

**Second Amended Report and Final Account of Administrator, Petition for
Distribution of Personal Property upon Waiver of Accounting: Allowance of Fees
for Attorney and Closing an Insolvent Estate**

DOD: 01/26/04	ANTONETTE FREGOSO , Administrator, is petitioner.		NEEDS/PROBLEMS/COMMENTS: Continued from 9/10/13. There have been approximately 20 hearings to close this estate and as of 10/22/13 nothing additional has been filed addressing the issues raised below. 1. Petition states all heirs have signed an assignment of their share of the "J" Street property to the Petitioner. Need assignments from Christina Canales. 2. Petition states the decedent's 1997 Buick was distributed to Christina. Property of the estate cannot be distributed prior to creditor's being satisfied.
	Accounting is waived.		
Cont. from 091013	I & A	- \$264,250.00	
Aff.Sub.Wit.	POH	- \$ 1,500.00	
<input checked="" type="checkbox"/> Verified	Administrator - waives		
<input checked="" type="checkbox"/> Inventory	Attorney	- \$4,099.00 (less than statutory)	
<input checked="" type="checkbox"/> PTC	Petitioner prays for an Order:		
<input checked="" type="checkbox"/> Not.Cred.	1. Approving, allowing and settling the 2 nd Amended Report and Final Distribution		
<input checked="" type="checkbox"/> Notice of Hrg	2. Authorize Petitioner to pay her attorney \$4,099.00 for her statutory fees		
<input checked="" type="checkbox"/> Aff.Mail	w/o	3. Authorize Petitioner to pay former attorney Cynthia Arroyo the amount of \$1,164.00 in costs advanced.	
Aff.Pub.			
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<input checked="" type="checkbox"/> Letters	6/15/04		
Duties/Supp			
Objections			
Video Receipt			
CI Report			
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<input checked="" type="checkbox"/> Order			
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Status Rpt			
UCCJEA			
Citation			
<input checked="" type="checkbox"/> FTB Notice			
			Reviewed by: KT
			Reviewed on: 10/22/13
			Updates:
			Recommendation:
			File 1 – Canales

1 Josephine Canales (Estate)

Case No.04CEPR00293

Petition states all other beneficiaries have filed waivers of accounting of administrator and acceptance of \$10,000 as their full beneficial interest in the estate on 6/6/11. Because of the EDD their beneficial interest could not be distributed from the estate. All the funds, except administration and attorney fees, had to be paid to the mortgage on the "J" Street property, or the EDD would not allow the partial release of the lien to allow the "J" Street property to be sold. Since there was no money remaining after the payment of title fees, costs, attorney fees and property taxes, the Personal Representative took \$20,000 from her own retirement funds and paid all other beneficiaries \$5,000.00 each. Kristina received the 1997 Buick Bonneville with the value of \$5,000.00. All beneficiaries have signed an assignment of their share of the "J" Street property to the petitioner. Petitioner has used this property as collateral to acquire enough money to pay off the "I" Street property's mortgage, back property taxes, and other debts of the decedent. Petitioner is still making payments on these loans.

3 Cieanna Catuiza (GUARD/P)

Case No. 11CEPR00966

Atty Hopper, Cindy (for Anthony Simas and Maria Simas, Guardians)

Atty Castro-Ayala, Mary (for Angel Jones, mother)

Probate Status Hearing Re: Visitation

	ANTHONY and MARIA SIMAS , paternal grandparents, were appointed guardians on 1/5/12.	NEEDS/PROBLEMS/COMMENTS:
	Father: MICHAEL CATUIZA	
	Mother: ANGEL JONES	
	On 7-25-13, a Court Trial was held re visitation.	
	Minute Order 7-25-13: Visitation agreement stated in open court. Exchanges will be at CYS and each party will pay half of fees. Ms. Jones will provide proof of insurance and driver license to CYS before the first exchange of child. Ms. Hopper will submit order after hearing. Set on: 10/24/13 at 9 am in Dept. 303 for: Status Re: Visitation.	
	Order After Hearing was filed 8-13-13.	
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: skc
		Reviewed on: 10-22-13
		Updates:
		Recommendation:
		File 3 – Catuiza

Petition for Approval of Payment of Fees for the Conservator of the Estate; Request for Approval of Payment of Attorney's Fees for the Co-Conservators of the Person; Request for Authorization to Reimburse Costs Advanced to Marshal Assets of the Estate [Prob. C. 2640; 2642]

<p>Age: 76 DOB: 07/17/37</p> <hr/> <hr/> <hr/> <p>Cont. from</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 50%;"><input type="checkbox"/> Aff.Sub.Wit.</td> <td style="width: 50%;"></td> </tr> <tr> <td><input checked="" type="checkbox"/> Verified</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Inventory</td> <td></td> </tr> <tr> <td><input type="checkbox"/> PTC</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Not.Cred.</td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/> Notice of Hrg</td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/> Aff.Mail</td> <td>w/</td> </tr> <tr> <td><input type="checkbox"/> Aff.Pub.</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Sp.Ntc.</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Pers.Serv.</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Conf. Screen</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Letters</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Duties/Supp</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Objections</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Video Receipt</td> <td></td> </tr> <tr> <td><input type="checkbox"/> CI Report</td> <td></td> </tr> <tr> <td><input type="checkbox"/> 9202</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Order</td> <td>x</td> </tr> <tr> <td><input type="checkbox"/> Aff. Posting</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Status Rpt</td> <td></td> </tr> <tr> <td><input type="checkbox"/> UCCJEA</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Citation</td> <td></td> </tr> <tr> <td><input type="checkbox"/> FTB Notice</td> <td></td> </tr> </table>	<input type="checkbox"/> Aff.Sub.Wit.		<input checked="" type="checkbox"/> Verified		<input type="checkbox"/> Inventory		<input type="checkbox"/> PTC		<input type="checkbox"/> Not.Cred.		<input checked="" type="checkbox"/> Notice of Hrg		<input checked="" type="checkbox"/> Aff.Mail	w/	<input type="checkbox"/> Aff.Pub.		<input type="checkbox"/> Sp.Ntc.		<input type="checkbox"/> Pers.Serv.		<input type="checkbox"/> Conf. Screen		<input type="checkbox"/> Letters		<input type="checkbox"/> Duties/Supp		<input type="checkbox"/> Objections		<input type="checkbox"/> Video Receipt		<input type="checkbox"/> CI Report		<input type="checkbox"/> 9202		<input type="checkbox"/> Order	x	<input type="checkbox"/> Aff. Posting		<input type="checkbox"/> Status Rpt		<input type="checkbox"/> UCCJEA		<input type="checkbox"/> Citation		<input type="checkbox"/> FTB Notice		<p>BRUCE BICKEL, conservator of the Estate and SUMMER JOHNSON, attorney for Co-Conservators of the Person, are Petitioners.</p> <p>BRUCE BICKEL, is the current acting Conservator of the Estate. He was appointed temporary conservator of the estate on 02/21/12 and as permanent conservator of the estate on 03/29/12.</p> <p>KATE A. SINGH and HUBERT MITCHELL, were appointed temporary Co-Conservators of the Person on 02/21/12 and as permanent Co-Conservators of the Person on 03/29/12.</p> <p>Petitioner Bruce Bickel requests fees for his services as Conservator of the Estate from 02/09/12 – 02/27/13 and asks that he be paid for 194.4 hrs @ \$130.35/hr. (effective combined rate) and 4.7 hours @ \$145.74/hr. (effective combined rate) for a total fee request of \$26,039.00. Services are itemized by date and include administrative, transactional, case management and clerical duties.</p> <p>Petitioner Bruce Bickel further requests authorization to reimburse the Conservatee's sister, Ms. Daphne Mitchell King, \$1,996.19 in travel expenses for her traveling to Los Angeles and assisting in sorting through the conservatee's home, assisting in locating several important documents to the conservatorship estate.</p> <p>Petitioner Summer Johnson requests fees for legal services performed on behalf of the co-conservators of the person relating to the establishment and administration of the conservatorship from 11/21/11 – 08/08/13. Ms. Johnson asks that she be paid for 96.95 hrs. @ \$190/hr. and .35 hrs. @ \$325/hr. and requests cost reimbursements in the amount of \$870.00 for a total fee request of \$19,404.50. Services are itemized by date and include review and preparation of documents, conferences with clients and other attorneys involved in the matter, assisting in marshalling assets, tax matters, accounting matters, and court appearances.</p> <p>Conservatorship Assets on hand: \$55,150 cash \$441,900 cash/securities \$115,250 securities \$323,000 real property \$264,000 proceeds from an eminent domain action on deposit with the State Department of the Treasury \$57,000 annual income</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need Order.</p> <hr/> <p>Reviewed by: JF</p> <hr/> <p>Reviewed on: 10/22/13</p> <hr/> <p>Updates:</p> <hr/> <p>Recommendation:</p> <p>File 4 – Mitchell</p>
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(1) First and Final Report of Executor on Waiver of Accounting; and (2) Petition for Payment of Statutory Commission and Attorney Fee for Ordinary Services and (3) Petition for Final Distribution

