) prohibiting her from challenging the Will admitted to probate in this case on 3/28/2006? (Because the Will was admitted to probate on 3/28/2006, the statutory 120 days would have run on 7/26/2006.)
 2. That the Mexican court proceeding is an intestate proceeding (per the final order in the Mexican Court which clearly identifies the proceedings before it as intestate);
 3. That absent a valid probated Will subsequent to the Will of 10/16/1997 admitted to probate in this Court, Maria Sanchez has no standing as an alleged Concubine superior to the Petitioners' right to recovery under the Will admitted to probate in this Court;
 4. That the California Will governs distribution of the Decedent's estate in California;
 5. That the Court's order of 11/5/2007 is void on its face because:
 - (a) the 8/27/2007 *Minute Order* was never served as specifically ordered by the Court;
 - (b) Petitioners were not served with any orders of this Court subsequent to the 8/27/2007 *Minute Order*;
 - (c) the distribution granted by the Court of **\$103,000.00** on 11/5/2007, and the purported finding by the Court that the Mexican order was valid and binding on this Court, exceeded the prayer for relief in the *Motion for Reconsideration* which only requested the matter be reopened for presentation of evidence of events which took place in the probate case in Mexico; therefore, the relief granted had not been properly requested and thus the order went beyond the scope of the only relief that was requested, i.e. the matter be reopened;
 - (d) the 5/31/2005 Mexican Court order should not and could not be granted comity because it was not a final order;
 - (e) Attorney Karl Schnetz was not the attorney of record for Petitioners in this matter and notices to him do not satisfy due process requirements; there has never been any appearance by Attorney Schnetz before this Court wherein he stated he represented Petitioners, nor has he filed any document with this Court on behalf of Petitioners; and
 - (f) a finding was never made by this Court on the merits that the alleged 5/31/2005 Mexican Court order was valid and binding upon this Court; the Court's file is completely absent of any motion or request for a finding that the Mexican order of 5/31/2005 is valid, and there was never a finding that the said Mexican order was valid or binding on this Court.

~Please see additional page~

Status Report filed on 5/6/2011 by Attorney Alabart, continued:

- In his 5/4/2011 letter to Attorney Fanucchi, he also directed Attorney Fanucchi's attention to the fact that there are several factual issues that can be determined as matters of law because they have either been admitted by Attorney Fanucchi or his client or because no evidence to the contrary has been submitted; these are:
 1. That it was misrepresented to this Court by Maria Sanchez through Attorney Fanucchi that a subsequent Will was probated in Mexico;
 2. That Maria Sanchez's attorney, **ROSA MARIA ROGRIGUEZ MORADO**, had notice of these proceedings on or before 8/23/2005; phone records provided to this Court through Attorney Fanucchi by Rosa Morado show that she was in contact with Heather Kruthers as early as 8/23/2005 regarding the proceedings before this Court;
 3. Under the law of the country of Mexico, no valid legal marriage ever existed between Maria Luisa Sanchez and the Decedent;
 4. Under the law of the Mexican State of Guanajuato (GTO), Mexico, no valid legal marriage ever existed between Maria Luisa Sanchez and the Decedent, and under the law of the Mexican State of Guanajuato (GTO) there is no recognition of the concept of common-law marriage or common-law wife or putative spouse;
 5. Since Maria Sanchez under the law of the Mexican State of Guanajuato (GTO) is not the wife, widow, or putative spouse of the Decedent, she cannot be considered a wife, widow or putative spouse under California law; and Maria Sanchez could not be considered a putative spouse even under California law since she did not have a good faith belief that she was validly married;
 6. No Will of the Decedent was ever found to be valid or was ever probated by any court in Mexico; the Mexican proceedings are intestate because no Will of the Decedent was ever probated in Mexico;
 7. Maria Sanchez inherited in Mexico as an alleged "concubine" by intestate succession and not as a result of any Will of the Decedent being probated; under the law of the Mexican State of Guanajuato (GTO), Maria Sanchez is not a putative spouse of Decedent;
 8. The 5/31/2005 Mexican Court Order was not a final order, and no longer has any legal effect in that it was superseded by a 5/20/2010 order of the same court recognizing Petitioners as lawful heirs of Decedent.
- In his 5/4/2011 letter to Attorney Fanucchi, he did not address factual issues or issues of mixed law and fact since a specific finding on those issues is not necessary unless the Court is unable to rule in favor of the Petitioners as a matter of law;
- In his 5/4/2011 letter to Attorney Fanucchi, he requested that Attorney Fanucchi respond by no later than 5:00 pm on 5/5/2011 because of the hearing set for 5/10/2011; as of the filing of this *Status Report*, he has not received any correspondence, phone call, or response of any kind from Attorney Fanucchi indicating that he disagrees with the issues that he believes can be determined as matters of law by the Court.
- **Attached as *Exhibit B* to Attorney Alabart's *Status Report* is the *Reporter's Transcript* from the hearing on 12/15/2010.**

Attorney Alabart requests the Court find as follows:

1. The issues stated in this *Status Report* are not in controversy; and
2. The Court grant the relief requested in the *Petition* as follows:
 - (a) That all orders entered by the Court adverse to the Petitioners be declared void and ordered stricken, revoked and vacated;
 - (b) That the *Order for Preliminary Distribution* made by this Court on 11/5/2007 and signed on 4/4/2008 to Maria Luisa Sanchez in the amount of **\$103,000.00** be declared void and ordered stricken, revoked and vacated;

~Please see additional page~

Attorney Alabart requests the Court find, continued:

- (c) That Maria Luisa Sanchez' attorneys Edward L. Fanucchi and Rosa Maria Rodriguez Morado are jointly and severally ordered to return the entire distribution made to Maria Luisa Sanchez pursuant to the *Order for Preliminary Distribution* made by this Court on 11/5/2007 and signed on 4/4/2008 in the amount of **\$103,000.00** with interest at the legal rate to the Fresno County Public Administrator;
- (d) That the 3/12/2007 [*Order Settling First and Final Account and Report of Administrator and Allowing Ordinary Commissions and Fees and for Distribution*] ordering distribution to the Petitioners be reinstated; and
- (e) That the Fresno County Public Administrator [is] to distribute all estate assets to the Petitioners pursuant to the 3/12/2007 [*Order Settling First and Final Account, etc.*] as reinstated.

Objector's Statement Pursuant to the Court Order Dated 5/4/2011 and Proof of Service Thereof filed by Attorney Fanucchi on 5/9/2011 contains a letter from Attorney Fanucchi to Attorney Alabart dated 5/9/2011, stating in sum:

- He has reviewed Attorney Alabart's "meet and confer communication" dated 5/4/2011 and offer the following responsive comments with a copy to the Court to serve as his report in writing pursuant to the Court's 5/4/2011 order;
- He is disappointed by the timing of Attorney Alabart's "meet and confer" effort; since it was Attorney Alabart's clients who are seeking affirmative relief in this matter, it was incumbent upon Attorney Alabart to initiate the meet and confer process and participate in it in good faith; sending him a letter on the afternoon of 5/4/2011 setting forth Attorney Alabart's positions on various issues (not supported by any legal authority or record citation), and demanding his responses by 5/5/2011 (and directing him to support his responses with legal authority or record citation), is simply not indicative of a good faith attempt on Attorney Alabart's part to comply with Judge Oliver's directive to attempt to reach an agreement as to the nature of issues (factual or legal) that Attorney Alabart's *Petition* requires Judge Oliver to decide;
- Attorney Alabart's "meet and confer" letter completely ignores the issues and facts raised by the opposition papers his office has filed on behalf of Maria Sanchez;
- The majority of the issues raised in the opposition brief are pure questions of law based on the factual assertions alleged in Attorney Alabart's *Petition* which, if answered in favor of Maria Sanchez, result in the denial of Attorney Alabart's *Petition* without the Court ever reaching or having to consider any of the issues identified in Attorney Alabart's "meet and confer letter;"
- The threshold dispositive questions of law presented by Maria Sanchez' opposition, which may be determined by Judge Oliver as a matter of law solely on the *Petition* and opposition papers filed are:
 1. Whether Attorney Alabart's clients may collaterally attack the Court's 10/12/2007 and 11/5/2007 orders ("Sanchez Orders") granting Ms. Sanchez' motion for reconsideration of the Court's 3/12/2007 Order Settling First and Final Account, or the Court's 4/4/2008 order for partial distribution, or whether they are conclusively bound by the Sanchez Orders because:
 - (a) Attorney Alabart's client's address for service in this probate proceeding was conclusively established by the Court's September 2005 order admitting the Decedent's Will to probate; or
 - (b) Attorney Alabart's client's address for service in this probate proceeding as a matter of law, and all required notices were served on Attorney Schnetz; or
 - (c) Attorney Alabart's clients voluntarily participated in this probate proceeding and sought the benefit of the Court's jurisdiction over them without ever suggesting a lack of such jurisdiction.

