

(1) Third and Final Account and Report and (2) Petition for Fees

<b>Age: 18</b>		<b>GARY and SHANA SCHAFFER</b> , Uncle and Aunt, and Guardians of the Person and Estate, are Petitioners.	<b>NEEDS/PROBLEMS/COMMENTS:</b> <u><b>CONTINUED TO 1-16-14</b></u> Per attorney request 1. Property on hand at the close of the last account period (9-30-12) was <u>\$121,995.83</u> ; however, Petitioner states the property on hand at the beginning of this account period (10-1-12) was <u>\$112,753.23</u> . Need clarification regarding the discrepancy of <u>\$9,242.60</u> .  2. Petitioners state <u>the guardians have directed</u> the establishment of the trust. The trust, however, appears to indicate that Kaleb Schafer is the settlor. The Court may require clarification or authority regarding the guardians' directing establishment of the trust, since Kaleb has reached the age of majority, or verification that Kaleb wishes to transfer the guardianship estate funds to this trust. ( <i>Note: This is <u>not</u> a trust funded by Court order as contemplated by the Probate Code and/or Cal. Rules of Court and does not require further Court oversight, accounting, etc.</i> ).  3. Court records indicate a balance due of \$730.00 for unpaid court investigation fees from the establishment of the guardianship. Need payment of \$730.00 prior to distribution.  4. Need order. Order should reflect the dollar amount of the actual distribution after payment of the authorized fees and Court fees.  5. In addition to the order settling the account, need Order for Withdrawal of Funds from Blocked Account (MC-358).
		Account period: 10-1-12 through 10-1-13	
	Aff.Sub.Wit.	Accounting: \$154,587.68	
✓	Verified	Beginning POH: \$112,753.23	
	Inventory	Ending POH: \$152,952.68 (cash)	
	PTC	Guardians: not requested	
	Not.Cred.	Attorney: \$1,250.00 (per local rule)	
✓	Notice of Hrg	Attorney (Trust preparation): \$2,750.00	
✓	Aff.Mail	Petitioners state that because the guardianship estate will be terminated, the guardians have directed the establishment of a trust for the benefit of Kaleb Schafer (attached Exhibit D) prepared by Attorney Stephen Denning. Petitioners request the Court authorize payment to Attorney Denning from the guardianship estate.	
	Aff.Pub.	<b>Petitioner prays for an order:</b>	
	Sp.Ntc.	1. Approving, allowing, and settling the third and final account;	
	Pers.Serv.	2. Authorizing attorney fees to Attorney Nancy Stegall;	
	Conf. Screen	3. Authorizing attorney fees to Attorney Stephen Denning for legal services related to trust agreement;	
	Letters	4. Approving the funding of the trust with the balance of the funds contained in the blocked guardianship estate account of \$152,852.68.	
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
✓	2620(c)		
	Order	X	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
		Reviewed by: skc	
		Reviewed on: 11-14-13	
		Updates:	
		Recommendation:	
		File 1 – Schafer	

(1) First Account and Report of Conservator of the Estate and Petition for Approval Thereof and (2) for Allowance of Compensation to Conservator of the Estate and (3) for Attorneys Fees

	<b>BRUCE D. BICKEL</b> , Conservator of the Estate with bond of \$1,298,519.36, is Petitioner.		<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> Harry Baker is Conservator of the Person.</p> <p><b>Note:</b> The Court will set a status hearing for the filing of the next account as follows:</p> <ul style="list-style-type: none"> <li>Friday 11-7-15</li> </ul> <p>If filed prior to that date per local rules, the status hearing may be taken off calendar.</p>
	Account period: 6-25-12 through 6-30-13		
	Accounting:	\$2,228,926.47	
	Beginning POH:	\$2,145,567.74	
	Ending POH:	\$2,081,185.53	
	Conservator: \$35,864.90 for 276 hours by petitioner and his staff. See declaration. Fees are both categorized by subject and itemized by date, including work regarding appointment matters, residence matters, property management, account management, income tax matters, and general administration. Petitioner states the complexity of the administration has been simplified under his management and the Conservatee has demanded less attention as the administration has found a routine. See analysis of time, compensation. Petitioner believes this amount is fair and reasonable.		
	Attorney: \$1,741.50 per Exhibit B		
	Bond of \$1,298,519.36 is sufficient.		
	<b>Petitioner prays for an order:</b>		
	1. Approving, allowing, and settling the account as filed;		
	2. Authorizing the conservators and attorney fees and commissions;		
	3. Such other relief as the Court considers proper.		
	<b>Aff.Sub.Wit.</b>		
✓	<b>Verified</b>		
✓	<b>Inventory</b>		
	<b>PTC</b>		
	<b>Not.Cred.</b>		
✓	<b>Notice of Hrg</b>		
✓	<b>Aff.Mail</b>	W	
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
	<b>Letters</b>		
	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
✓	<b>2620(c)</b>		
✓	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		
			<b>Reviewed by:</b> skc
			<b>Reviewed on:</b> 11-14-13
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 2 – Haney</b>