DOD: 1-10-12	RICKY G. SMITH , Executor with full IAEA without bond, is Petitioner.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need waiver of accounting and consent to distribution in undivided interests from heir Dale J. Smith.</p>
	Accounting is waived.	
	I&A: \$559,072.08 POH: \$618,951.47	
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory	Executor (Statutory): \$14,381.44	
<input type="checkbox"/> PTC	Attorney (Statutory): \$14,381.44	
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	Costs: \$435.00 (filing)	
<input checked="" type="checkbox"/> Aff.Mail	W Closing: \$2,500.00	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.	Distribution pursuant to decedent's will and per agreement:	
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters	Dale J. Smith: A one-third undivided interest in certain real property, \$82,500 of certain account, one third of shares of remainder of that certain account and other accounts, and a one-third undivided interest in personal property	
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report	Karen Lynn Waughtal: A one-third undivided interest in certain real property, a one-half undivided interest in certain real property, and one-third of shares of remainder of that certain account after distribution of \$82,500 to Dale J. Smith and other accounts, and a one-third undivided interest in personal property	
<input checked="" 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 checked="" type="checkbox"/> FTB Notice	Ricky G. Smith A one-third undivided interest in certain real property, a one-half undivided interest in certain real property, and one-third of shares of remainder of that certain account after distribution of \$82,500 to Dale J. Smith and other accounts, and a one-third undivided interest in personal property	

Reviewed by: skc

Reviewed on: 10-22-13

Updates:

Recommendation:

File 5 – Smith

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

DOD: 12/04/2012		<p>LEONEL RIOS, son is petitioner and requests appointment as Administrator with bond set at \$122,000.00.</p> <p>Full IAEA – o.k.</p> <p>Decedent died intestate</p> <p>Residence: Selma Publication: The Business Journal</p> <p>Estimated value of the Estate: Personal property - \$2,000.00 Real property - \$120,000.00 Total - \$122,000.00</p> <p>Probate Referee: Rick Smith</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need name and date of death of decedent's spouse pursuant to Local Rule 7.1.1D. 2. Need proof of service of Notice of Petition to Administer Estate on Aide Rios. <p>Note: If the petition is granted status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Friday, 11/22/2013 at 9:00a.m. in Dept. 303 for filing of the Bond and Friday, 03/21/2014 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal and • Friday, 12/19/2014 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
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<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
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<input checked="" type="checkbox"/>	Aff.Pub.		
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<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
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<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
Reviewed by: LV			
Reviewed on: 10/22/2013			
Updates:			
Recommendation:			
File 6 – Rios			

7A In Re: The Bartimore Family Trust

Case No. 13CEPR00534

Atty Forry, Craig (of Mission Hills, for Petitioners Virginia Chenier, Leslie Bartimore, Lori Johnson and Lynn Feathareston

Atty Standard, Donna M. (for John Welsh, Trustee)

Amended Petition to 1) Compel Accounting; 2) Suspend and Remove John M. Welsh as Trustee of the Bartimore Family Trust; 3) Compel Distribution; 4) Conversion; 5) Constructive Trust; 6) Breach of Fiduciary Duty; and 7) Return of Property to Trust [Prob. C. 859, 15642, 17000, 17200; Civ. C. 2224 & 3294]

		<p>VIRGINIA CHENIER, LESLIE BARTIMOR, LORI JOHNSON and LYNN FEATHERSTON, beneficiaries, are petitioners.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 10/3/13. Minute Order states Ms. Standard advises the court that the original trust is in the possession of attorney Dawn Thorston. Ms. Standard is directed to contact Dawn Thorston regarding obtaining a copy of the original document.</p>
<p>Cont. from 080113, 082813, 100313</p>			
<input type="checkbox"/>	Aff.Sub.Wit.	<p>Petitioners states Grantors and original Co-Trustees, Charlotte V. Bartimore and Leonard D. Bartimore, executed the Trust on 10/28/2008. Grantor Charlotte V. Bartimore died on 2/1/2011 and Grantor Leonard D. Bartimore died on 9/5/2009.</p>	
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory	<p>Charlotte V. Bartimore signed the First Amended and Restated Trust Agreement on 8/31/2010.</p>	
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.	<p>John M. Welsh is the current Trustee of the Trust.</p>	
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail	<p>Pursuant to Paragraph 3.3.2(b), page 3 of the Trust, the trust was to divide the trust into two equal shares. 50% of the estate was to be allocated to the issue of Charlotte and the remaining 50% was to be allocated to the issue of Leonard.</p>	
	W/		
<input type="checkbox"/>	Aff.Pub.	<p>Each of the Petitioners are the issue of Settlor Charlotte V. Bartimore, and they are each entitled to an equal share with John Welsh.</p>	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	<p>On 5/26/2011 Petitioner Lynn Featherston sent a letter requesting that John M. Welsh provide and accounting as required by Probate Code §16063.</p>	
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters	<p>Please see additional page</p>	
<input type="checkbox"/>	Duties/Supp		
<input checked="" type="checkbox"/>	Objections		<p>Reviewed by: KT</p> <p>Reviewed on: 10/22/2013</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 7A – Bartimore</p>
<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		

On 2/5/2013, Petitioner's attorney sent a letter to John Welsh requesting he provide an accounting as required by Probate Code §16063.

On 2/20/2013, Petitioner's attorney sent an additional letter to John Welsh requesting that he provide an accounting.

After representing that he would provide an accounting, John Welsh has failed and refused to provide an accounting, and no accounting has ever been provided to Petitioners.

Petitioners believe that pursuant to Probate Code §15642 John Welsh's refusal to provide an accounting to Petitioners is a breach of the Trust. Furthermore, John Welsh's conduct demonstrates recalcitrance with regards to dealing with Petitioners, and renders John Welsh unfit to act as Trustee.

John Welsh while wrongfully acting as Trustee, and controlling the Trust, failed to comply with the terms of the Trust to distribute equal shares of the Trust estate to Petitioners.

Petitioners allege that John Welsh has failed to distribute to them their rightful shares of the Trust estate. Such failure constitutes a wrongful act made in bad faith to deprive the proper beneficiaries of the property in the Trust estate. As such John Welsh should be compelled to provide an accounting of the Trust estate at the time of Charlotte's death, and should be compelled to pay double damages as a consequence of such a wrongful appropriation of the Trust estate.

A Constructive Trust should be imposed on the real property of John Welsh located at 46910 Dunlap Road, Miramonte, California 93641 under Civil Code §2224. Petitioners allege that John Welsh has used a portion of the Trust estate to maintain, repair, improve or otherwise benefit the Miramonte property sufficient to support a constructive trust being imposed on the Miramonte property for the benefit of Petitioners.

A Constructive Trust should also be imposed on Bank of America Account no. 23416-31370 and Wells Fargo Bank Account no. 101 10221047174 that have been used by John Welsh in the handling of the Trust Estate. Petitioners believe John Welsh has used those accounts for his personal benefit sufficient to support a constructive trust being imposed on them for the benefit of Petitioners.

Previous paragraphs allege wrongful acts which are a breach of the Trust, a mistake, accident, or outright fraud. Because John Welsh has deprived Petitioners of their rightful distributions and property, John Welsh should be deemed to be holding said property as Constructive Trustee for Petitioners.

John Welsh's acts of depriving Petitioners of their rightful property and withholding all authorized distributions constitutes the tort of conversion.

John Welsh must pay double damages for the wrongful appropriation of Trust assets in clear violation of the Trust.

Pursuant to Civil Code §3294, an award of punitive damages against John Welsh should be awarded to Petitioners as a result of John Welsh's acts of fraud, oppression, or malice arising out of his breach of fiduciary duty as acting as Trustee and as a result of the fraudulent concealment and conversion of Trust assets.

Please see additional page

Wherefore, Petitioners pray for an Order of this Court:

1. Compelling John Welsh to render an account for the Trustee since the date of Charlotte V. Bartimore's death on 2/1/2011 through the present;
2. Removing John Welsh as successor Trustee of the Trust, or in the alternative, suspending his powers as Trustee and delivering the Trust estate to the Successor Trustee Dale R. Welsh, pending the filing of said account with this Court;
3. Compelling the distribution of Petitioners' share of the Trust estate as allocated to them under the Trust;
4. Surcharging John Welsh at the legal rate for improper payments made out of the Trust assets and for the lost value of the Trust as a consequence of their failure to make the Trust productive for beneficiaries;
5. Imposing a Constructive Trust over the wrongfully held assets by John Welsh, including but not limited to, the real property located at 46910 Dunlap Road, Miramonte, California 93641, in an amount determined at trial;
6. For double damages pursuant to Probate Code §859 in an amount to be determined at trial;
7. For punitive damages against John Welsh, in an amount determined at trial; and
8. For such other and further Orders and relief as the Court deems just and proper.

Successor Trustee's Opposition to Petitioner's Amended Petition to Compel Accounting, Suspend and Remove John M. Welsh as Trustee and Answer to Allegations of Constructive Trust filed by Trustee, John Welsh on 8/26/2013. Trustee John Welsh states filed concurrently is an accounting from February 1, 2011, the date of death of Settlor, Charlotte V. Bartimore, through July 31, 2013.