~Please see additional page~

Objector's Statement filed by Attorney Fanucchi on 5/9/2011, continued:

2. Whether Attorney Alabart's clients may claim that the Sanchez Orders are invalid because of legal error, or whether they are conclusively bound by the Sanchez Orders because the Sanchez Orders have become final; and
 - (a) the Sanchez Orders are not void on the face of the record; or
 - (b) the Sanchez Orders were not entered as the result of extrinsic fraud.
 3. Whether Attorney Alabart's clients may seek reconsideration of the Sanchez Orders or whether they are prohibited from doing so because:
 - (a) Their request for reconsideration is much, much too late because the Sanchez Orders have been final or years; or
 - (b) Their request for reconsideration is not supported by a legally sufficient showing of diligence on their part.
- There are purely legal questions and factual questions for Judge Oliver to decide, including: Sanchez' evidentiary objections contesting admissibility of Alabart's evidence; what Mexican law applies to the issues in this probate proceeding and how the applicable Mexican law should be interpreted and applied to those issues; factual issues such as the truth of the story of Alabart's clients not having notice of the proceeding; whether the Mexican law and the events in Mexico are actually as they have been represented; disputes regarding alleged misrepresentations made by Sanchez' attorneys; whether the Court's ambiguous statement at hearing on 8/27/2007 regarding giving notice of the continuance of hearing was directed to the Court Clerk, the Public Administrator, or to Sanchez' attorneys; and whether Alabart's clients were given notice of the continuance in conformity with the Court's ambiguous statement on 8/27/2007 by the first sentence of the *Reply to Declaration of Heather Kruthers* served by Sanchez' attorneys on Alabart's clients; (*please refer to pages 2 and 3 of Objector's Statement for complete list.*)

Petitioners' [Aldredo Banda Arriaga and Remedios Nieto Rodriguez] Request for Judicial Notice filed on 7/8/2011 states:

- Pursuant to Evidence Code § 452, Petitioners request this Court take Judicial Notice of the document attached as *Exhibit A* to the request, which is also being sent to the Court through diplomatic channels as a *Letter Rogatory* and should be received shortly by the Court; [*Note: Court records do not show receipt of a Letter Rogatory from the Court in Mexico.*]
- *Exhibit A* is a copy of an Apostilled document, the original of which will remain in the possession of Attorney Alabart in accordance with the same terms of the Court's *Minute Order* of 4/26/2011, until ordered otherwise.

Note: The apostilled document attached as *Exhibit A* to the *Request for Judicial Notice* filed 7/8/2011 consists of:

- (1) Spanish language documents, some of which contain handwritten strike-outs on the pages; the documents appear to contain a court order from a court in Mexico; and
- (2) English language translations of Spanish language documents (which translations appear to have been made by a non-native English translator).

Atty Alabart, Javier A. (for Petitioners Alfredo Banda Arriaga and Remedios Nieto Rodriguez, parents)
 Atty Ruiz, Eddie (co-counsel by association for Petitioners Alfredo Banda Arriaga and Remedios Nieto Rodriguez, parents)
 Atty Fanucchi, Edward L. (for Maria Luisa Sanchez, Respondent, purported spouse)
 Atty Kruthers, Heather H. (for Public Administrator, Administrator of the Estate)
 Atty Williams, Robert; Perez, Holley, of Perez, Williams & Medina (Request for Special Notice filed 11/17/2009)

Status Hearing Re: Accounting

DOD: 5/14/2004	ALFREDO BANDA ARRIAGA and REMEDIOS NIETO RODRIGUEZ , parents, were <u>initially</u> to be distributed by <i>Order Settling First and Final Account and Report of Administrator and Allowing Ordinary Commissions and Fees and for Distribution</i> which was signed and filed on <u>3/12/2007</u> the Decedent's estate in the amount of \$189,958.21 at 50% to each.	NEEDS/PROBLEMS/COMMENTS:
Cont. from	<p>MARIA LUISA SANCHEZ, purported spouse, was <u>subsequently</u> distributed the Decedent's estate by <i>Minute Order</i> dated <u>11/5/2007</u> from the <i>Motion/Petition for Reconsideration of First and Final Account</i>, which states the Court confirms that it has previously granted the [<i>Motion for Reconsideration</i>] on <u>10/12/2007</u> [which found that Ms. Sanchez' <i>Motion/Petition for Reconsideration of First and Final Account</i> ought to be granted, and that the <i>Order on First and Final Account...and for Distribution</i> is revoked], and specifically made a finding that the Mexico decree is the valid one. The Court approved a preliminary distribution to Ms. Sanchez in the amount of \$103,000.00. <i>Receipt on Distribution</i> for this sum was filed on 12/12/2007.</p> <p>Background:</p> <ul style="list-style-type: none"> • Minute Order dated 11/5/2007 from the hearing on the Petition for Reconsideration set the matter on <u>2/11/2008</u> for <i>Status Re: Accounting records from Mr. Perez</i> (which was continued to 3/3/2008, then to 6/2/2008.) • Minute Order dated 6/2/2008 from the hearing on the Status Re: Accounting records from Mr. Perez states Attorney Fanucchi requests to be appointed attorney to pursue the matter against Mr. Perez; matter set for status on 6/30/2008, which was moved to 6/23/2008 by <i>Order Granting [Attorney Fanucchi's] Ex Parte Petition to Move Status Hearing to June 23, 2008</i>. 	<p><u>Continued from 8/30/2011.</u> <i>Minute Order</i> states Ms. Kruthers advises the Court that there is about \$70,000.00 that is questionable. The Court directs Ms. Kruthers to prepare an accounting absent a distribution. The matter is set for 10/18/2011 for hearing on the accounting.</p>
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
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Citation		
FTB Notice		
~Please see additional page~		
		Reviewed by: LEG
		Reviewed on: 10/7/11
		Updates:
		Recommendation:
		File 1B – Banda-Nieto

Background, continued:

- **Minute Order dated 6/23/2008 from the Status Re: Accounting records from Mr. Perez** states Public Administrator will remain [as Administrator], and continued the matter to 8/25/2008; *Minute Order* dated 8/25/2008 from the *Status Re: Accounting records from Mr. Perez* states Attorney [Holley] Perez represents to the Court that she is having ongoing discussions with Mr. Fanucchi and feels the status hearing could come off calendar. No appearance by Attorney Fanucchi or status report filed, the Court will take the matter off calendar. [Note: The Court did not set any further status hearings on the accounting records since the 8/25/2008 hearing.]
- **PUBLIC ADMINISTRATOR filed on 12/31/2008 a Final Report of Administrator and Petition for Allowance of Extraordinary Fees and Payment of All Outstanding Commissions and Fees and for Final Distribution**, with hearing set for 2/9/2009; *Ex Parte Petition to Move Final Report of Administrator* was filed by Attorney Fanucchi on 1/21/2009 stating he had a schedule conflict and because of the serious matters in this case and he is the attorney most familiar pertaining to an accounting from Attorney Perez, he needs to be present at the hearing on the final report of the administrator. *Order Granting Ex Parte Petition to Move Final Report of Administrator* was signed 1/27/2009 and the matter was moved to 3/9/2009. *Minute Order* dated 3/9/2009 on the *Final Report of Administrator* continued the matter to 4/13/2009.
- **Minute Order dated 4/13/2009** on the *Final Report of Administrator and Petition for Allowance of Extraordinary Fees and Payment of All Outstanding Commissions and Fees and for Final Distribution* shows the petition was denied and dismissed without prejudice.
- **Following the dismissal dated 4/13/2009, Court records show the next pleading requesting an order for relief filed in this matter** is the *Petition to Vacate, Void, Strike and Revoke Any and All Prior Orders Adverse to Petitioners After the March 12, 2007 Order of Distribution, etc.*, filed on 8/17/2010 by Attorney Alabart on behalf of the Decedent's parents.

Declaration of Heather H. Kruthers Regarding Accounting by the Public Administrator filed on 10/5/2011 states:

- She is the attorney responsible for the handling of this matter for all purposes, including preparation of an account as ordered by the Court at the hearing on 8/30/2011;
- Since this is not a final account nor a request for distribution, this declaration serves to provide the accounting schedules (*attached as Exhibit A*) showing receipts and distributions during the Public Administrator's administration of this estate.

Note: *Proof of Service* attached to the *Declaration of Heather H. Kruthers* filed 10/5/2011 shows a copy of the Declaration was mailed to Attorney Javier Alabart, Attorney Edward Fanucchi, and Attorney Holley Perez on 10/4/2011.

Note: Please refer to Second Additional Page for information obtained from *Exhibit A*, the Public Administrator's *First Account* schedules.

*First Account of Public Administrator:***Account period: 9/23/2005 – 8/31/2011**

Accounting	-	\$214,752.49
Beginning POH	-	\$203,823.43 (<i>per Final Inventory & Appraisal filed on 9/13/2006</i>)
Ending POH	-	\$109,195.36 (<i>all cash</i>)

Note: Schedule entitled *Changes in Assets During the Account Period* identifies the following:

- Two accounts that were closed per Court order (no dates indicated);
- The opening and closing of pooled certificate of deposit accounts at approximately 6-month to 2-year intervals on various dates at different banks; and
- A United Security Bank account that was closed by Robert Perez, former Trustee (no date indicated.)

Schedule A, Receipts includes interest earned from the banks that hold Decedent's pooled certificates of deposit, but does not include any interest earned from the United Security Bank account, which may reflect that the account was closed prior to the Public Administrator's *First Account* period. *Final Inventory & Appraisal* filed on 9/13/2006 by the Public Administrator indicates a sum of \$106,200.59 was deposited in the United Security Bank account as of the date of Decedent's death (5/14/2004), and this sum is included in the beginning property on hand of this *First Account*.