Atty Teixeira, J. Stanley, sole practitioner (for Petitioner Ray Harikian,

(1) Petition for Final Distribution on Waiver of Accounting and (2) Allowance of Statutory Commissions [Prob. C. 10400-10406, 10954, 11600-11642]

<b>DOD: 8/5/2012</b>		<b>RAY HARIKIAN</b> , Executor, is Petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Based upon the insufficient amount of cash remaining in the balance of property on hand as stated in <i>Exhibit E, Assets on Hand (\$9,503.61)</i>, <i>Petition</i> should but does not indicate the source of payment for statutory fees, costs and closing reserve.</p>
		Accounting is waived.	
		I & A — <b>\$250,475.40</b>	
<b>Cont. from</b>		POH — <b>\$179,259.61</b> (\$9,503.61 is cash)	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>	Executor — <b>\$7,766.51</b> <i>(statutory)</i>	
<input checked="" type="checkbox"/>	<b>Inventory</b>	Attorney — <b>\$7,766.51</b> <i>(statutory)</i>	
<input checked="" type="checkbox"/>	<b>PTC</b>	Costs — <b>\$1,555.99</b> <i>(deposited will fee, filing fee, probate referee, publication, certified copies)</i>	
<input checked="" type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>	<input type="checkbox"/> w/ <input type="radio"/> o	
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>	Closing — <b>\$2,000.00</b>	
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>	<b>Distribution pursuant to Decedent's Will, and to Beneficiary's Consent to Distribution of Personal Property and Other Assets filed 9/17/2013, is to:</b>	
<input type="checkbox"/>	<b>Letters</b>	092512	
<input type="checkbox"/>	<b>Duties/Supp</b>	<ul style="list-style-type: none"> <li>• <b>KYLE HARIKIAN</b> – \$5,000.00 cash;</li> <li>• <b>CLARK HARIKIAN</b> – 100% interest in real property, and an undivided ½ interest in furnishings, furniture, and personal belongings;</li> <li>• <b>RUSSELL HARIKIAN</b> – Equalizing promissory note of <b>\$37,679.30</b> @ 4% interest, and an undivided ½ interest in furnishings, furniture, and personal belongings.</li> </ul>	
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input checked="" type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input checked="" type="checkbox"/>	<b>FTB Notice</b>		
			<b>Reviewed by:</b> LEG
			<b>Reviewed on:</b> 11/18/13
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 3 – Harikian</b>

<b>Age: 91</b>		<b>CURTIS D. RINDLISBACHER</b> , petitioner, was Court appointed to represent the Conservatee on 05/21/13.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>DOB: 10-11-22</b>			
		<b>BROOKE A. CASTLE</b> , granddaughter, was appointed Conservator of the Person and Estate on 08/21/13.	1. Need proof of service by mail of <i>Notice of Hearing</i> at least 15 days before the hearing for: - Brooke Castle (conservator)
<b>Cont. from</b>		Petitioner requests fees in connection with the representation of the Conservatee for the petition to appoint a conservator.	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/>	<b>Verified</b>	Petitioner <b>asks that he be paid</b> from the conservatorship estate for <b>23 hours @ \$310.00/hour</b> and <b>1.85 hours @ \$100.00/hour for a total of \$7,315.00.</b>	
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>	Petitioner also requests that <b>he be reimbursed \$551.00</b> for costs incurred for telephonic appearance through Court Call and Filing fees.	
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>	Services are itemized by date and include review of documents, visits with clients, and court appearances.	
<input checked="" type="checkbox"/>	<b>Aff.Mail</b> w/		
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
			<b>Reviewed by:</b> JF
			<b>Reviewed on:</b> 11/14/13
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 4 – Stott</b>