John Welsh, Successor Trustee, Respondent objects to removal of him as Trustee, as his actions of a late accounting do not rise to the level of a breach of fiduciary duty. Respondent states he provided an initial accounting to the beneficiaries on or about March 15, 2011. The next accounting would have been due after February 1, 2012. John Welsh states he has had several personal crisis situations occur during this period and was unable to provide the accounting due to circumstances out of his control. Both of his eldest children were hospitalized on different occasions with severe injuries and he also has a child with developmental disabilities who resides with him on a full time basis.

John Welsh states he made some distributions, however, due to the uncertainty surrounding the "Mariner Note", which is a not an deed of trust held against the property, payable to the Trust, which is undervalued at this time, John Welsh, Trustee has not terminated the Trust and made full distribution. John Welsh contends that funds may be necessary should it become necessary to foreclose on the note. Should foreclosure become necessary, to would require John Welsh, Trustee, to assume a large first trust deed, which is ahead of the note payable to the Trust and would require the Trust to assume those payments until the property could be sold. Presently the property is valued at \$725,000.00. The First Trust Deed Note is in the amount of \$820,000.00

Please see additional page

Successor Trustee's Opposition to Petitioner's Amended Petition to Compel Accounting, Suspend and Remove John M. Welsh as Trustee and Answer to Allegations of Constructive Trust filed by Trustee, John Welsh on 8/26/2013

(Cont.): John Welsh, Trustee, objects to Petitioner's request to remove him, based on the terms of the Trust, which states any successor Trustee "must be a trust company or bank qualified to do a trust business." No such designation has occurred. If the Court should consider Petitioner's request, which John Welsh, Trustee, does not consent, then the Court only has the power to appoint a trust company or bank qualified to do a trust business. The Court has no authority pursuant to the terms of the trust, to appoint the Alternate Successor Trustee, Dale M. Welsh.

John Welsh, Trustee, contends it is within his discretion to make distributions to administer the terms of the Trust. Because the issue regarding the "Mariner Note", further distribution should not be made at the present time until it is determined the course of action necessary regarding the note held by the Trust. The borrower has only recently finalized his transaction with the First Deed holder and the Successor Trustee was waiting for an appraisal of the property before entering into any final negotiations.

Wherefore, John M. Welsh, Successor Trustee prays:

1. That Petitioner's request to remove Successor Trustee, John Welsh, be denied;
2. That Petitioner take nothing by way of this Amended Petition;
3. For costs of suit and any other relief as may be just and appropriate.

7B In Re: The Bartimore Family Trust

Case No. 13CEPR00534

Atty Forry, Craig (of Mission Hills, for Objectors Virginia Chenier, Leslie Bartimore, Lori Johnson and Lynn Feathareston

Atty Standard, Donna M. (for Petitioner/trustee, John Welsh)

First and Formal Account and Report of Status of the Bartimore Family Trust

		JOHN WELSH , Trustee, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Need Order
		Account period: 2/1/11 – 7/13/13	
		Accounting - \$359,826.23	
Cont. from		Beginning POH - \$355,755.94	
<input type="checkbox"/>	Aff.Sub.Wit.	Ending POH - \$ 83,405.49	
<input checked="" type="checkbox"/>	Verified	Trustee - \$17,286.06 (petition states trustee has already paid himself \$115,500.00)	
<input type="checkbox"/>	Inventory	Petitioner states he has performed all duties of the Trust to date. The Successor Trustee is delinquent on the accounting, however, the Successor Trustee has been attempting to negotiate with the debtor on a note secured by Deed of Trust on real property located at 15940 Mariner Drive in Huntington Beach.	
<input type="checkbox"/>	PTC	Petitioner prays for an Order:	
<input type="checkbox"/>	Not.Cred.	1. That the First and Final Account and Report of Trustee be allowed and approved as filed.	
<input checked="" type="checkbox"/>	Notice of Hrg	Please see additional page	
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order	X	
<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: 10/22/13
			Updates:
			Recommendation:
			File 7B – Bartimore

Objections to First Formal Account and Report of Status of the Bartimore Family Trust filed by Virginia Chenier, Leslie Bartimore, Lori Johnson and Lynne Featherston on 9/19/13. Objectors state the original trust executed on 10/28/2008 has not been disclosed to Objectors and they have again requested a copy from John Welsh ("Welsh"). Objectors question whether or not the original trust authorized changes after the death of Leonard D. Bartimore.

- By his own admission during the hearing on 8/28/13, Welsh did not collect any payments on the Mariner Note for the past 2 years. To date, Welsh has not justified his failure to collect all of the payments due on the Mariner Note.
- Objector and their counsel have made repeated meet and confer attempts to have Welsh perform his fiduciary duties to them and make a property accounting. It was only after Objector's filed their Petition that Welsh provided Objectors with a formal accounting.
- Welsh has not reasonably performed his fiduciary duties under the trust and provides no support for his claim of trustees fees and compensation in the amount of \$17,286.06. Such fees and compensation is unreasonable under the facts of this case that involves a small estate with limited duties, and in light of the breaches by Welsh of his fiduciary duties.
- The accounting shows Welsh paid himself the sum of \$15,500.00 as Successor Trustees fees and compensation. He claims his total is based upon 2%, 3% or 4% of the alleged value of the estate for various periods of time. Such a rate is not reasonable. The Trust provides that the trustee shall be entitled to a "reasonable compensation" for services performed in the administration of the trust. The sum of \$17,286.06 is not "reasonable for administering an estate that consisted of one residence sold by real estate agents, a Mariner Note that Welsh paid little attention to until recently, two small bank accounts and assorted furniture.
- The accounting shows payments to Attorney Dawn Thorston in the sum of \$4,723.75. To date, Welsh has not provided any support or justification for these payments.
- The accounting lists expenses for which Welsh had not provided a reasonable accounting:
 - a. AT&T - \$302.21
 - b. Public Storage - \$3,324.70
 - c. William Foster - \$450.00

In the absence of a reasonable explanation, Welsh should be surcharged for these expenses.

- The accounting includes service charges for the Bank of America checking account in the amount of \$365.79. There is no explanation why the Bank of America checking account was not closed and all of the deposits consolidated into the Wells Fargo account that did not require service charges. This caused the estate to lose \$365.79 for which Welsh should be surcharged.
- Documents provided by Welsh show a check no. 109 from the Wells Fargo Bank account controlled by Welsh for \$5,000 on 1/31/11, the day before the Trustor Charlotte Bartimore died, but this check and disbursement has not been accounted for by Welsh.
- The accounting shows a disbursement on 2/2/11 as "Expenses for grandchildren (expended at the request of Charlotte Bartimore prior to death)" for \$600.00, but Welsh does not provide any substantiation or explanation of this disbursement.
- The accounting shows a disbursement on 3/4/11 as "John Welsh (catering and funeral expenses) for \$1,970.93, but Welsh had failed to provide any substantiation for this disbursement.
- Wells Fargo Bank statement shows the balance in that account on 7/19/13 us \$8,589.80 but the accounting shows that balance on that date as \$6,545.49, leaving a discrepancy of \$2,044.31 that is not explained.

Please see additional page

Objections Continued:

- The accounting states that the "balance on hand in the estate" as of 7/31/13 is \$83,405.49 and after subtracting the cash of \$6,545.46 and the Mariner Notes of \$74,000.00, the sum of \$2,860.00 remains unaccounted for.
- During the escrow for the sale of the residence of the Trustor at 200 Afenida Marjorca, Unit A, Laguna Woods, CA, the buyers paid rent to Welsh that he has not accounted for in the Accounting.
- Welsh informed Objectors that he was selling the Residence below its fair market value as it was being sold by the owner, but the agents' commissions totaled \$15,600.00 and there is no explanation for why agents were paid such commissions when the sale was below market value.
- No appraisal was provided to Objectors for the value of the Residence when it was sold on 3/31/11.
- Welsh has failed to disclose whether the personal property in the residence was included in the sale price or paid for separately by the buyer, and such personal property had a value in excess of \$3,000.00
- Welsh failed to collect payments for 21 months on the Mariner Note in the sum of \$9,065.07
- After the death of the Trustor, Welsh took possession of the personal property of the Trustor that had a value in excess of \$45,000.00, and Welsh has failed to fully account for all of the personal property in his possession.

Wherefore, Objectors request that the Court make the following orders:

1. Surcharge John Welsh in the amount of \$15,500.00, plus interest at the legal rate, for excessive fees and compensation;
2. Surcharge John Welsh in the amount of \$4,723.75, plus interest at the legal rate, for unsupported payments to Dawn Thorston;
3. Surcharge John Welsh in the amount of \$4,076.91, plus interest at the legal rate, for unjustified payments to AT&T, public storage, and William Forster;
4. Surcharge John Welsh in the amount of \$3,65.79, plus interest at the legal rate, for unnecessary payments to Bank of America for service charges;
5. Require John Welsh to account for the unexplained disbursements set forth in paragraph 11 of the petition;
6. Require John Welsh to account for the sales price for the Residence of the Trustor that was below fair market value and surcharge him for the difference between the fair market value and the final sales price;
7. Surcharge John Welsh in the amount of \$9,065.07, plus interest at the legal rate, for his failure to collect on the Mariner Note;
8. Require John Welsh to account for all the personal property in his possession after the death of the Trustor;
9. Award Objectors attorney fees and costs incurred in this action;
10. That the Accounting not be approved;
11. That John Welsh pay double damages pursuant to Probate Code §859 for, in bad faith, wrongfully taking, concealing, and/or disposing of property belonging to Objectors;
12. For such other relief that the Court deems just and proper.