Status Conference

	<p>LAYNE HAYDEN, Executor and Trustee, requested Summary Judgment on his Amended Motion to Consolidate Cases, Sell Property, Pay Debt, and Request Further Instructions, which was originally set for trial on 11-2-10 and continued at the request of Atty Fanucchi (over the objection of Trustee).</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
<p>Cont. from 081111, 091211</p>	<p>JENNIFER ANOOSHIAN, daughter/beneficiary, objected.</p>	<p><u>Note: Page 2B of this calendar is Trustee Layne Hayden’s Statement as to Revoked Terms of Executory Offer of Settlement Agreement and Current Offer to Settle with Jennifer Anooshian; Demand for Statement of Decision; Demand for Jury Trial.</u></p>
<p>Aff.Sub.Wit.</p>	<p>On 6-9-11, a Stipulation to Mutual Settlement Agreement and Renunciation of Further Interest by Ms. Anooshian was filed with the court. The settlement provides that Ms. Anooshian shall renounce further interest in the estate/trust in consideration for the Fremont Ave. property (via grant deed by the executor/trustee, with title insurance), with the understanding that the executor/trustee shall pay, exonerate, defend, and indemnify Ms. Anooshian from all claims, etc., that have arisen or may arise in administration of the estate or trust. The settlement further provides that upon sale of the Weber Ave. property, the proceeds shall be paid in the following priority: 1) Matthew Raymond Lemos \$20,000.00; 2) Remaining debts of trust and estate; \$80,000.00 for trustee’s and attorney’s fees, Remaining funds disbursed to Matthew Raymond Lemos.</p>	<p>Minute Order 6-30-11: The Court finds there was an earlier agreement and orders Ms. Anooshian to deliver the key to Mr Hayden by 5:00pm today. The Court further orders Ms Anooshian to cure the default with the bank no later than 7-10-11. Matter is set for Status on 8-11-11.</p>
<p>Verified</p>	<p>At status hearing on 6-30-11, the Court ordered Ms Anooshian to deliver the key to Mr Hayden and to cure the default with the bank.</p>	<p>Minute Order 8-11-11: The Court directs Mr. Hayden to send Mr. Fanucchi the proposal by 8-19-11. Mr. Gingo is directed to submit a document by 8-19-11 setting forth what is materially different in the agreement. The Court orders Mr. Hayden not to list or sell the property. Matter continued to 9-12-11.</p>
<p>Inventory</p>	<p>On 7-27-11, Ms. Anooshian filed a Notice of Recording of Notice of Rescission of Declaration of Default, Etc., indicating that the beneficiary/trustee (Unionbancal Mortgage Corp) has withdrawn the Declaration of Default and Demand for Sale.</p>	<p>Minute Order 9-12-11: The Court orders that any remaining proceeds from the Weber property be retained by the Executor until further order of the Court. Additionally, the Court directs that an accounting of the <u>estate</u> be prepared.</p>
<p>PTC</p>	<p>Status Report of Jennifer Anooshian filed 8-8-11 states she is in compliance with the agreement. She is informed that the Trustee has sold the Weber Ave. property, and has requested a copy of the sale documents with regard to distribution of the net proceeds, since her brother Matt, among others, have certain rights to the net recovery. Ms. Anooshian expects the Trustee/Executor to also comply with the agreement, “without arguing that her brother Matt did not sign the Agreement within a certain number of days when no such requirement is in the Agreement or for some other recondit reason that is yet to develop on the part of Trustee and his attorney.”</p>	<p>As of 10-7-11, no accounting of the estate has been filed.</p>
<p>Not.Cred.</p>	<p>Ms. Anooshian requests that the Court order that the Trustee execute a Deed with a policy of title insurance on the Fremont Ave. Property in favor of Ms. Anooshian, that all terms and conditions of the sale of the Weber Ave. property be made available to Ms. Anooshian, through her attorney, and that the matter be set for further status hearing at the earliest available date.</p>	<p>Updates:</p>
<p>Notice of Hrg</p>	<p style="text-align: center;">SEE PAGE 2</p>	<p>Contacts: Reviewed 10-7-11</p>
<p>Aff.Mail</p>		<p>Recommendation:</p>
<p>Aff.Pub.</p>		<p>Reviewed by: skc</p>
<p>Sp.Ntc.</p>		<p>File 2A - Lemos</p>
<p>Pers.Serv.</p>		
<p>Conf. Screen</p>		
<p>Letters</p>		
<p>Duties/Supp</p>		
<p>Objections</p>		
<p>Video Receipt</p>		
<p>CI Report</p>		
<p>9202</p>		
<p>Order</p>		
<p>Aff. Posting</p>		
<p>Status Rpt</p>		
<p>UCCJEA</p>		
<p>Citation</p>		
<p>FTB Notice</p>		

2A **Raymond Joseph Lemos, Jr. (Estate)**
Atty **Fanucchi, Edward L. (for Jennifer Anooshian – Beneficiary)**
Atty **Gingo, George M. (of Mims, Florida, for Trustee and Executor Layne Hayden)**

Case No. 06CEPR00443

Status Conference

SUMMARY (Continued):

On 8-19-11, Trustee Layne Hayden filed a Statement as to Revoked Terms of Executory Offer of Settlement Agreement and Current Offer to Settle with Jennifer Anooshian; Demand for Statement of Decision; Demand for Jury Trial. See Page 2B.

On 8-29-11, Beneficiary Matthew Lemos filed a Statement to Acknowledge Terms of Settlement Agreement. Mr. Lemos states that because Attorney Fanucchi wanted his wet ink signature on the offer, he mailed it on 5-31-11; however, this is irrelevant, as the scanned document that all parties had signed previously is absolutely sufficient to carry out the terms of the offer. Attorney Gingo's claim that there was no agreement because his signature was not on an original copy of the agreement is invalid. Most communications in this case have occurred via email. Contracts are commonly executed electronically by fax or scanned copy. The offer matured into an agreement that is both valid and enforceable. Attached is a signed copy of the stipulation.

On 8-31-11, Attorney Fanucchi filed a Reply to Trustee's Statement. See Page 2B.

Dept. 303, 9:00 a.m. Tuesday, October 18, 2011

2B Raymond Joseph Lemos, Jr. (Estate) [Lead Case] Case No. 06CEPR00443

Atty Fanucchi, Edward L. (for Jennifer Anooshian – Beneficiary)
 Atty Gingo, George M. (of Mims, Florida, for Trustee and Executor Layne Hayden)
 Atty Lemos, Matthew (Pro Per – Beneficiary)

Trustee Layne Hayden's Statement as to Revoked Terms of Executory Offer of Settlement Agreement and Current Offer to Settle with Jennifer Anooshian; Demand for Statement of Decision; Demand for Jury Trial

	<p>LAYNE HAYDEN, Trustee, filed this Statement as to Revoked Terms of Executory Offer of Settlement Agreement and Current Offer to Settle with Jennifer Anooshian; Demand for Statement of Decision; Demand for Jury Trial.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p>
<p>Cont. from 091211</p>	<p>Petitioner's Demand for Jury Trial: Petitioner demands a jury trial on the issue of whether a settlement agreement dated 3-5-11 exists or is enforceable in part or in whole.</p>	<p>Probate Code § 825: Except as otherwise expressly provided in this code, there is no right to a jury trial in proceedings under this code.</p>
<p>Aff.Sub.Wit.</p>	<p>Petitioner's Demand for Statement of Decision: Petitioner states if the Court makes any fact-finding determination as to enforcement of the alleged settlement agreement or the right to a jury trial regarding the validity or partial or total enforcement thereof, the Trustee demands a Statement of Decision pursuant to California Code of Civil Procedure section 632.</p>	<p>Minute Order 9-12-11: The Court orders that any remaining proceeds from the Weber property be retained by the Executor until further order of the Court. Additionally, the Court directs that an accounting of the <u>estate</u> be prepared.</p>
<p>Verified</p>	<p>Petitioner states the issue of accounting is res judicata. A full accounting was filed. Judge Kazanjian ordered that objections to the accounting be filed within a certain period. Judge Kazanjian ruled Jennifer Anooshian's objection untimely and struck the objection. Instead of filing a motion to set aside the order, Mr. Fanucchi wrote an ex parte letter to Judge Kazanjian asking her to set the order aside. Judge Kazanjian told him to file the appropriate motion. That was two years ago and he never filed the appropriate motion. Mr. Fanucchi brings up the issue of an accounting at every opportunity. The issue of the accounting is res judicata.</p>	<p>As of 10-7-11, no accounting of the estate has been filed.</p>
<p>Inventory</p>	<p>Regarding the settlement agreement: Matthew Lemos was not present at the meeting and Mr. Gingo was about to get on a plane, so Mr. Fanucchi was to keep the original and forward it to Matthew Lemos for signature. The Trustee and Mr. Gingo have the recollection that Mr. Gingo initialed the bottom of each page except the signature page. The settlement agreement offered in court by Mr. Fanucchi does not carry Mr. Gingo's initials.</p>	<p>Updates:</p>
<p>PTC</p>	<p>Additionally, the document was dated 3-5-11. In open court on 3-24-11 and 4-21-11, and particularly on 5-26-11, the Trustee stated there was no deal and any offer to deal was revoked. Matthew Lemos thereafter signed the proposed agreement on 5-31-11, after it had clearly been revoked in open court.</p>	<p>Contacts: Reviewed 10-7-11</p>
<p>Not.Cred.</p>	<p>Matthew Lemos' Declaration filed 8-29-11 states that he signed, scanned and sent the document via email to Mr. Gingo on 3-8-11 with his signature, and the agreement was complete. He later learned that an original signature was wanted by Mr. Fanucchi, and he was mailed the signed offer, which he signed and returned to Mr. Fanucchi's office on 5-31-11. However, that is irrelevant because his original 3-8-11 signature is absolutely sufficient. Mr. Gingo's claim that there was no agreement is invalid.</p>	<p>Recommendation:</p>
<p>Notice of Hrg</p>	<p>SEE PAGE 2</p>	<p>Reviewed by: skc</p>
<p>Aff.Mail</p>		<p>File 2B - Lemos</p>
<p>Aff.Pub.</p>		
<p>Sp.Ntc.</p>		
<p>Pers.Serv.</p>		
<p>Conf. Screen</p>		
<p>Letters</p>		
<p>Duties/Supp</p>		
<p>Objections</p>		
<p>Video Receipt</p>		
<p>CI Report</p>		
<p>9202</p>		
<p>Order</p>		
<p>Aff. Posting</p>		
<p>Status Rpt</p>		
<p>UCCJEA</p>		
<p>Citation</p>		
<p>FTB Notice</p>		