Age: 7 months		<u>TEMPORARY EXPIRES 11/21/13</u>		<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Need proof of service 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> or Consent & Waiver of Notice or Declaration of Due Diligence for: a. Shawn Milton (father) – Personal service required b. Amanda Stivers (mother) – Personal service required <b>Note:</b> Declarations of Due Diligence filed 11/15/13 state that attempts to serve Shawn Milton (father) and Amanda Stivers (mother) were unsuccessful. c. Dorothy Milton (paternal grandmother) – service by mail sufficient (unless diligence is found, Declaration of Due Diligence filed 09/20/13 states that Petitioners were unable to locate an address for Ms. Milton)
		<b>MICHAEL WILLIAM PURKEY, JR.</b> , step-grandfather, and <b>JULIE ELIZABETH SKAGGS</b> , his fiancé, are Petitioners.		
Cont. from		Father: <b>SHAWN MILTON</b> – Declaration of Due Diligence filed 11/15/13  Mother: <b>AMANDA STIVERS</b> - Declaration of Due Diligence filed 11/15/13		
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg		Paternal grandfather: DON MILTON – served by mail on 09/20/13	
✓	Aff.Mail		Paternal grandmother: DOROTHY MILTON – Declaration of Due Diligence filed 09/20/13	
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.	x	Maternal grandfather: HERMAN DEMICK – served by mail on 09/20/13	
✓	Conf. Screen		Maternal grandmother: SHARI STIVERS – served by mail on 09/20/13	
✓	Letters			
✓	Duties/Supp			
	Objections		Siblings: CHARIZZINA BRIER (6), HAVENLEE BRIER (5), BLAKE BRIER (5), HARMONY MILTON (3), SERENITY MILTON (2)	
	Video Receipt			
✓	CI Report		<b>Petitioners allege</b> that the mother is a drug addict and homeless. CPS was going to remove the minor so the mother placed the child with Petitioners.	
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA		<b>Court Investigator Jennifer Daniel filed a report on 11/08/13.</b>	
	Citation			
	FTB Notice			
<b>Reviewed by:</b> JF				
<b>Reviewed on:</b> 11/14/13				
<b>Updates:</b> 11/15/13				
<b>Recommendation:</b>				
<b>File 5 – Milton</b>				