Please see additional page

Response to Objections filed on 9/30/13 by Trustee John Welsh. Petitioner states Objectors are requesting the Trustee to produce a copy of the original Trust instrument that was amended and restated by the surviving Settlor, when the authority for the action is stated in the Amended and Restated Trust Agreement in the first paragraph. There is no relevance to such a request as the operative Trust Instrument states within the document that the settlor has such authority, which was prepared by Settlor's attorney. The original Trust document is in the possession of Dawn Thorston and the Successor Trustee does not have it in his possession. To obtain said document will require Trustee to incur fees to obtain a copy of said document. Successor Trustee objects to said request as it is not relevant, material or necessary in this proceeding. It appears Objectors are attempting to challenge the terms of the trust, without so stating. Article XX of the Trust instrument provides for a "No Contest" clause. If the beneficiaries are in fact challenging the validity of the Trust Instrument their complaint does not reflect that and therefore the Successor Trustee sees no purpose to providing a copy of a Trust instrument that is no longer in effect.

The Trust provides specific powers to the Trustee and the Successors thereto. The Trust give specific authority to undertake action regarding the Mariner Note. The reason the Successor Trustee has not collecting the interest, as of yet, was due to the possibility of the property going into foreclosure on the First Deed of Trust which is ahead of the note to the Trust. The Successor Trustee was trying to avert such action as it would create a huge expense to the Trust.

Successor Trustee did not receive repeated "meet and confer attempts." The Successor Trustee received one letter from Mr. Fory before Objector's filed their complaint.

The Successor Trustee had no breached his fiduciary duties to the beneficiaries and is authorized under the Trust instrument to compensation. The Successor Trustee fees were calculated based on the statutory compensation, pursuant to Probate Code § 10800 (a). How can the fees be unreasonable when they are based upon the statute?

The AT&T debt was an automatic deduction on his mother's account. AT&T would not stop the deduction, which is the only reason the Successor Trustee closed the account and opened a new one for the Trust.

Public Storage was utilized because the Successor Trustee attempted to sell the property while it was located in Orange County by placing items on Craig's List. Successor Trustee made numerous trips to Orange County to show the property to prospective buyers, but no offers were made.

The charge to Mr. Foster was to move furniture from the storage facility to Trustor's home in Miramonte were it is now being stored, pending sale. The successor Trustee believed he would be more successful selling the property in Orange County and would obtain a higher price. It addition, it was difficult at first to think about selling the property his mother's furniture. It smelled like her. So, admittedly the Successor Trustee had difficulty parting with her memory. Nevertheless, the Trust give Trustor the authority to retain such assts.

Please see additional page

Probate Code § 1060 governs all accounts to be filed with the court stating except as specifically provided elsewhere in code, or unless good cause is shown therefore, no information in addition to that required in this chapter need be in an accounting.

Trustor states that the trust allows him to hire an attorney and to pay the attorney. Any communication between Dawn Thorston and Mr. Welsh is privileged and confidential and therefore will not be produced unless ordered by the court to do so, which are documents that Objectors have requested in an Notice to Produce served by Objectors which will properly be objected to.

Successor Trustee has accounted for all transactions while he was the Trustee. The \$5,000.00 check was distributed prior to the death of the Settlor and was not included in the accounting and it did not encompass the account period.

Successor Trustee states there was no conversion alleged. There is no breach of duty alleged. There are only disgruntled beneficiaries who think there should be more and that the Successor Trustee should be taking action quicker than is being accomplished. The Trustee is administering the Trust reasonably and with caution given the circumstances.

The Successor Trustee requests that the Court deny the Objections in its entirety and award reasonable attorney fees to the Successor Trustee for having to defend against spurious allegations of wrongdoing when there are none.

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

Age: 95 DOB: 09/03/1917	<p align="center"><u>TEMPORARY CONSERVATORSHIP OF THE PERSON ONLY EXPIRES 10/24/13</u></p> <p>RAYMOND LYSTER, grandson, is petitioner and requests appointment as conservator of the person, with medical consent, and dementia powers to administer dementia medications and for placement in a secured perimeter facility, and Conservator of the estate with bond in the amount of \$15,000.00.</p> <p>Estimated Value of the Estate: Personal property - \$105,000.00 Annual income - \$7,200.00 Total - \$112,200.00</p> <p>Declaration of Ara Soghomonian, M.D., 08/30/2013 supports request for medical consent powers, and dementia powers.</p> <p>Voting Rights Affected</p> <p>Petitioner states that the proposed conservatee has Alzheimer's and is unable to care for herself. She does not know her family, and is not oriented as to time and place. She does not have the ability to manage her finances. There is an annuity valued at \$100,000.00 which is going to be paid out to the proposed conservatee and it is necessary for a conservator to be appointed in order to sign the documents to get the annuity and manage those funds. The proposed conservatee has no cognitive ability to do so.</p> <p align="center"><u>Please see additional page</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order of 09/26/2013: The Court appoints the Public Guardian as the conservator of the estate. The Court appoints Raymond Lysters as temporary conservatorship of the person.</p> <p>Minute Order of 09/03/2013: Counsel advises the Court that she has the citation with the notice for the temporary and permanent petitioner ready for filing along with the capacity declaration. The petition is granted with a bond in the amount of \$123,420.00. All prior powers of attorney are ordered revoked.</p> <p>Court Investigator Advised Rights on 09/18/2013.</p> <p>Voting Rights Affected Need Minute Order.</p> <ol style="list-style-type: none"> 1. Need Confidential Supplemental Information. 2. Capacity declaration filed 9/03/2013 does not support the Petitioner's request for placement in a locked or secured-perimeter facility. 3. Capacity declaration filed 09/03/2013 does not support the Petitioner's request to administer dementia medications. <p>Reviewed by: LV Reviewed on: 09/23/2013 Updates: Recommendation: File 8A - Lyster</p>
Cont. from 092613		
Aff.Sub.Wit.		
✓ Verified		
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Not.Cred.		
✓ Notice of Hrg		
✓ Aff.Mail w/		
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✓ Pers.Serv.		
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✓ Letters		
✓ Duties/Supp		
Objections		
✓ Video Receipt		
✓ CI Report		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
✓ Citation		
FTB Notice		

Court Investigator Julie Negrete's report filed 09/20/2013.

Declaration filed 10/17/2013 by Attorney Edward L. Fanucchi, Attorney for Proposed Conservatee. Attached is a letter of Larry Lyster, Son of the Proposed Conservatee which states he feels the court should be informed that Raymond Lyster participated in the theft of property owned by Mrs. Myrtle Lyster. Mr. Larry Lyster and his brother Ronald Lyster were named co-power of attorney of Myrtle Lyster, their mother. Stated in the provisions if either expired the remaining brother would take over sole power of attorney. At the time of Ronald Lyster's death, Myrtle Lyster's entire amount of property was being stored in a 40' container stored on Ronald and Joan Lyster's residence in Madera County. After the death of Ronald Lyster, the relationship between Joan Lyster (sister in law to Mr. Larry Lyster) deteriorated to a point where she refused to supply Larry Lyster with medical, financial, or housing documents. In 2007 Larry Lyster was invited to travel to the property in Madera to itemize and secure Myrtle Lyster's property. Upon arrival he was approached by Raymond Lyster and two other men in an aggressive manner stating that he was there by request of his mother (Joan Lyster) to prevent him from accessing the property. Raymond Lyster continued stating that his mother had obtained a note from Myrtle Lyster, giving Joan Lyster legal possession of all of her property. At that time Myrtle Lyster was deep in dementia and had no ability understand what she was being asked to do, not to mention any request of that nature should have been forwarded to Mr. Larry Lyster. Raymond Lyster stated that most of the property belonging to Myrtle Lyster had already been given away. Mr. Larry Lyster states that after this incident he continued to care for his mother out of his own assets, and traveled to Fresno once or twice per month to visit his mother, and tend to all requirements for her well-being. During this time he was informed by the couple running the home that he was the only family member to pay any attention to his mother.

Larry Lyster states that there has always been friction between his mother and Joan Lyster. In conversations with his mother she expressed that neither Ronald or Larry Lyster shall allow her health and welfare be controlled by Joan Lyster. Larry Lyster states that Raymond Lyster never offered any assistance with the health and welfare of Myrtle Lyster. Larry Lyster states that Raymond Lyster has lied in the attempt to gain control, and would be given the authority to prevent Larry Lyster from having any part in Myrtle Lyster's life. Larry Lyster states that Raymond Lyster is uniquely unqualified to be named conservator of Myrtle Lyster's health and welfare.

Note: Status hearing will be set as follows:

- Friday, **03/21/2014** at 9:00 a.m., in Department 303 for the filing of Inventory & Appraisal.
- Friday, **12/12/2014** at 9:00 a.m., in Department 303 for the filing of the first account.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.