2B Raymond Joseph Lemos, Jr. (Estate) [Lead Case] Case No. 06CEPR00443

Atty Fanucchi, Edward L. (for Jennifer Anooshian – Beneficiary)

Atty Gingo, George M. (of Mims, Florida, for Trustee and Executor Layne Hayden)

Atty Lemos, Matthew (Pro Per – Beneficiary)

Trustee Layne Hayden's Statement as to Revoked Terms of Executory Offer of Settlement Agreement and Current Offer to Settle with Jennifer Anooshian; Demand for Statement of Decision; Demand for Jury Trial

SUMMARY (Continued):

The Trustee continues: The entire deal rested upon the sale of the commercial property between \$250,000.00 and \$275,000.00 because the debts, trustee fees, attorney fees, and a sum payable to Matt Lemos could not be paid in full if the property did not sell for this amount.

At the 3-5-11 meeting, the Trustee agreed to deed the home to Jennifer Anooshian on certain terms that are outlined in the Petition. At no time did the Trustee ever agree to be personally responsible for anything that had to do with the estate and trust, including known and unknown debts, and especially not while Jennifer Anooshian gets a home deeded to her at the Trustee's and creditors' expense. Petitioner states the rule was stated over and over in the 3-5-11 meeting by the Trustee that the trust stated the debts had to be paid before any assets were turned over to the beneficiaries per Probate Code 19001 that provides for the Trustee's duty not to give away assets at the creditors expense (Arluck v. Dobler, 116 Cal. App. 4th 1324 (2004).

Petitioner states there were \$455,584.56 in known debts (listed) on the table. There was not sufficient cash to pay the trust debts, nor income, and only two assets remained: the home that Ms. Anooshian wanted and the commercial property on Weber. It was discussed that Ms. Anooshian had been residing in the Fremont home for the past five years, and she was to pay the mortgage because the trust could not pay it, directly to the accountants, who would pay the bank. The Trustee was not advised that there were arrears on the mortgage information regarding the home.

Ms. Anooshian was a co-owner with Tom Grow of Sign-a-Rama (not a corporation), which was the tenant of the commercial property. Similarly, Sign-a-Rama was to pay the mortgage on that property directly through the accountants. However, they unilaterally decided to stop paying the accountants and pay the mortgage company directly.

Petitioner states the reason for paying the accountants was to keep accurate records. The Trustee did not have access to the mortgage information regarding this property.

At the 3-5-11 meeting, Mr. Anooshian informed the Trustee that about \$130,000.00 was owed on the commercial property and payments were current and would remain so. Trustee relied on this statement. Ms. Anooshian did not reveal that she was behind on her payments to the mortgage company, but Trustee learned this prior to Matt Lemos signing the document on 5-31-11, and learned that penalties amounted to approx. \$13,000.00 greater than the \$130,000.00 she had stated.

Ms. Anooshian also did not reveal, that she and Tom Grow planned to not make any more payments on the property or insurance, and that they would stay as long as possible and move Sign-a-Rama out, and not cooperate with the realtors, and prohibit the realtors from showing the property and advertising it with a sign. They took the sign down, and refused the realtor access to the building, refused to cut the grass, let the weeds grow three feet high, and piled up garbage two feet high all through the inside of the buildings. They further removed an air conditioner unit that cost \$5,000.00 from the contract sale price.

In sum, Ms. Anooshian misled the Trustee with material misstatements and then took negative action to impair his ability to sell the property. The property ultimately sold for \$210,000.00, which is not sufficient to pay fees, debts, and Matt Lemos.

The Trustee's current offer is:

- to distribute assets according to the trust
- to deed the Fremont property to Ms. Annoshian IF she does the following:
 - pays all known and unknown debts, including the future accounting bill and tax bill for future accounting bills and tax bills;
 - indemnifies, agrees to defend and holds harmless the Trustee and his agents, attorneys and representatives;
 - agrees that the 3-5-11 proposed settlement agreement did not mature into an agreement.

SEE PAGE 3

Dept. 303, 9:00 a.m. Tuesday, October 18, 2011

2B Raymond Joseph Lemos, Jr. (Estate) [Lead Case] Case No. 06CEPR00443

Atty Fanucchi, Edward L. (for Jennifer Anooshian – Beneficiary)

Atty Gingo, George M. (of Mims, Florida, for Trustee and Executor Layne Hayden)

Atty Lemos, Matthew (Pro Per – Beneficiary)

Trustee Layne Hayden's Statement as to Revoked Terms of Executory Offer of Settlement Agreement and Current Offer to Settle with Jennifer Anooshian; Demand for Statement of Decision; Demand for Jury Trial

SUMMARY (Continued):

Declaration of Edward L. Fanucchi in Reply to Trustee's Statement states:

1. Trustee has no right to a jury trial per Probate Code §§ 825, 850.
2. A Statement of Decision can be requested in a court trial but there would be no Statement of Decision required on the denial of a jury trial on the issues now pending before the court.
3. An accounting has not been provided in the form required (Probate Code §1060 et seq) and there has been no order approving any so-called accounting.
4. Regarding the terms of the agreement:
 - Mr. Fanucchi discusses the initialing on the page and the communications with Matthew Lemos.
 - Mr. Fanucchi states there was no understanding that the agreement was based on a sale price of \$275,00.00 and the sale price of the Weber property was not discussed as a determinate of whether the Fremont residence would be sold. The court should recall that during the last status conference the court ordered the Trustee/Executor not to sell the Fremont property, although it appeared to be the intention of Trustee and Mr. Gingo to do so.
 - It was discussed at the meeting on 3-5-11 that most of the debts could be substantially negotiated lower.
 - There were no conditions precedent to the deeding of the Fremont house to Ms. Anooshian."
 - The Trustee/Executor has essentially washed his hands of tracking payments on the properties.
 - There were no conditions precedent to the agreement regarding management of Sign-A-Rama and its payments on the deed.
 - There was no request to delay verification of whatever facts the Trustee/Executor wanted before the agreement was executed voluntarily, without inducement from Ms. Anooshian.
 - The agreement cannot in any manner be revoked by the court for extrinsic fraud, i.e., to have prevented the Trustee/Executor, under direction of his attorney from making any investigation or inquiry prior to signing the agreement.

Attorney Fanucchi respectfully submits that the court find that the Agreement is in effect, that the Trustee/Executor comply with the Agreement fully, and that the Trustee execute a Grant Deed for the Fremont residence to Jennifer Anooshian and pay \$20,000.00 to Matthew Lemos.

Mr. Fanucchi's paralegal submitted further declaration that their office has never received a signature bearing the date 3-8-11 for Matthew Lemos' signature.

Atty Keeler Jr., William J. (of DAK, for Cindy Snow Henry – Trust Beneficiary – Petitioner)
 Atty Klassen, Kenton J. (of DAK, also for Cindy Snow Henry – Trust Beneficiary – Petitioner)
 Atty Abrams, Robert C. (of Pascuzzi, Moore & Stoker, for Louis Brosi, Jr. – Trustee)
 Atty Jaech, Jeffrey A. (of Caswell Bell, formerly for Louis Brosi, Jr. – Trustee)
 Atty Paloutzian, Dirk (of BMJ, formerly for Louis Brosi, Jr. – Trustee)