<b>Age:</b> 79	<b>TEMP DENIED 10-24-13</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<b>JULIE CASTILLO and CONNIE MARTINEZ</b> , Daughters, are Petitioners and request appointment as Co-Conservators of the Person with medical consent powers and dementia medication powers, and as Co-Conservators of the Estate without bond, funds blocked.	<b>Court Investigator advised rights on 11-12-13</b>
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		<b>Voting rights affected</b> - <b>Need minute order</b>
<input checked="" type="checkbox"/> <b>Verified</b>		<b>Minute Order 10-24-13 (Temp):</b> Ms. Walters informs the Court that her client owes Rosie Reyna about \$3,000.00 which she is currently paying. Parties agree to participate in mediation today at 1:30 p.m. Parties are ordered not to speak ill of one another around Rosie Reyna. Mr. Teixeira is ordered to remain as counsel for Rosie Reyna. Based on the report of the investigator and everything that has been heard today, the Court denies the petition. The General Hearing remains set for 11/21/13. Petition is denied.
<input type="checkbox"/> <b>Inventory</b>	<b>Voting rights affected</b>	<b>Note: Nothing further has been filed regarding the outcome of the mediation appointment.</b>
<input type="checkbox"/> <b>PTC</b>		<b>1. Need Confidential Supplemental Information Form GC-312. (This form provides information about the proposed Conservatee.)</b>
<input type="checkbox"/> <b>Not.Cred.</b>	<b>Estimated value of estate:</b>	<b>2. Need bond of \$110,000.00 per Cal. Rules of Court 7.207 and Probate Code §2320(c)(4).</b>
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	Personal property: \$100,000.00 (also Real property: \$100,000.00)	<b>3. Need Capacity Declaration in support of requests for medical consent and dementia powers.</b>
<input checked="" type="checkbox"/> <b>Aff.Mail</b> W	Cost of recovery: \$10,000.00	<b>4. Need order.</b>
<input type="checkbox"/> <b>Aff.Pub.</b>	Bond required: \$110,000.00	<b>Reviewed by:</b> skc
<input type="checkbox"/> <b>Sp.Ntc.</b>	<b>Need Capacity Declaration</b>	<b>Reviewed on:</b> 11-15-13
<input checked="" type="checkbox"/> <b>Pers.Serv.</b> W	<b>Petitioners state</b> their mother was diagnosed with dementia in 2010. Before this occurred, she had drafter a Power of Attorney for Health Care indicating Petitioners (daughters), Joseph (son), and Monica (granddaughter) as potential agents to assist in her health care decisions. In the last year, the family has witnessed actions by Joseph that have caused great concern regarding his motivation in assisting her. At this point, Joseph will not allow Petitioners access to any of their mother's finances and now utilizes a debit card in her name all over town. He has made significant cash withdrawals including removing approx. \$17,500 from the account. He insisted the money was his, even though he is unemployed and contributes no funds to the account. In addition, he has been talking derogatorily and with obscene profanity toward their mother and tells her that nobody wants her and if he did not live with her she would be all alone. She is afraid to say anything to him. Petitioners state he took her to an attorney, but she does not know what she signed. He does not allow her to go to the doctor and threatens to not feed her if she does not listen to him. Petitioners state their mother is not capable of making decisions on her own and are concerned that something may happen to her if conservatorship is not granted.	<b>Updates:</b>
<input checked="" type="checkbox"/> <b>Conf. Screen</b> X		<b>Recommendation:</b>
<input checked="" type="checkbox"/> <b>Letters</b>		<b>File 6 – Reyna</b>
<input checked="" type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input checked="" type="checkbox"/> <b>Video Receipt</b>		
<input checked="" type="checkbox"/> <b>CI Report</b>		
<b>9202</b>		
<input type="checkbox"/> <b>Order</b> X		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input checked="" type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
	<b><u>SEE ADDITIONAL PAGES</u></b>	

Page 2

Petitioners filed declarations in support of the petition from Bernardo Reyna (son), Julien Castillo (son-in-law), Paul Reyna (brother-in-law), Jonathan Martinez (grandson), Dorothy Martinez (family member), Harry Martinez (son-in-law), Cameron Martinez (grandson), Corina Martinez (granddaughter), Diane A. Frias (niece), Lydia Leong (family friend and former girlfriend of Joe), and Monica Estrada (granddaughter). See declarations for details.

Court Investigator Samantha Henson filed a report on 11-14-13.

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**Declaration of Attorney Lisa Horton filed 11-19-13 states** that on 11-15-13, she was on the telephone with her client Julie Castillo who was standing in front of the proposed conservatee's residence attempting to visit with her mother. Attorney Horton heard Joseph Reyna yelling at Rosie and her clients through the phone, including yelling out, "They just want your money mom, don't let them in."