DOD: 7-5-13		<p>GURBAKSH PATTAR-KAUR, Surviving Spouse, is Petitioner.</p> <p>No other proceedings.</p> <p>Will dated 6-16-13</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. The decedent's minor children were not served directly per Cal. Rules of Court 7.51(d). The Court may require service.</p>
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
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<input checked="" type="checkbox"/>	Notice of Hrg	<p>Petitioner states she and the decedent were married 5-2-99. The real property was acquired during the marriage but titled in Decedent's name for financing purposes only. Community funds were used to acquire the property and all contributions to the property were made with community funds.</p> <p>Petitioner requests court confirmation that a one half interest of the real property belongs to her and a one half interest of the real property passes to her pursuant to the decedent's will.</p>	
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<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
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<input type="checkbox"/>	UCCJEA		
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<input type="checkbox"/>	FTB Notice		
			<p>Reviewed by: skc</p> <p>Reviewed on: 10-22-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 9 – Singh</p>

DOD: 7-11-01	<p>DANIEL J. GUTERREZ, Father, was appointed Administrator with Full IAEA without bond and Letters issued on 12-4-01.</p> <p>Petitioner originally estimated the estate to contain approx. \$500,000.00 personal property (nature not specified), and stated the only relatives/heirs at law are the decedent's parents, Administrator Daniel J. Guterrez and Janice S. Guterrez, both of Coalinga, CA.</p> <p>The following Creditor's Claims have been filed:</p> <ul style="list-style-type: none"> \$7,767.00 by Claimant Discover Financial Services, Inc. \$348.38 by Claimant American Express \$7,159.68 by Claimant Citibank (South Dakota) NA <p>On 11-19-03, the Administrator filed Petition for Authorization to Dismiss Survivor Action, which stated this probate was opened out of an abundance of caution because counsel for decedent filed a survivor action in Madera Superior Court on behalf of the decedent's estate. It was subsequently determined that the wrongful death claim on behalf of the estate should be dismissed, as the estate suffered no damages pursuant to CCP §377.34 (no final medical bills, lost wages, or other compensable damages). The Administrator requested an order from this Probate Court approving dismissal of the estate's claims.</p> <p>That petition was denied on 1-29-04, and the attorney was directed to provide points and authority.</p> <p>On 7-25-13, the Court set this status hearing for failure to file accounting or petition for final distribution.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 9-20-13.</u> Minute Order 9-20-13: No appearances. Matter continued to 10/24/13. James Rigali and Daniel Guterrez are ordered to be personally present on 10/24/13 if the petition has not been filed. James Rigali and Daniel Guterrez are authorized to appear via CourtCall. The Court will want to know at the next hearing how the creditors' claims were disposed of. Continued to: 10/24/13 at 09:00am in Dept 303. A copy of the minute order was mailed to James Rigali and Daniel Gutierrez on 9-20-13.</p> <p>1. Need petition to close estate. Probate Code §§ 12200, 11000, etc.</p>
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FTB Notice		
		<p>Reviewed by: skc</p> <p>Reviewed on: 10-22-13</p> <p>Updates:</p> <p>Recommendation: File 10 - Guterrez</p>

Atty Teixeira, Stanley, sole practitioner (for Victoria L. Reyes and Stephanie E. Callahan)
 Atty Sharbaugh, Catherine (Court-appointed for Conservatee)

Status Hearing Re: Filing of the First Account

Age: 77 years	<p>VICTORIA L. REYES and STEPHANIE E. CALLAHAN, daughters, were appointed Co-Conservators of the Estate on 8/22/2012.</p> <p>Letters of Conservatorship issued 8/23/2012 impose the following conditions: Co-Conservators, Victoria L. Reyes and Stephanie E. Callahan, are both required to be signers on all bank accounts for Barbara Jean Quintana. The Co-Conservators may independently sign checks and other negotiable instruments. However, they both must concur in every such exercise of power per Probate Code § 2105(c)(1).</p> <p>Minute Order dated 8/22/2012 from the hearing on the appointment of conservator of the estate set this Status Hearing for the filing of the first account.</p> <p>Final Inventory and Appraisal filed 12/3/2012 shows an estate value of \$7,617.91 consisting of cash and household furnishings/furniture.</p> <p>Court Investigator Jennifer Daniel's Annual Review was filed 3/5/2013.</p>	NEEDS/PROBLEMS/COMMENTS:	
		<p>1. Need first account of the conservatorship estate, or verified status report and proof of service of notice of the status hearing pursuant to Local Rule 7.5(B).</p>	
Cont. from			
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FTB Notice			
		Reviewed by: LEG	
		Reviewed on: 10/22/13	
		Updates:	
		Recommendation:	
		File 11 – Quintana	

Atty Winter, Gary L
 Atty St. Louis, Allison

Order to Show Cause Re: Failure to Appear (As to Allison St. Louis)

		<p>On 5-21-13, pursuant to Amended Petition filed by David and Arlene Liles, Guardians Ad Litem for Raven Nicole Bailey, minor beneficiary, the Court appointed H.F. RICK LEAS, a licensed professional fiduciary, as Successor Trustee of the Amended Carol Baily Living Trust with bond of \$500,000.00 on 5-21-13. Bond was filed on 5-31-13.</p> <p>Order 5-21-13 also requires ALLISON ST. LOUIS, as successor or representative of the prior trustee DAVID J. ST. LOUIS, to file an accounting with the Court, which accounting shall be prepared by Dritsas, Groom and McCormick, LLP, within four weeks of the order.</p> <p>The Court set status hearing for the filing of the accounting for 6-14-13, continued to 8-16-13, 9-5-13, and now 10-10-13. See Page 9A.</p> <p>On 9-5-13, the Court also set this Order to Show Cause regarding Allison St. Louis' failure to appear.</p> <p>The minute order and OSC were mailed to Allison St. Louis and Attorney Winter on 9-6-13.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 10-10-13</u></p>
Cont. from 101013			
Aff.Sub.Wit.			
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Inventory			
PTC			
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Notice of Hrg			
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Status Rpt			
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Citation			
FTB Notice			
		<p>Reviewed by: skc</p>	
		<p>Reviewed on: 10-22-13</p>	
		<p>Updates:</p>	
		<p>Recommendation:</p>	
		<p>File 12B - Bailey</p>	

Probate Status Hearing for Failure to File a First Account or Petition for Final Distribution

DOD: 9/7/2001	<p>JACK SINOR was appointed as Administrator with full IAEA and without bond on 12/18/2001.</p> <p>Letters issued on 12/18/2001.</p> <p>Inventory and Appraisal was filed on 5/13/2002 showing an estate valued at \$142,111.42.</p> <p>Creditor's Claims filed:</p> <p>Household Retail Services - \$509.77</p> <p>Discover Card - \$5,747.00</p> <p>Sears - \$2,056.92</p> <p>Wells Fargo - \$9,100.19 (Note: an Abstract of Judgment was filed whereby Wells Fargo was awarded \$12,131.50 in a Civil case for the rejected creditor's claim).</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 9/20/13. Minute order states there were no appearances. Jack Sinor is ordered to be personally present on 10/24/13. Copy of the minute order was mailed to Jack Sinor on 9/20/13.</p> <p>1. Need First Account, Petition for Final Distribution or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>
Cont. from 092013		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
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Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 10/22/2013
		Updates:
		Recommendation:
		File 13 – Sinor

Petition for Termination of Guardianship

Age: 3	DESTINY GONZALES, mother is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 04/25/13</u> Minute Order from 04/25/13 states: Visitation is increased to alternating weeks beginning this week. Parties agree to participate in mediation today at 1:30 pm. The Court directs that mediation address the issues of visitation with regards to alternating weeks, holidays, and birthdays. Matter is continued to 10/24/13. Parties are ordered not to speak ill of one another around the child. As of 10/22/13, nothing further has been filed and the following comments remain: 1. Need Notice of Hearing. 2. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition to Terminate Guardianship or Consent & Waiver of Notice or Declaration of Due Diligence for: - Stephen Solorzano (father) - Severiano Solorzano (paternal grandfather) - Ernest Gonzales (maternal grandfather) - Gloria Gonzales (maternal grandmother)
	ELVIA SOLORZANO paternal grandmother, was appointed Guardian of the Person on 06/06/12.	
	Father: STEPHEN SOLORZANO	
Cont. from 042513	Paternal grandfather: SEVERIANO SOLORZANO	
<input type="checkbox"/> Aff.Sub.Wit.	Maternal grandfather: ERNEST GONZALES	
<input checked="" type="checkbox"/> Verified	Maternal grandmother: GLORIA GONZALES	
<input type="checkbox"/> Inventory	Petitioner states that she believes her son belongs with her. She states that she has her older son with her full time and that he misses his little brother. Petitioner alleges that the guardian is always leaving Ayden with various people to watch him sometimes for days at a time. Petitioner alleges that the guardian doesn't answer her calls regularly and lies to her about why she doesn't answer. Further, Petitioner alleges that the guardian often gets frustrated with Ayden.	
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg	<input checked="" type="checkbox"/>	
<input type="checkbox"/> Aff.Mail	<input checked="" type="checkbox"/>	
<input type="checkbox"/> Aff.Pub.		
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<input type="checkbox"/> Pers.Serv.		
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<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input checked="" type="checkbox"/> Objections	Objection to Petition of Termination of Guardianship filed 04/10/13 by Elvia Solorzano, Guardian, states: she is concerned about Ayden's welfare if returned to his mother. The mother has stated that she works full time and goes to school. If this is the case, who will be caring for Ayden? Further, she states that she did not always answer the mother's phone calls because of the conflict that would occur when she called. Guardian states that her son does not live with her and she has no control over his behavior. Further, guardian states that she stays home and provides full-time care for Ayden. Ms. Solorzano states that she wants Ayden to be well cared for and have a good education.	
<input type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report	Court Investigator Jennifer Daniel filed a report on 04/18/13.	
<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		