Notice of Motion and Motion to Compel Performance Under Settlement Agreement

Louis Brosi, Sr. DOD: 8-1-79	CINDY SNOW HENRY, Trust Beneficiary, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
Stella Brosi DOD: 10-29-05	<p>Petitioner states on 3-5-09 the parties reached agreement and the settlement was placed on the record with parties and counsel present. Petitioner seeks to have the court order Louis Brosi III to carry out the acts necessary to partition the property into three parcels anticipated and directed by the settlement.</p>	<p><u>Minute Order 5-10-11:</u> The matter is continued to 7-5-11 to allow Mr. Klassen an opportunity to receive the information from both counsel. Matter also set for status on 7-5-11. (Page 3B)</p>
Cont. from 051011, 070511, 082311, 091911 (Status Conf.)	Petitioner states the land is still owned jointly by several parties: Louis Brosi, Jr., Doris Brosi, Petitioner Cindy Snow Henry, and her brother Robert Snow; the settlement provided for partition of the property into three parcels.	<p><u>Minute Order 7-5-11:</u> Matter continued to 8-23-11</p>
Aff.Sub.Wit.	Petitioner requests that the court compel Louis Brosi III to partition the parcel and pay the associated costs.	<p><u>Minute Order 8-23-11:</u> Mr. Franco requests additional time to file a motion. The Court directs Mr. Franco to file his motion by 9-27-11. The Court sets a hearing on the pending motion for 10-18-11.</p>
Verified	Petitioner states Louis Brosi III has had more than two years, but to Petitioner’s knowledge has made no effort to perform. Petitioner states that upon partition, the property can be used to earn income, provide collateral, or be sold for Petitioner’s benefit or to pay off debts against the property.	<p><u>Note: No motion has been filed. A Status Conference was held on 9-19-11. See Page 3B.</u></p>
Inventory	Petitioner seeks relief to prevent the diminution of value of the property to be received by Petitioner. Petitioner states that during the past two years, what Louis Brosi III has effectively done by his failure to act or act in good faith is to run up interest charges against Petitioner and/or her property. Petitioner alleges that he has intentionally failed to act in good faith and his true intent is to “steal” the property from Petitioner by his inaction.	<p>Updates:</p>
PTC	<p>Petitioner requests that the court order Louis Brosi III to take those actions necessary to complete the partition described in the settlement agreement and to present to Petitioner within 120 days the documents necessary to implement the division.</p>	<p>Contacts: Reviewed 10-7-11</p>
Not.Cred.	Louis Brosi, Jr.’s Opposition filed 4-28-11 states new issues have arisen since settlement.	<p>Recommendation:</p>
Notice of Hrg	<p style="text-align: center;">SEE PAGE 2</p>	<p>Reviewed by: skc</p>
Aff.Mail		<p>File 3A - Brosi</p>
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		

3A Louis Brosi, Sr. (Trust)

Case No. 07CEPR01213

Atty Keeler Jr., William J. (of DAK, for Cindy Snow Henry – Trust Beneficiary – Petitioner)
Atty Klassen, Kenton J. (of DAK, also for Cindy Snow Henry – Trust Beneficiary – Petitioner)
Atty Abrams, Robert C. (of Pascuzzi, Moore & Stoker, for Louis Brosi, Jr. – Trustee)
Atty Jaech, Jeffrey A. (of Caswell Bell, formerly for Louis Brosi, Jr. – Trustee)
Atty Paloutzian (of BMJ, formerly for Louis Brosi, Jr. – Trustee)

Notice of Motion and Motion to Compel Performance Under Settlement Agreement

Summary (Continued):

Louis Brosi, Jr.’s Opposition filed 4-28-11 states new issues have arisen since settlement:

- In addition to the partition, the settlement required that Petitioner’s parcel would secure three deeds of trust with interest only payable quarterly by Petitioner and all due in five years, including:
 - Note secured by 1st deed of trust payable to Louis Brosi III for \$117,000.00
 - Note secured by 2nd deed of trust payable to Louis Brosi, Sr., and Doris Brosi for \$50,000.00
 - Note secured by 3rd deed of trust payable to Louis Brosi III for 1/3 of the partition costs, capped at \$30,000.00. (Louis Brosi III was to front the costs for the parcel maps.)
- Petitioner has failed to make payments on any of the notes to date.
- Respondent is informed and believes that Louis Brosi III does not have the financial ability to front the costs as originally anticipated.
- The \$30,000.00 cap on Petitioner’s note for 1/3 of the cost of the maps is insufficient to cover her 1/3 share.
- There are required use easements and road and other public dedications along Chestnut that should be excluded from the gross parcel prior to determining the size of each of the three parcels.
- The trust has no funds and no income. Louis Brosi, Jr., and his wife Susan Brosi have been advancing personal funds annually, and Louis Brosi, Jr., is not receiving trustee fees for administering the trust.

Respondent concludes that based on Petitioner’s non-performance and non-compliance with this court’s order, her motion to compel should be denied.

Respondent requests the court order mediation to resolve the details of the new issues.

Amended First and Final Account, Report of Administrator and Petition for Dismissal of Probate Proceeding

DOD: 5-8-08		LOUIS C. BROSI, III , brother and Administrator with full IAEA without bond, is Petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 8-23-11: Counsel [Paul Franco for Administrator] advises the Court that the Moxley matter [Opposition by Creditor McKenzie Farms] is gone, and the only issue that is being dealt with is the issue regarding the Attorney General. Counsel further advises that he has been trying to reach a resolution with the Attorney General. Matter continued to 10-18-11.</p> <p>As of 10-7-11, nothing further has been filed.</p> <ol style="list-style-type: none"> Decedent's 100% interest in the corporation is valued at \$0.00 and Petitioner states that the stock died and was abandoned after Decedent's death; however, Examiner notes that the appraisal should reflect the value as of the Decedent's date of death, and any abandonment or disposition after that date may be considered a loss to the estate. Need clarification. Petitioner states the McCall property was transferred to a third party to avoid foreclosure. The court may require clarification and may consider this action an unauthorized distribution. Petitioner refers to Decedent's vehicles that were returned to creditors to satisfy claims; however, no vehicles were inventoried. If the vehicles were part of the corporation, their values would have been reflected in that appraisal. Further, such losses are not reflected in any schedules. Need clarification. <p>Updates:</p> <p>Contacts: Reviewed 10-7-11</p> <p>Recommendation:</p> <p>Reviewed by: skc</p> <p>File 4 - Brosi</p>
		Account period: 5-8-08 through 3-30-11	
		Accounting: \$ 1,042,500.00	
		Beginning POH: \$ 1,042,500.00	
		Ending POH: \$ 0.00	
Cont. from 071211, 082311		<p>Petitioner states the estate is insolvent and requests that the court dismiss this probate action.</p> <p>Petitioner states:</p> <ul style="list-style-type: none"> 15 creditor's claims were filed totaling \$272,306.96. No creditors have been paid; all claims have been rejected. Inventory and Appraisal Partial No. 1 reflects Decedent's 50% interest in HB Partners LLC valued at \$282,500.00. Inventory and Appraisal Partial No. 2 reflects Decedent's interest in two parcels of real property at Alluvial and Chestnut in Fresno valued at \$760,000.00. Inventory and Appraisal Partial No. 3 reflects Decedent's 100% interest in Tommy Rock Landscaping and Nursery Supplies, Inc., valued at \$0.00. The LLC owned real property on McCall in Selma that carried a note for \$240,000.00. The estate and the LLC's other partner could not afford the monthly payments or the upcoming balloon payment, so the McCall property was transferred to a third party for the amount of the debt to avoid foreclosure. At the time of the transfer, the estate was in default of the note for over \$56,000.00. The Decedent's interest in the Alluvial property was challenged in a civil action and the settlement resulted in the estate being divested of Decedent's interest in the property without reimbursement or consideration. The corporation had not paid rent to the property owners (the beneficiaries herein) since Decedent's death; the nursery inventory was abandoned and much has already died. Other stock was taken by the landlord and used to offset unpaid rent once the property and stock were abandoned by the corporation and estate. 	
<input type="checkbox"/>	Aff.Sub.Wit.		
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<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.		
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<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order	X	
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<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

SEE PAGE 2

**Amended First and Final Account, Report of Administrator and Petition for
Dismissal of Probate Proceeding**

SUMMARY (Continued):

- The corporation was involved in litigation to recover assets that were allegedly taken from the corporation. Minimal property was recovered. Further, the corporation was audited by the State Board of Equalization and charged \$142,991.59 for unpaid sales tax. "In any event, the corporation is insolvent and does not anticipate the recovery of any significant assets which would change this."
- The Decedent's truck was returned to the creditor, Ford Motor Company, to resolve that debt. Other finance creditors had their property returned to them, such as bobcats and tractors, to satisfy their claims.
- No assets remain and accounting has been waived by the beneficiaries.

Petitioner prays for an Order that the probate be dismissed in its entirety.

Notice of Pendency of Action filed 6-20-11 by Attorney General Kamala Harris states that on 6-13-11, the California State Board of Equalization filed a complaint on the Creditor's Claim after its rejection in this probate case as Fresno Superior Court Case 11CECG02043. There is a court date in that matter set for 10-24-11.

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

Age:		NEEDS/PROBLEMS/COMMENTS: <p>OFF CALENDAR. Dismissal entered on 9/19/11.</p>
Cont. from		
Aff.Sub.Wit.		
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Notice of Hrg		
Aff.Mail		
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Objections		
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CI Report		
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Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 10/7/11
		Updates:
		Recommendation:
		File 5 - Henley

Trust Contest and Grounds of Opposition to Probate Purported Trust of the Grace E. West Estate

Grace West (Decedent) DOD: 2-7-11	PATRICIA A. WEARE (“Contestant”) and WILLIAM L. WEARE (“Co-Contestant”) are Petitioners. Petitioners/Contestants pray for an Order: 1. That the trust documents be declared null and void; 2. That the decedent be considered as dying intestate; 3. That Respondent exerted undue influence on the decedent; 4. That Respondent committed elder abuse in the treatment of the decedent; and 5. For all cost associated with this suit.	NEEDS/PROBLEMS/COMMENTS: Note: Page 6B is Respondent’s Motion to Quash Subpoenas issued by Petitioner/Contestant. Note: Because deficiencies are detailed in Respondent’s Demurrer, Examiner has not reviewed for all procedural deficiencies. Issues include but are not limited to: - Verification (Probate Code §1021) - Unspecified interest of Co- Contestant William Weare - Basis for filing under the Probate Code / no distinction between trust and estate. There are different requirements for different types of proceedings, such as trusts, probate estates (wills/intestacy), elder abuse, etc. The petition appears to contest a trust, but also refers to an estate, a will, the place of residence and death of the Decedent, and other “Documents” which may require probate, publishing of notice, etc., to be addressed by the Court. - Notice of Hearing and appropriate service of this Mandatory Judicial Council Form - Petitioner lists “heirs” but does not address their status with reference to the Trust or any other probate documents - Petitioner states the Trust is null and void; however, the attachments indicate that Petitioner has been represented in prior settlement negotiations regarding Trust and estate interests, and has further entered into at least one agreement regarding statutes of limitations relating to the Trust, which appears to be the basis for filing this petition on the date of 8-29-11.																																														
<table border="1" style="width: 100%;"> <tr><td>Aff.Sub.Wit.</td><td></td></tr> <tr><td>Verified</td><td style="text-align: center;">X</td></tr> <tr><td>Inventory</td><td></td></tr> <tr><td>PTC</td><td></td></tr> <tr><td>Not.Cred.</td><td></td></tr> <tr><td>Notice of Hrg</td><td style="text-align: center;">X</td></tr> <tr><td>Aff.Mail</td><td style="text-align: center;">X</td></tr> <tr><td>Aff.Pub.</td><td></td></tr> <tr><td>Sp.Ntc.</td><td></td></tr> <tr><td>Pers.Serv.</td><td></td></tr> <tr><td>Conf. Screen</td><td></td></tr> <tr><td>Letters</td><td></td></tr> <tr><td>Duties/Supp</td><td></td></tr> <tr><td>Objections</td><td></td></tr> <tr><td>Video Receipt</td><td></td></tr> <tr><td>CI Report</td><td></td></tr> <tr><td>9202</td><td></td></tr> <tr><td>Order</td><td style="text-align: center;">X</td></tr> <tr><td>Aff. Posting</td><td></td></tr> <tr><td>Status Rpt</td><td></td></tr> <tr><td>UCCJEA</td><td></td></tr> <tr><td>Citation</td><td></td></tr> <tr><td>FTB Notice</td><td></td></tr> </table>	Aff.Sub.Wit.		Verified	X	Inventory		PTC		Not.Cred.		Notice of Hrg	X	Aff.Mail	X	Aff.Pub.		Sp.Ntc.		Pers.Serv.		Conf. Screen		Letters		Duties/Supp		Objections		Video Receipt		CI Report		9202		Order	X	Aff. Posting		Status Rpt		UCCJEA		Citation		FTB Notice		Petitioner/Contestant Patricia A. Weare states: <ul style="list-style-type: none"> • Decedent was a resident of Fresno County and left real and personal property in Fresno and Madera Counties. • Decedent named her daughter Nancy K. Grant as Trustee of her Trust Estate so Decedent could have the resources for her future medical care. • Petitioner/Contestant Patricia A. Weare, another daughter, was left completely out of the Trust and was willed only \$2,000.00 from an estate valued at over \$350,000.00. As such, she was denied her rightful share of the Trust Estate because of the undue influence the Trustee placed upon the Decedent. Petitioner/Contestant Patricia A. Weare states the Trust should be considered null and void on the following grounds: <ul style="list-style-type: none"> • Decedent lacked testamentary capacity at creation of the Trust on 11-5-09 because she was diagnosed with Senile Dementia in 2003. Respondent became the Trustee and the sole recipient of the Trust at her death. • The executed documents were not executed in the manner and form required by law. <i>[Documents and references not provided.]</i> • The Document was a result of undue influence by Respondent and “is not and never was, the true last will of the Decedent.” 	Reviewed by: skc Reviewed on: 10-12-11 Updates: Recommendation: File 6 - West
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6A Grace E. West Trust
Atty Weare, Patricia A. (Pro Per – Petitioner)
Atty Weare, William L. (Pro Per – Petitioner)
Atty Rube, Melvin K. (for Nancy K. Grant – Respondent)

Case No. 11CEPR00761

Trust Contest and Grounds of Opposition to Probate Purported Trust of the Grace E. West Estate

SUMMARY (Continued – Page 2 of 3):

Grounds, continued:

- Respondent occupied a position of trust and confidence and as advisor to the Decedent for several years, particularly while living in Decedent’s household and later in an adjacent house on the property for over 20 years, before and up to Decedent’s death. There was a family and confidential relationship and Decedent reposed trust and confidence in Respondent.
- Respondent controlled and influenced the mind and actions of the Decedent to the extent that Decedent did whatever Respondent instructed her to do.
- Respondent took advantage of the trust and confidence and suggested the contents of the Trust Documents, arranged for execution of the Documents, and caused Decedent to execute the Documents.
- Decedent was wholly under the influence of Respondent and the Documents are not the free and voluntary act of the Decedent, but was procured by undue influence.
- The documents provide for a “unnatural disposition” of the Decedent’s estate and unduly benefits Respondent.
- The heirs are Patricia A. Weare (Petitioner/Contestant and daughter), Nancy K. Grant (Respondent and daughter) and Andy Anderson (son).

Attached to the Petition:

- Agreement Tolling the Time Statute of Limitations signed by:
 - Patricia Weare, individually and as a beneficiary of the Grace West Trust dated 11-5-09
 - Christopher S. Hall, Attorney for Patricia Weare
 - Nancy Grant, as Trustee of the Grace West Trust dated 11-5-09
 - Robyn L. Esraelian, Attorney for Nancy Grant
- Email correspondence between the counsel noted above and forwarded to Petitioner/Contestant relating to a proposed settlement regarding real property and the \$2,000.00 specific gift noted in this petition, and also allocation of attorney’s fees.

Petitioners/Contestants also filed:

- Civil Subpoenas (Duces Tecum) for Personal Appearance and Production of Documents and Things at Trial or Hearing and Declaration
 - Ordering Willow Creek Health Care Center, Saint Agnes Medical Center and Horizon Health & Subacute Center to provide records or appear
 - Subpoenas indicate personal service on parties of unspecified capacity
 - Notice mailed to Respondent
- Letters in support of Petitioner/Contestant from Arlene Thompson (a friend of Decedent) and Jeff Ringer (a friend and neighbor of Decedent).

Special and General Demurrer of Nancy K. Grant to Trust Contest and Grounds of Opposition to Probate of Purported Trust of the Grace E. West Estate and Memorandum of Points and Authorities in Support Thereof states:

SEE PAGE 3

Dept. 303, 9:00 a.m. Tuesday, October 18, 2011

6A Grace E. West Trust
Atty Weare, Patricia A. (Pro Per – Petitioner)
Atty Weare, William L. (Pro Per – Petitioner)
Atty Rube, Melvin K. (for Nancy K. Grant – Respondent)

Case No. 11CEPR00761

Trust Contest and Grounds of Opposition to Probate Purported Trust of the Grace E. West Estate

SUMMARY (Continued – Page 3 of 3):

Special and General Demurrer of Nancy K. Grant to Trust Contest and Grounds of Opposition to Probate of Purported Trust of the Grace E. West Estate and Memorandum of Points and Authorities in Support Thereof states:

- There is a defect or nonjoinder of indispensable parties in that the petition is a trust contest but fails to join as party litigants the trustee and all beneficiaries of the contested trust.
- The petition fails to state facts sufficient to constitute a cause of action in that it:
 - Does not comply with Probate Code §17201
 - Does not comply with Probate Code §171021(a)(1)
 - Does not comply with Probate Code §17002, §17003 and §17005
 - Does not identify the particular trust that is being contested
 - Does not identify the rightful share and legal basis of that rightful share of the Trust estate that is being denied to contestants
 - Does not identify the particular documents that were executed by Decedent or explain the manner and form they should have been executed to comply with California law
 - Does not establish the legal basis for alleging the disposition of assets contained in the unidentified documents is unnatural and how such a disposition is injurious to contestants
 - Contestants lack standing to bring the petition

Therefore, Respondent prays that

1. The demurrers be sustained without leave to amend;
2. Contestants take nothing by their petition; and
3. For attorney's fees and costs incurred by respondent.

Respondent provides Points and Authorities regarding the Special and General Demurrer, and also filed a Motion and Notice of Motion for Order Quashing Civil Subpoena (Duces Tecum) for Personal Appearance and Production of Documents and Things at Trial, a Supporting Memorandum of Points and Authorities, and a Declaration in Support from Attorney Rube (Page 6B).