Petition for Order Directing Transfer of Property to Petitioner [Prob. C. 850(a)(2)(D)]

	<p>MARGOT BELLANDO, Successor Trustee for Sunnyside Medical, a California fictitiously named business association registered and doing business in the City of Fresno, County of Fresno, State of California, is Petitioner.</p>	<p>NEEDS/PROBLEMS/ COMMENTS:</p>
<p>Cont. from 080813, 091213</p>	<p>Sunnyside Medical is an interested person within the contemplated provisions of Probate Code §48 in certain personal property that the decedent held title to and possession of at her death.</p>	<p><u>SEE ADDITIONAL PAGES FOR UPDATED NEEDS/ PROBLEMS/COMMENTS</u></p>
<p>Aff.Sub.Wit.</p>		<p><u>Continued from 8-8-13, 9-12-13</u></p>
<p>✓ Verified</p>		<p><u>Minute Order 9-12-13:</u> There is no trust by Ms. Bellando's own declaration. The Court directs the Petitioner to seek legal advice.</p>
<p>Inventory</p>		<p>As of 10-22-13, nothing further has been filed.</p>
<p>PTC</p>		
<p>Not.Cred.</p>		<p>Reviewed by: skc</p>
<p>✓ Notice of Hrg</p>		<p>Reviewed on: 10-22-13</p>
<p>✓ Aff.Mail w</p>	<p>Petitioner states John Chaing, Controller, State of California, currently holds funds in the sum of \$98,957.43, represented by three time-expired negotiable instruments, each payable to the decedent, drawn on Citibank, dated 11-18-03 and 4-6-04 (serial numbers provided), the source of which funds is Sunnyside Medical, and, because they have not been negotiated, were delivered to respondent with the funds represented thereby by said bank as unclaimed funds under the laws of the State of California. Sunnyside Medical is the owner of the beneficial interest in those funds that were withdrawn and held by the decedent as trustee for Sunnyside Medical at the time of withdrawal. The decedent died without discharging her duty as trustee to surrender said instruments and/or funds represented thereby to petitioner as successor trustee upon the demand of petitioner.</p>	<p>Updates:</p>
<p>Aff.Pub.</p>		<p>Recommendation:</p>
<p>Sp.Ntc.</p>		<p>File 15 – Girazian</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>	<p>Decedent died while in possession of the property only as predecessor trustee to Petitioner. Before her death, the decedent had ordered the cashier's check drawn on funds, then and there beneficiary owned by Sunnyside Medical with the duty to transfer said funds and/or instrument representing said funds to Petitioner immediately upon Petitioner's succession of the decedent as trustee for Sunnyside Medical.</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	

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Petitioner prays for an order:

1. Directing John Chiang, Controller, State of California to transfer the funds represented by the cashier's checks to Petitioner, as the successor trustee of Sunnyside Medical, the beneficiary of the trust in which those funds were lawfully held by Jeannie Girazian and to execute any documents necessary in order to fully complete the transfer;
2. Directing John Chiang, Controller, State of California to immediately deliver possession of this property to Petitioner; and
3. For such other orders as the court deems proper.

Examiner's Note: Prior Examiner Notes requested clarification regarding the relationship between Petitioner, the decedent, and the business, and regarding Petitioner's authority to bring this petition on behalf of the business, noting that it was unclear whether there was a trust instrument or agreement, or how Petitioner was associated with the business or trust, if any. It appeared Petitioner was using the term "trustee" in the figurative sense, rather than as a legal capacity in relation to a trust instrument.

After discussing these questions with Examiner after the last hearing, Petitioner filed two (2) separate declarations on 8-13-13 as follows:

The 1st Declaration states: Sunnyside Medical is a registered fictitious business name for a business created and existing to administer and manage revenues generated by the medical practice of **David J. Edwards, M.D.**, who, as settlor of those revenues, directed that those revenues be administered by Sunnyside Medical for the operation of his medical practice. Decedent Jeannee Girazian was Petitioner's predecessor as trustee for the funds representing the revenue being administered by Sunnyside Medical. As such, in keeping with the standing direction of **Settlor David J. Edwards, MD**, Petitioner is informed and believes that Jeannee Girazian received revenue generated from Dr. Edwards' medical practice in trust and deposited same forthwith into an account with Citibank or Bank of American, which account was denominated as the Sunnyside Medical business account and during her service as trustee, identified Jeannee Girazian as the exclusive person authorized to sign for withdrawals from that account. After comprehensive and diligent good faith review, it is clear to Petitioner that no funds have ever been deposited in the Sunnyside Medical account from which these negotiable instruments have been drawn that are attributable to any source other than the medical practice of Dr. Edwards. Petitioner is also completely certain that there is no evidence whatsoever of funds in the account that may have been commingled by Jeannee Girazian with funds belonging to Sunnyside Medical entrusted to her.

SEE ADDITIONAL PAGES

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Petitioner states Ms. Girazian exclusively administered the financial affairs of Sunnyside Medical from the revenues deposited in the account until mental disability secondary to senile dementia resulted in her incapacity to administer those financial affairs. **Petitioner has subsequently been duly substituted as trustee of those funds by the settlor David J. Edwards, MD, and is now the person authorized to sign on the account.**

In the initial course of Petitioner's service as substitute trustee of the Sunnyside Medical accounts, Petitioner personally reviewed records and notes of Jeannee Girazian and others relating to the Sunnyside Medical accounts, and learned that Ms. Girazian had become concerned that the Sunnyside Medical bank account might be susceptible to levy by creditors, although Petitioner was not able to establish any comprehensible reason for her concern in this regard. It appeared to Petitioner that Sunnyside Medical was current or close to current with all creditors, and she could not see why there would be any credible threat of levy. Petitioner assumed that her concerns may have been born of the onset of her mental disability and concluded that she could prudently assume that there was no basis in reality for Ms. Girazian's concerns.

Petitioner states it was only well after Ms. Girazian's death, in the course of closing the medical practice, that Petitioner came across certain negotiable instruments concealed among Sunnyside Medical papers and **payable to Jeannee Girazian**. A review disclosed that the funds used to purchase those instruments were drawn from the Sunnyside Medical account at Citibank or Bank of America. **These instruments had obviously never been negotiated, but instead had evidently been acquired and intentionally concealed by Jeannee Girazian during the time she was administering Sunnyside Medical as trustee and had never been discovered by Petitioner or anyone else until Petitioner was engaged in the final closing of the medical practice.**

Upon close examination of all Sunnyside Medical's accounts, and with specific reference to the withdrawals that were obviously related to the negotiable instruments Petitioner discovered, Petitioner could not discern any reason for those funds to have been withdrawn by Jeannee Girazian and converted to negotiable instruments, nor any reason for her to physically conceal those instruments among Sunnyside Medical's records. Petitioner was also unable to discover a reason she never attempted to negotiate the instruments or further account for the funds they represented.

Petitioner states it was only after considerable reflection that she recalled Ms. Girazian's concern about the potential for levies on the Sunnyside Medical account. At that point, Petitioner presented her quandary to Dr. Edwards personally. She explained the circumstances and inquired as to whether he knew or might be able to discern the purpose of Ms. Girazian drawing funds from the account, converting them to negotiable instruments, and then concealing them.

SEE ADDITIONAL PAGES

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In response to her inquiry, and after reflection of his own, Petitioner states Dr. Edwards explained that over the years of her association with Sunnyside Medical as administrator of its affairs and as trustee of revenue derived from his medical practice, there had been many conversations between Dr. Edwards and Ms. Girazian where he had, from time to time, expounded upon some of his own opinions about what he perceived to be a dramatic rise in frivolous medical malpractice suits in California. Among other things, he expressed his opinion to Ms. Girazian that a "doctor's fat bank account" was a ripe target for a malpractice attorney and that the size of the account was often the determining factor in whether a physician would be subjected to a suit for malpractice. Petitioner states Dr. Edwards also expressed his opinion to Ms. Girazian that he considered having medical malpractice insurance itself an invitation to frivolous litigation and that the only difference between having such insurance and not having insurance was that in the former case, the insurer would have to pay the attorney bills to defend, whereas in the latter, the doctor would pay. He concluded the opinion he expressed to Ms. Girazian by observing that, in the end, a doctor could not successfully avoid medical malpractice suit by practicing prudent and competent medicine, but rather came down to having a physician's having neither medical malpractice insurance, nor a "fat bank account" to tempt contingency fee lawyers.

Petitioner states after providing her with this explanation, Dr. Edwards confessed that when he said these things, he was just "blowing off steam," and did not intend to be taken seriously. He then reflected, however, that the discovery of the instruments, indicates that she had, however, taken him seriously, and the fact that she had hidden them in the later years of her administration showed that she was becoming increasingly troubled by her perception that Dr. Edwards might be victimized by an expensive frivolous medical malpractice lawsuit. Evidently, knowing that he did not carry professional E&O insurance, Ms. Girazian devised this well-intentioned, albeit inadequately revealed, "plan" to keep the account from appearing "too fat" in an effort to avoid tempting attorneys.