Dept. 303, 9:00 a.m. Tuesday, October 18, 2011

Atty Rube, Melvin K. (for Nancy K. Grant – Petitioner Page 6B – Respondent Page 6A)

Atty Weare, Patricia A. (Pro Per – Petitioner Page 6A)

Atty Weare, William L. (Pro Per – Petitioner Page 6A)

Motion and Notice of Motion for Order Quashing Civil Subpoena (Duces Tecum) for Personal Appearance and Production of Documents and Things at Trial, Supporting Memorandum of Points and Authorities [C.C.P. §1987.1]

DOD: 2-7-11	<p>Nancy K. Grant (Respondent at Page 6A) moves for an order quashing the Civil Subpoenas (Duces Tecum) for Personal Appearance and Production of Documents and Things at Trial issued and served on Horizon Health and Subacute Center, Willow Creek Health Care, and St. Agnes Medical Center requiring the production of the medical records of Grace E. West at the hearing on Contestants’ Trust Contest (Page 6A).</p> <p>Points and Authorities state all three subpoenas should be quashed.</p> <p>First, they are the result of the filing of Contestants’ petition; however, the petition is subject to both a special demurrer and a general demurrer (Page 6A). If demurrers are granted, all subpoenas will become moot.</p> <p>Secondly, the medical records of the Decedent are the tangible personal property of the Decedent’s Estate and the only person entitled to act with regard to a decedent’s estate is the court-appointed personal representative (Probate Code §9650). Therefore, the proper person to whom notice of the subpoenas should have been sent is to the court-appointed personal representative; however, notice was sent to Ms. Grant in her individual capacity.</p> <p>Attorney Rube’s Declaration in Support attaches copies of the Contestants’ Petition, the Respondent’s Special and General Demurrer, and the Subpoenas.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. The Demurrer (Page 6A) and this Motion are not verified by Respondent Nancy K. Grant per Probate Code §1021.</p>
Aff.Sub.Wit.		
Verified <input checked="" type="checkbox"/>		
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		
		<p>Reviewed by: skc</p> <p>Reviewed on: 10-12-11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 6 - West</p>

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

DOD: 6/9/99	<p>MAUREEN Y. CLARK, surviving spouse, 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: Fresno Publication: Fresno Business Journal.</p> <p><u>Estimated value of the estate:</u> Real property - \$56,766.98</p> <p>Probate Referee: RICK SMITH</p>	NEEDS/PROBLEMS/COMMENTS:
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		
<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		
		Reviewed by: KT
		Reviewed on: 10/7/11
		Updates: 10/17/11
		Recommendation: SUBMITTED
		File 7 - Clark

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

DOD: 07/29/11		<p>THOMAS GREGORY, son/named alternate Executor without bond, is Petitioner.</p> <p>Petitioner is a resident of Monument, Colorado.</p> <p>Full IAEA - ok</p> <p>Will dated 12/15/97 and Codicil dated 01/18/06</p> <p>Residence: Laton Publication: The Business Journal</p> <p><u>Estimated Value of the Estate:</u> Unknown</p> <p>Probate Referee: STEVEN DIEBERT</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u> Petitioner is a resident of Colorado, The court may require bond if the proposed personal representative resides outside California or for other good cause, even if the will waives bond, pursuant to California Rules of Court 7.201(b) and Probate Code 8571.</p>
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit. s/p		
<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: JF</p> <p>Reviewed on: 10/07/11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 8 - Gregory</p>	

Probate Status Hearing Re: Proof of Establishment of Conservatorship in Massachusetts

Age: 67 years DOB: 12-18-43	<p>WILLIAM DURANT, JR., was appointed Probate Conservator of the Person and Estate on 12/2/08 with medical consent powers and bond fixed at \$51,522.55, as well as certain other specific powers. Bond was filed and Letters issued.</p>	NEEDS/PROBLEMS/COMMENTS:
		<p align="center"><u>CONTINUED FROM 09/13/11</u></p>
Cont. from 011111, 031511, 051711, 080211, 091311	<p>Minute Order 6/22/10 (Hearing on Petition to Fix Residence Outside the State of California): Order signed as amended on the record. If proof of the conservatorship being established in MA and the final account/petition to terminate are filed by 9/20/10, then no appearance is necessary on 9/21/10.</p>	<p>As of 10/07/11, the following remains outstanding:</p>
<input type="checkbox"/> Aff.Sub.Wit.	<p>A Pre-Move Notice of Proposed Change of Personal Residence of Conservatee was filed 7/7/10 and a Post-Move Notice of Change of Residence of Conservatee was filed 8/3/10.</p>	<p>1. Need proof of conservatorship being established in Massachusetts.</p>
<input type="checkbox"/> Verified	<p>Minute Order dated 09/13/11 continued the matter to 10/18/11. Counsel advised the Court that an order is still needed from the Massachusetts Court to terminate the conservatorship.</p>	Reviewed by: JF
<input type="checkbox"/> Inventory		Reviewed on: 10/07/11
<input type="checkbox"/> PTC		Recommendation:
<input type="checkbox"/> Not.Cred.		Updates:
<input type="checkbox"/> Notice of Hrg		File 9A - Banigan
<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		

**Probate Status Hearing Re: Filing of the Final Account and
Petition to Terminate the Conservatorship**

Age: 67 years DOB: 12-18-43	<p>WILLIAM DURANT, JR., was appointed Probate Conservator of the Person and Estate on 12/2/08 with medical consent powers and bond fixed at \$51,522.55, as well as certain other specific powers. Bond was filed and Letters issued.</p> <p>Minute Order 6/22/10 (Hearing on Petition to Fix Residence Outside the State of California): Order signed as amended on the record. If proof of the conservatorship being established in MA and the final account/petition to terminate are filed by 9/20/10, then no appearance is necessary on 9/21/10.</p> <p>A Pre-Move Notice of Proposed Change of Personal Residence of Conservatee was filed 7/7/10 and a Post-Move Notice of Change of Residence of Conservatee was filed 8/3/10.</p> <p>Minute Order dated 09/13/11 continued the matter to 10/18/11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED FROM 09/13/11</u></p> <p>As of 10/07/11 no further documents have been filed and the following issue remains:</p> <ol style="list-style-type: none"> 1. Need final account / petition to terminate conservatorship.
Cont. from 011111, 031511, 051711, 080211, 091311		
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		
<p>Reviewed by: JF</p>		
<p>Reviewed on: 10/07/11</p>		
<p>Recommendation:</p>		
<p>Updates:</p>		
<p>File 9B - Banigan</p>		

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

Age: 2 DOB: 11/27/08	<p align="center"><u>TEMPORARY EXPIRES 10/18/11</u></p> <p>AMELIA HARDY, maternal grandmother, is Petitioner.</p> <p>Father: MILIKE NOOR – <i>court dispensed with further notice on 04/18/11</i></p> <p>Mother: EDDISHA DAVE</p> <p>Paternal grandparents: NOT LISTED</p> <p>Maternal grandfather: EDWARD DAVE</p> <p>Petitioner states that mother left the child in her care. She states that guardianship is needed to obtain health care and support for minor.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> Need <i>Notice of Hearing</i>. Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> along with a copy of the <i>Petition for Appointment of Guardian of the Person or Consent and Waiver of Notice or Declaration of Due Diligence</i> on: - Eddisha Dave (mother) Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> along with a copy of the <i>Petition for Appointment of Guardian of the Person or Consent and Waiver of Notice or Declaration of Due Diligence</i> on: - Edward Dave (maternal grandfather) - Paternal grandparents (not listed) Need Court Investigator report and clearances. 	
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			x
Aff.Mail			x
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			x
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
CI Report			x
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
<p>Reviewed by: JF</p> <p>Reviewed on: 10/07/11</p> <p>Updates:</p> <p>Recommendation: copy of notes in file</p> <p>File 10 - Dave</p>			

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

DOD: 12-3-10	MELODY MILES , unknown relationship, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		<u>Minute Order 8-23-11</u> : Examiner notes provided to Petitioner. Petitioner is directed to cure the defects.
	40 days since DOD	<u>As of 10-7-11, nothing further has been filed. The following issues remain:</u>
Cont. from 082311	No other proceedings.	1. Petitioner does not provide her relationship to the Decedent.
Aff.Sub.Wit.		2. Petitioner does not list any names or relationships of heirs at #14.
✓ Verified		<i>Examiner notes that the death certificate includes the name of a daughter, who was the informant.</i>
Inventory	The petition is incomplete. Petitioner does not state a specific request or a basis for determination of property.	3. The attached Inventory and Appraisal is incomplete. Appraisal of real and personal property must be done by a probate referee per Probate Code §§ 13152, 8802, 8902.
PTC		4. Petitioner requests determination that real and personal property passes to her, but the incomplete I&A appears to reference only real property.
Not.Cred.		<i>Examiner notes that the attached property description appears to be an incomplete printout of confidential school district records.</i>
Notice of Hrg	X	5. Need Notice of Hearing.
Aff.Mail	X	6. Need proof of service of Notice of Hearing per Probate Code §§ 13152, 1220 on appropriate parties (<i>list not provided</i>).
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		Updates: Reviewed 10-7-11
Status Rpt		Contacts: copy of notes in file
UCCJEA		Recommendation:
Citation		Reviewed by: skc
FTB Notice		File 11 - Miles

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

DOD: 03/08/11		LURLEAN NORRIS, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		40 days since DOD.	<u>CONTINUED FROM 09/13/11</u>
Cont. from 091311		No other proceedings.	
	Aff.Sub.Wit.		
✓	Verified	I & A - \$45,000.00	
✓	Inventory		
	PTC	Decedent died intestate	
	Not.Cred.		
	Notice of Hrg	n/a	Petitioner requests Court confirmation that decedent's 100% interest in real property located at 1109 Collins, Fresno passes to her pursuant to intestate succession.
	Aff.Mail	n/a	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		Reviewed by: JF
	Status Rpt		Reviewed on: 10/07/11
	UCCJEA		Recommendation: SUBMITTED
	Citation		Updates:
	FTB Notice		File 12 - Jones