Petitioner states Dr. Edwards' response to her inquiry is the only satisfactory explanation for the existence and purpose of the instruments consistent with the facts her inquiry has disclosed. Accordingly, based on that explanation, Petitioner attempted to negotiate the instruments back into the Sunnyside Medical account as successor trustee to Jeannee Girazian. However, she then learned that the instruments would require Ms. Girazian's endorsement because she had taken them in her own name, even though they came from Sunnyside Medical funds and she had no other entitlement to receive such funds beyond her trusteeship of the revenues entrusted to her for management through Sunnyside Medical.

Petitioner states despite careful examination of business records, Petitioner has not been able to discern any other satisfactory reason for the acquisition and concealment of those negotiable instruments by Ms. Girazian, and has been unable to establish evidence supporting Ms. Girazian's efforts with respect to such funds.

Accordingly, Petitioner concludes that the funds belong to Sunnyside Medical and that Jeannee Girazian held them at the time of her death in that capacity only and that her intention for the disposition of those funds was to use them in accordance with her duties as administrator of Sunnyside Medical.

SEE ADDITIONAL PAGES

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The 2nd Declaration states this declaration will clarify the relationship between the medical business, a holding trust, and the Sunnyside Medical bank account of David J. Edwards, MD. The origin of the funds arose from medical activities of Dr. Edwards, and were immediately deposited into the Citibank account called "Sunnyside Medical" in which Petitioner was office administrator and trustee with sole fiduciary authority to sign accounts payable checks only, and to handle the financial affairs of Dr. Edwards. Petitioner became the successor trustee to the account after Jeanee Girazian left. The medical business is not the beneficiary of a trust and never has been. Sunnyside Medical is a standalone sole proprietorship.

The medical office at 360 So Clovis Avenue is closed. Dr. Edwards, now 83, has retired due to physical disabilities resulting from an automobile accident, and resides at the address on Indianapolis used for this petition. It is from this new location that Petitioner still manages the SSM account as fiduciary paying all necessary bills relating to the physical property.

Petitioner states the Sunnyside Medical account was a dba, and the property of the trust. The funds were held in trust by Jeanee Girazian, who had legal title and a contractual duty as a fiduciary. Petitioner became the trustee and took over her duties.

Petitioner states Sunnyside Medical is a standalone sole proprietorship and there are no other persons in the business organization other than Dr. Edwards and Petitioner. All entitled to notice were served, but none appeared to oppose the petition. The petition filed was performed with the assistance of an attorney, wherein certain words were sued and written in an ambiguous manner causing blurring of the three entities and confusion which needed to be corrected.

SEE ADDITIONAL PAGES

NEEDS/PROBLEMS/COMMENTS:

1. Examiner Notes previously noted, based on the content of the original petition, that the relationships between Petitioner, the business, and the decedent were unclear, and further that Petitioner's capacity with respect to the business or trust, if any, was unclear (i.e., using trust terms such as "trustee" when there is no trust agreement or document).

Petitioner explains in her subsequent declarations that she took over the administrative role for the business Sunnyside Medical, which is a sole proprietorship of David J. Edwards, MD., after the decedent, and that later, in the process of winding down the business, she discovered these expired negotiable instruments held in the decedent's name individually, although the funds are allegedly business funds.

Petitioner seeks a court order under Probate Code §850 et seq., that the funds be released to her "in trust for the benefit of Sunnyside Medical." However, although it appears that although Petitioner may be or may have been an employee of the business, there does not appear to be any documentation of authority to bring this petition on behalf of the business in this Court. Petitioner uses the terms "trustee" and "settlor" although there does not appear to be any legal basis for using these terms.

It does not appear that Petitioner has the legal capacity to bring this petition on behalf of the business or Dr. Edwards, and further does not have authority to bring this petition under Probate Code in the Probate Court.

Petitioner may wish to seek legal advice regarding recovery from Ms. Girazian's personal representative in the civil arena, or other remedy available after seeking appropriate legal advice.

Note: Probate Code §850(a)(3)(B) allows a trustee to bring a petition under this section when the trustee has a claim to real or personal property, title to or possession of which is held by another; however, that does not appear to be the case here, as Petitioner makes clear in her declarations that there is no trust.

2. If this petition goes forward in this Probate Court, the Court may require proof of service of Notice of Hearing with a copy of the Petition and supporting documentation at least 30 days prior to the hearing on Dr. Edwards pursuant to Probate Code §851.
3. If this petition goes forward in this Probate Court, the Court may require documentation regarding Petitioner's capacity as a representative or "trustee" of the business accounts, and documentation regarding the instruments themselves, such as copies.
4. If this petition goes forward in this Probate Court, the Court may require clarification of what communications have been received from the State Controller, and what, specifically, they are looking for in terms of documentation.
5. If this petition goes forward in this Probate Court, need verification of the decedent's name, as it is spelled various different ways in the petition and declarations (for purposes of Court order).

Kaydence 6 mos.	TEMPORARY EXPIRES 10/24/2013	NEEDS/PROBLEMS/COMMENTS:
Jazmine 4	VONDA MARIE RODGERS , maternal grandmother, is petitioner.	<ol style="list-style-type: none"> Need proof of personal service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing per Probate Code §1511 on: <ul style="list-style-type: none"> - Crystal Rodgers (Mother) - Kaydence's father (if diligence not found)
	Father of Jazmine: JOHNNY AVILA III , Deceased	
	Father of Kaydence: NOT LISTED , Declaration of Due Diligence filed 08/29/2013	<p>Note: Declaration of Due Diligence filed 8-29-13 states Kaydence's father is unknown. Per Minute Order 9-3-13, Petitioner was directed to file another declaration of due diligence as to the father. However, nothing further has been filed.</p> <ol style="list-style-type: none"> Need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing per Probate Code §1511 on: <ul style="list-style-type: none"> - Joey Rodgers (Maternal Grandfather) - Paternal grandparents of Jazmine - Paternal grandparents of Kaydence
<input type="checkbox"/> Aff.Sub.Wit.	Mother: CRYSTAL RODGERS	
<input checked="" type="checkbox"/> Verified	Paternal Grandparents of Jazmine: Not Listed	<p>Petitioner states: the mother is doing drugs, is unstable and does not want the children. Petitioner is scared for her life and that of the children's as the mother has already pushed and hit the petitioner and has threatened to kill the petitioner if she takes the children.</p> <p>Court Investigator Jennifer Daniel filed a report on 10-17-13.</p>
<input type="checkbox"/> Inventory	Paternal Grandparents of Kaydence: Not Listed	
<input type="checkbox"/> PTC	Maternal Grandfather: Joey Rodgers	<p>Reviewed by: skc</p> <p>Reviewed on: 10-22-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 16 – Palma & Avila</p>
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input checked="" type="checkbox"/> Pers.Serv.		
<input checked="" type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report		
<input checked="" type="checkbox"/> Clearances		
<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		

Pro Per Burt, Johnny (Pro Per Petitioner, maternal grandfather)
 Pro Per Athans, Kimberly (Pro Per Petitioner, step-grandmother)

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

Mikenzi Age: 7 yrs		<p style="text-align: center;">TEMPORARY EXPIRES 10/24/2013</p> <p>JOHNNY BURT and KIMBERLY ATHANS, maternal grandfather and step-grandmother, are Petitioners.</p> <p>Father of Mikenzi: DUANE BRANUM; <i>consents and waives notice.</i></p> <p>Father of Justin: JUSTIN LEVI SORRELLS; <i>sent notice by mail 8/21/2013 and 9/3/2013; personally served 8/25/2013.</i></p> <p>Mother: HAILEY BURT-SORRELLS; <i>sent notice by mail 8/21/2013 and 9/3/2013; personally served 8/25/2013.</i></p> <p>Paternal grandfather of Mikenzi: Unknown Paternal grandmother of Mikenzi: Unknown Paternal grandfather of Justin: Unknown Paternal grandmother of Justin: Unknown</p> <p>Maternal grandmother: Shelley O'Hanesian (Scott); <i>sent notice by mail 8/21/2013 and 9/3/2013.</i></p> <p>Petitioners state both parents have a long history of drug addiction, and the children have been in the Petitioners care since July 2013. Petitioners state the parents are not stable and cannot properly care for the children at this time, as they do not have adequate housing and are suffering from drug addiction. Petitioners state both children are subject to CPS but are currently with Petitioners in a safe and stable loving home environment.</p> <p>Court Investigator Julie Negrete's Report was filed 10/17/2013.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Minute Order dated 9/3/2013 [Judge Cardoza] states, in pertinent part, that Petitioners are directed to resubmit a fee waiver application if necessary.</p> <p>1. Need proof of service by mail of the <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian</i>, or <i>Consent to Appointment of Guardian and Waiver of Notice</i>, or a <i>Declaration of Due Diligence</i>, for:</p> <ul style="list-style-type: none"> • Paternal Grandparents of Mikenzi; • Paternal Grandparents of Justin. <p>Note: Proof of Service by Mail filed 9/26/2013 shows the following persons, who are not listed in the <i>Petition</i> and have not been identified, were mailed notice on 9/3/2013:</p> <ul style="list-style-type: none"> • Lida Teague; • Toby Sorrells. 	
Justin Age: 1 1/2 yrs				
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W / O
	Aff.Pub.			
	Sp.Ntc.			
✓	Pers.Serv.			W /
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
✓	CI Report			
✓	Clearances			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
		Reviewed by: LEG		
		Reviewed on: 10/22/13		
		Updates:		
		Recommendation:		
		File 17 – Sorrells		

Age: 12		TEMP EXPIRES 10-24-13	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need proof of personal service or consent of minor age 12 per Probate Code §1511. 2. The mother was served by mail, and without a copy of the petition. Personal service is required by Probate Code §1511. The Court may require amended service. 3. Notice of Hearing filed 9-17-13 indicates that the petition was not served with the notice. The Court may require amended service.
		<p>ROBERT SOLIS, JR. and CLAUDIA SOLIS, maternal uncle and aunt, are Petitioners.</p> <p>Father: ENAIN DIAZ – <i>Declaration of Due Diligence filed 08/22/13 states father was deported</i> - <i>Notice excused per minute order 9-5-13</i></p> <p>Mother: CAROLINA ZAMORA</p> <p>Paternal grandfather: UNKNOWN Paternal grandmother: UNKNOWN</p> <p>Maternal grandfather: DECEASED Maternal grandmother: AMELIA FLORES – <i>Consents and waives notice</i></p> <p>Siblings: Efrain (21), Crystal (20), Perla (19), Consuela (18), Anai (15), Vianey (1)</p> <p>Petitioner states that the mother is in a rehab treatment program for 6 months. The father's whereabouts are unknown. Petitioner states that Eovani has lived with them since he was 5 months old and their home is the only home he has known. Guardianship is necessary for school and medical needs. Petitioners provided letters in support.</p> <p>Court Investigator Charlotte Bien filed a report on 10-9-13.</p>	
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail	w/o	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.	X	
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		
✓	Clearances		
✓	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		
			<p>Reviewed by: skc</p> <p>Reviewed on: 10-22-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 18 – Diaz</p>

Petition for Appointment of Temporary Conservator of the Person and Estate

Age: 79	GENERAL HEARING 11-21-13	NEEDS/PROBLEMS/COMMENTS:
	JULIE CASTILLO and CONNIE MARTINEZ , Daughters, are Petitioners and request appointment as Temporary Conservators of the Person and Estate without bond with funds blocked.	Court Investigator advised rights on 10-7-13
	Estimated value of estate: Personal property: \$100,000.00	
<input type="checkbox"/> Aff.Sub.Wit.	Petitioners state their mother is living in her own home, and her adult son Joseph Reyna and his girlfriend also stay at the residence the majority of the week. She was diagnosed with dementia in 2010; however, before this occurred, in June of 2010, she drafted a power of attorney for health care indicating Joseph, Connie, and Monica Reyna (her granddaughter) as potential agents. In the last year, the family has witnessed action executed by Joseph that have caused great concern regarding his motivation for assisting his mother. Joseph will not allow access to their mother's finances and now utilizes a debit card in her name all over town. The family became alarmed so they secured information from the bank. On one occasion, Joseph removed approx. \$17,500 from the account. When they confronted him, he insisted it was his, even though he is unemployed and contributes no funds to the account. He has also been talking derogatorily and with obscene profanity toward their mother – telling her nobody wants her and if he didn't live there she would be all alone. She is afraid to say anything to him. All of these issues could have been dealt with, but now the medical professionals have indicated that Petitioners are not allowed to any of Rosie's information as there has been a new document drafted. Their mother told them Joseph took her to an attorney but she does not know what she signed and nobody can find the document. Joseph is not allowing her to go to the doctor and threatens that he will not feed her if she doesn't listen.	1. Need Confidential Supplemental Information Form GC-312. (This form provides information about the proposed Conservatee.)
<input checked="" type="checkbox"/> Verified		2. Petitioners request appointment without bond; however, per Cal. Rules of Court 7.207 and Probate Code §2320(c)(4), all conservators of the estate must post bond including cost of recovery.
<input type="checkbox"/> Inventory		3. Need order.
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input type="checkbox"/> Notice of Hrg	X	
<input type="checkbox"/> Aff.Mail	X	
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.	X	
<input checked="" type="checkbox"/> Conf. Screen	X	
<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input 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		
<input type="checkbox"/> FTB Notice		
	Petitioners state Joseph owes over \$30,000 in back child support and a contempt hearing is scheduled. He has told their mother that she should pay of his support and Petitioners believe he has complete control and she is afraid to tell him no. She is not capable of making decisions any longer. She has quick lucid moments, but then is incoherent once again. Petitioners are concerned that if conservatorship is not granted, something may happen to her.	
	Court Investigator Samantha Henson filed a report on 10-22-13.	
		Reviewed by: skc
		Reviewed on: 10-22-13
		Updates:
		Recommendation:
		File 19 – Reyna

Petition for Appointment of Temporary Guardian of the Person

Age: 4 years		<p style="text-align: center;"><u>General Hearing set for 12/11/2013</u></p> <p>KATHLEEN RICHARDS, maternal grandmother, and THIERRY RICHARDS, step-grandfather, are Petitioners.</p> <p>Father: CHRISTOPHER RUSHING</p> <p>Mother: BRIANNA F. FIFIELD-GREER; personally served 10/18/2013.</p> <p>Paternal grandfather: <i>Not provided</i> Paternal grandmother: <i>Not provided</i></p> <p>Maternal grandfather: <i>Not provided</i></p> <p>Petitioners state:</p> <ul style="list-style-type: none"> The child is in need of a temporary care and support because the child was subjected to mistreatment, neglect and abuse while in the care of her parents; The child has resided with them in Texas since birth, with the mother's permission (copy of mother's written permission attached.) The child's mother, who suffers from severe depression and has a history of causing self-inflicted injury, removed the child from Petitioners' care without any notice to them, and while the child was in the mother's custody, the mother left the child in the presence of the child's father, who has a severe psychological disorder and documented instances of domestic violence; Petitioners filed for in their home state of Texas, and were granted on 8/29/2013, appointment as emergency joint managing conservators of the child by Bastrop County Court in Texas (copy of TX order attached as Exhibit 1). <p style="text-align: center;">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> Need proof of five (5) court days' notice by personal service of the <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Temporary Guardian</i>, or <i>Consent to Appointment of Guardian and Waiver of Notice</i>, or a <i>Declaration of Due Diligence</i> for: <ul style="list-style-type: none"> Christopher Rushing, father. Need <i>Guardianship Petition – Child Information Attachment</i> (mandatory-use form GC-210(CA)) for Athena Celeste Fifield-Rushing, which will provide the names of the child's paternal grandparents and maternal grandfather, who will need notice of the General hearing on 12/11/2013. Need <i>Uniform Child Custody Jurisdiction Enforcement Act [UCCJEA]</i> mandatory-use form GC-120. Need proposed order. Need revised proposed letters containing the signature of both Petitioners on one set of letters.
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 type="checkbox"/>	Aff.Mail		
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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		
<input type="checkbox"/>	Letters	X	
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA	X	
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
Reviewed by: LEG			
Reviewed on: 10/23/13			
Updates:			
Recommendation:			
File 20 – Fifield-Rushing			

Declaration in Support of Request for Emergency Temporary Guardianship of Minor Child filed Attorney Susan Hemb on 10/22/2013 states:

- The mother of the minor and the minor have both resided continuously with the Petitioners since the birth of the child;
- In Fresno County Superior Court Family Law Case 10CEFL05473, the mother was granted sole legal and physical custody of the child, and was granted permission to move to the State of Texas via a move-away order by the Family Law Court;
- Since May 2012, the child has continuously resided with the Petitioners and the mother in the State of Texas, with the exception of 12 days in June 2013;
- State of Texas, County of Bastrop Court issued an Emergency Temporary Injunction Order, which has been properly registered as an out-of-state custody order in Fresno Superior Court Family Law Case 10CEFL05473, to which the mother objected, and the objection is set for hearing on **1/6/2014 at 9:00 AM in Department 204;**
- Furthermore, there is an issue as to which state has jurisdiction over the child based upon the continuous residence of the child in the State of Texas for a period of longer than 6 months, such that all relevant facts pertaining to care and upbringing of the child are no longer in the State of California;
- Fresno County Superior Court Family Law division granted Petitioner's *Motion and Declaration for Joinder* in Family Law Case 10CEFL05473 on 10/21/2013, which allows the Petitioners the right to request an emergency Temporary Guardianship until the issue as to the change of venue, which will include the jurisdictional issue, can be heard by the Fresno County Superior Court Family Law division;
- In order to properly protect the child from further physical and psychological harm by the mother and mother's new husband, and to provide for additional time to properly set forth a change of venue to determine the proper jurisdiction as to whether or not California or Texas is the proper state for determination as to the custody and care of the child;
- Petitioners are seeking temporary guardianship of the child, as the child continues to reside in the State of Texas with the Petitioners, who continue to provide for all of the child's emotional and physical needs.

Petitioners request that the Court grant them temporary guardianship until the issue as to jurisdiction can be resolved in the Fresno County Superior Court Family Law division, and to protect the child from further physical and psychological harm.