Petition for Appointment of Guardian of the Person (Petitioner Heidi Bryant)

Age: 6 years DOB: 6/12/2005		<u>Temporary Expires 10/18/11</u>		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Proof of service for the mother does not include the name, address and telephone number of the person serving the documents.</p> <p>2. Need proof of service of the Notice of Hearing along with a copy of the Petition or consent and waiver of notice on:</p> <p>a. Charlene Masseria – if court does not dispense with notice</p>
		<p>HEIDI BRYANT, step-mother, is Petitioner.</p>		
		<p>Father: JOSHUA COLASANTI - <i>Consent and waiver of notice filed 8-22-11</i></p>		
Cont. from		<p>Mother: JENNA COLASANTI - <i>Personally served 8-20-11</i></p>		
	Aff.Sub.Wit.			
✓	Verified			
	Inventory	<p>Paternal grandfather: not listed - <i>Declaration of Due Diligence filed 8/22/11</i></p>		
	PTC	<p>Paternal grandmother: Charlene Masseria – <i>declaration of due diligence filed on 8/22/11.</i></p>		
	Not.Cred.	<p>Maternal grandfather - <i>Deceased</i></p>		
✓	Notice of Hrg	<p>Maternal grandmother: Patricia Boyer</p>		
✓	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
✓	Pers.Serv.	W/	<p>Petitioner states she is married to the father, who received custody in February 2011 pursuant to a court order from Merced County, that granted only supervised visits to Mother due to her chronic drug use and arrests. Petitioner states when Jeremiah came to live with them, he was unhealthy and had no sense of stability or structure. Since he has been with them, Jeremiah has adjusted well with his sisters and brother, his grades have improved, and he has been actively involved in church, sports, and family activities. Unfortunately, Father was recently placed in custody. He is currently appealing the charges against him, but in the meantime it is in Jeremiah's best interest to remain with Petitioner in a stable loving environment.</p>	
	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
✓	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
				<p>Court Investigator Jennifer Young's Report filed on 10/11/11.</p>
				<p>Reviewed by: KT</p>
				<p>Reviewed on: 10/7/11</p>
				<p>Updates: 10/12/11</p>
				<p>Recommendation:</p>
				<p>File 13A - Colasanti</p>

Atty Bryant, Heidi (pro per step-mother)

Atty Boyer, Patricia Anne (pro per Petitioner/maternal grandmother)

Petition for Appointment of Guardian of the Person (Petitioner Patricia Ann Boyer)

Age: 6 years		<p>Heidi Bryant, step-mother (petitioner on page 13A) was appointed temporary guardian. <u>Temporary expires 10/18/11.</u></p> <p>PATRICIA ANNE BOYER, maternal grandmother, is Petitioner.</p> <p>Father: JOSHUA COLASANTI</p> <p>Mother: JENNA COLASANTI – <i>consent and waiver of notice filed 09/02/11</i></p> <p>Paternal grandfather: Unknown Paternal grandmother: Charlene Masseria Maternal grandfather: Deceased</p> <p>Petitioner states that the minor’s father was recently incarcerated and is facing 10 charges. Petitioner states that the minor has lived with her most of his life and the minor wants to come back home to live with her in Merced and to attend his former school. Petitioner states that the minor’s life has been turned upside down, he has been kept away from his mother and has been exposed to domestic violence. Petitioner states that the minor needs safety and security.</p> <p>Declaration of Father Joshua Colasanti in Opposition to the Petition and filed 9/12/11, states Petitioner Boyer has not been truthful in the allegations made in her Petition; she is also permanently handicapped and receives assistance from I.H.S.S., and always under the influence of narcotics due to her disability. Petitioner did not intervene when the minor’s mother was using drugs and had custody of the minor. The minor is happy and loved in his current home with his current guardian Ms. Bryant and it would be detrimental to remove him from there.</p> <p>Court Investigator Jennifer Young’s Report filed on 10/11/11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i>. 2. Need proof of personal service of the <i>Notice of Hearing</i> along with a copy of the Petition or consent and waiver of notice or declaration of due diligence on: <ol style="list-style-type: none"> a. Joshua Colasanti (father) 3. Need proof of service of the <i>Notice of Hearing</i> along with a copy of the Petition or consent and waiver of notice or declaration of due diligence on: <ol style="list-style-type: none"> a. Charlene Masseria (paternal grandmother)
DOB: 6/12/2005			
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	X		
Aff.Mail	X		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.	X		
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: KT</p> <p>Reviewed on: 10/7/11</p> <p>Updates: 10/12/11</p> <p>Recommendation:</p> <p>File 13B – Colasanti</p>	

Vanessa age: 10 years DOB: 7/7/2010		<p><u>TEMPORARY EXPIRES 10/18/11</u></p> <p>SYLVIA RODRIGUEZ, maternal aunt, is petitioner.</p> <p>Father: ANGELO PEREZ - <i>declaration of due diligence filed on 8/15/11 and on 10/17/11.</i></p> <p>Mother: SANDRA PEREZ – <i>declaration of due diligence filed on 8/15/11 and on 10/17/11.</i></p> <p>Paternal grandfather: Carlos Perez Paternal grandmother: Petra Perez Maternal grandfather: Amedeo Garcia Maternal grandmother: Petra Garcia</p> <p>Siblings: Cecilia Marroquin (20) Renato Marroquin (19) Cassandra Marroquin (16)</p> <p>Petitioner states mother and father have failed to care or support the children due to drug and alcohol abuse. The children have been house to house since March 2011. Mother and father receive public assistance but have denied children any support.</p> <p>Court Investigator Dina Calvillo's Report filed on 10/5/11.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> Need proof of personal service of the Notice of Hearing along with a copy of the petition, or consent and waiver of notice on: <ol style="list-style-type: none"> Angelo Perez (father) – <i>if court does not dispense with notice.</i> Sandra Perez (mother) – <i>if court does not dispense with notice.</i> Need proof of service of the Notice of Hearing along with a copy of the petition, or consent and waiver of notice or declaration of due diligence on: <ol style="list-style-type: none"> Carlos Perez (paternal grandfather) – <i>declaration of due diligence filed on 10/17/11</i> Petra Perez (paternal grandmother)- <i>declaration of due diligence filed on 10/17/11</i> Amedeo Garcia (maternal grandfather) – <i>Personally service on 10/10/11</i> Petra Garcia (maternal grandmother) <i>Personally service on 10/10/11</i> Cecilia Marroquin (sibling) <i>Personally service on 10/10/11</i> Renato Marroquin (sibling) <i>Personally service on 10/10/11</i> Cassandra Marroquin (sibling) <i>Personally service on 10/10/11</i> <p>- Personal service on the above individuals (#c-g) was 8 days- notice and not the required 15 days-notice.</p> UCCJEA is incomplete. Need residence information for 2006 – March 2011.
Brianna age: 5 years DOB: 2/11/06			
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.	W/		
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			

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

Age: 4 DOB: 07/12/07	<u>TEMPORARY EXPIRES 10/18/11</u>	NEEDS/PROBLEMS/COMMENTS:
	DONNA MCDOWELL, maternal grandmother, is Petitioner.	1. Petitioner states Father is unknown and is not listed on the birth certificate. <i>If diligence is not found</i> , need proof of personal service at least fifteen (15) days prior to the hearing with a copy of the Petition <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence.
	Father: UNKNOWN	2. Petitioner states the Paternal grandparents and Maternal grandfather are unknown. <i>If diligence is not found</i> , need proof of service by mail at least fifteen (15) days prior to the hearing with a copy of the Petition <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence.
Cont. from	Mother: SHIREE MCDOWELL – <i>consent and waiver of notice filed 08/19/11</i>	
Aff.Sub.Wit.	Paternal grandparents: UNKNOWN	
✓ Verified	Maternal grandfather: UNKNOWN	
Inventory	Sibling: JAQHA S. SMITH	
PTC	Petitioner states the minor has been at risk of neglect due to Mother’s history of substance abuse, domestic violence, prostitution and incarceration. After her latest release from custody, Mother consented to Petitioner caring for Jordan, but later, police and CPS had to be called because Mother was causing a disruption at Petitioner’s home.	
Not.Cred.	Guardianship is necessary for this reason, and to enroll Jordan in school. Petitioner states that she has cared for Jordan for most of his life and Jordan is comfortable in her home, he also has family there that he is used to and who surround him with love.	
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		
	Court Investigator JoAnn Morris’ report was filed 10/11/11.	
		Reviewed by: JF
		Reviewed on: 10/07/11
		Updates: 10/12/11
		Recommendation: copy of notes in file
		File 15 - McDowell

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

DOD: 9/4/1995		<p>CARL ALBERT THOMPSON, son, is petitioner.</p> <p>40 days since DOD.</p> <p>No other proceedings.</p> <p>Will dated: ??</p> <p>I & A - \$75,000.00</p> <p>Petitioner requests Court determination that decedent's interest in real property and personal property pass to him pursuant to decedent's Will.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> #14 of the petition does not include the name and date of death of the deceased spouse. Local Rule 7.1.1D. #9a(3) of the petition was not answered re: Issue of predeceased child. Petition states the decedent died testate. A copy of the decedent's will was not attached to the petition as required. Inventory and appraisal was not completed by the probate referee as required.
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	X		
Aff.Mail	X		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: KT	
		Reviewed on: 10/11/11	
		Updates:	
		Recommendation:	
		File 16 - Thompson	