**Ex Parte Petition for Modification of Trust and for Appointment of Trustee**

		<b>A. MARIE RICHARDS</b> , beneficiary, is Petitioner.
<b>Cont. from</b>		
	<b>Aff.Sub.Wit.</b>	
✓	<b>Verified</b>	
	<b>Inventory</b>	
	<b>PTC</b>	
	<b>Not.Cred.</b>	
✓	<b>Notice of Hrg</b>	
✓	<b>Aff.Mail</b>	w/o
	<b>Aff.Pub.</b>	
	<b>Sp.Ntc.</b>	
	<b>Pers.Serv.</b>	
	<b>Conf. Screen</b>	
	<b>Letters</b>	
	<b>Duties/Supp</b>	
	<b>Objections</b>	
	<b>Video Receipt</b>	
	<b>CI Report</b>	
	<b>9202</b>	
✓	<b>Order</b>	
	<b>Aff. Posting</b>	
	<b>Status Rpt</b>	
	<b>UCCJEA</b>	
	<b>Citation</b>	
	<b>FTB Notice</b>	
		<p><b>Petitioner states:</b></p> <ol style="list-style-type: none"> <li>On 02/15/80, THOMAS G. RICHARDS ("Trustor"), established the THOMAS G. RICHARDS INSURANCE TRUST (the "Trust") for the benefit of Petitioner, Terry Richards, and certain issue of Trustor. Pursuant to section X, the Trust is irrevocable and Trustor retained no right to alter, amend, revoke, or terminate the Trust, in whole or in part.</li> <li>James M. Bell and Paul McLean, the original named trustees have resigned as trustees. The other named successor trustees under the Trust are unwilling to act as successor trustees. J. Michael Finch is willing to act as successor trustee and Jeff Roland is willing to act as successor trustee after J. Michael Finch. J. Michael Finch is a CPA, familiar with the Trust and its operations and is an appropriate person to serve as Successor Trustee.</li> <li>Petitioner is the sole beneficiary of the Trust.</li> <li>The Trust has no current trustee. The Trust provides that the trustee is the person authorized to petition concerning administration of the Trust. Since there is no trustee, the beneficiary is making this Petition because the Trustor retained no power with respect to the Trust.</li> <li>The other originally named beneficiary, Terry D. Richards, has died without issue and his death is addressed in the modification for the sake of clarity. Also, Petitioner no longer wishes to remain a beneficiary. The new beneficiaries are the natural objects of Trustor's affection.</li> </ol> <p style="text-align: center;">Continued on Page 2</p>
		<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>The Petition does not make a statement regarding those parties who are entitled to notice as required pursuant to Probate Code §17201.</li> <li>Need Bond or Consent &amp; Waiver of Bond from Deborah G. Brooks (proposed beneficiary under modified trust)</li> </ol> <p><b>Note:</b> Consents and Waiver of Bond have been filed by Suzanne McDiarmid and Deborah G. Brooks (proposed beneficiaries under modified trust).</p> <p>Waivers of Notice of Hearing and Consent to Modification of Trust and to Appointment as Successor Trustee(s) filed by J. Michael Finch and Jeff Rowland.</p> <p>Consent to Modification of Trust filed 11/14/13 by Trustor, Thomas G. Richards</p>
		<b>Reviewed by:</b> JF
		<b>Reviewed on:</b> 11/15/13
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 7 – Richards</b>

6. The tax law regarding the annual gift tax exclusion has been increased beyond the amount set forth in the original Trust, and the parties wish to modify it to take into account the increased limitation. The Trust takes advantage of the 1980 annual gift tax exclusion amount which was increased subsequent to 02/15/80 and is currently set at \$14,000.00 per person, per year, subject to further adjustment for inflation, pursuant to Section 2503(b)(2) of the Internal Revenue Code.
7. Petitioner requests that the Trust be modified and restated in its entirety in the form stated in Exhibit "B" to the Petition.
8. The sole beneficiary is Petitioner. Trustor and the proposed Trustee, J. Michael Finch, have filed written consents agreeing to the appointment and consenting to the trust modification and waiving notice of hearing.
9. The Court may properly grant this Petition, because all persons interested in the Trust have either consented to the matters herein by joining in the petition or have waived Notice of Hearing.

**Petitioner prays for an Order:**

1. Modifying and restating the Trust in the form attached as Exhibit "B", including the appointment of J. Michael Finch as Successor Trustee.

**Memorandum of Points and Authorities in Support of Petition for Modification of Trust and for Appointment of Trustee** filed 10/16/13 states:

1. Probate Code § 17200(a) authorizes a petition by a beneficiary concerning the internal affairs of a trust. Probate Code § 17200(b)(10) covers appointing a trustee and Probate Code § 17200(b)(13) covers approving modification of the trust.
2. Probate Code § 15404(a) provides that "If the Settlor and all beneficiaries of a trust consent, they may compel the modification or termination of the trust". Because the sole surviving beneficiary (Petitioner, A. Marie Richards) requests the modification, and Settlor (Thomas G. Richards) has consented, the Court may properly grant the Petition.
3. Probate Code § 15403(a) provides that upon petition of all beneficiaries, unless the Court determines that "the continuance of the trust is necessary to carry out a material part of the trust." Even in such circumstance, the Court is still permitted to modify an irrevocable trust if the Court, "in its discretion, determines that the reason for doing so under the circumstances outweighs the interest in accomplishing a material purpose of the trust." Probate Code § 15103(b).
4. Section 2503(b) of the Internal Revenue Code establishes an annual gift tax exclusion of up to \$10,000.00 per donee per year adjusted upward for inflation. When Thomas G. Richards established the Trust, he intended to create an entity into which persons could make gifts that qualified for the full federal gift tax annual exclusion. To obtain such favorable treatment, an irrevocable trust must contain a "Crummey" provision (which grants the beneficiary a limited right to withdraw additional gifts) or the Internal Revenue Service will not allow the donor to shelter such gifts under the annual gift tax exclusion. Crummey powers are typically used in irrevocable inter vivos trusts to qualify gifts to the trust for the annual gift tax exclusion when the trust instrument does not require that all of the income be distributed to a beneficiary on a current basis. If a Crummey power is properly drafted, the beneficiary who holds the power will be deemed to have a present interest in the gifts. If the donor has made no other gifts to or for the benefit of the beneficiary in a particular year, the donor can give a full \$10,000.00 to the trust (plus the IRC 2503(b) inflation adjustment), and the entire gift will be sheltered from gift taxation under the annual exclusion. As now written, the Trust Agreement permits the beneficiary to make such withdrawals only up to \$10,000.00. Thus gifts in excess of \$10,000.00 may not qualify for the gift tax annual exclusion because the Trust does not incorporate the inflation adjustment language of IRC 2503(b)(2). As a result, persons who may be inclined to make gifts to the Trust are dissuaded from doing so because such gifts are not sheltered by the gift tax annual exclusion. By making the requested modification, persons who make gifts to the Trust can utilize the \$10,000 (plus inflation adjustment), gift tax annual exclusion and will, therefore, be motivated to make annual gifts to the trust of up to \$10,000 (plus inflation adjustment). Such additional gifts will obviously benefit the beneficiary of the Trust.

5. The Trust has only one beneficiary. Petitioner is settlor's mother and no longer desires to be the beneficiary and is likely to predecease settlor due to their relative ages. Settlor has no children. The Trust must have a beneficiary. Accordingly, Petitioner has requested that the Trust be modified to name beneficiaries who are the natural objects of settlor's affection.
6. Appointment of a trustee to fill a vacancy is governed by Probate Code § 15660. In this case, the vacancy cannot be filled by the named successors, Petitioner prefers not to name a trust company. Accordingly, under Probate Code § 15660(d), the sole beneficiary as an interested person, has petitioned the Court to appoint a trustee.

**Supplemental Memorandum of Points and Authorities** filed 11/14/13 states:

1. Probate Code § 15602(b) provides the court may waive bond upon "request by all the adult beneficiaries of a trust that bond be waived" in the case of a court appointee. Petitioner has submitted written waivers of bond from Suzanne McDiarmid and Deborah J. Brooks, who are all of the adult beneficiaries under the modified trust.

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

<b>DOD: 2/23/2002</b>	RUTH RATZLAFF was appointed as Executor with full IAEA authority and without bond on 7/23/2002.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	Inventory and appraisal filed on 10/11/2002 showing and estate valued at \$58,535.48, of which 48,149.26 was cash.	<b>Continued from 11/8/13. Minute order states Ruth Ratzlaff is ordered to be personally present at the next hearing.</b> (Note: a copy of the minute order was not mailed to Ruth Ratzlaff)
<b>Cont. from 110813</b>		
<b>Aff.Sub.Wit.</b>	First account or petition for final distribution was due 7/23/2003.	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.
<b>Verified</b>		
<b>Inventory</b>	Notice of Status Hearing was mailed to attorney Catherine Sharbaugh on 9/11/13.	
<b>PTC</b>		
<b>Not.Cred.</b>	<b>Note:</b> The beneficiaries of this estate are several charities; Nature Conservancy, Fresno Zoological Society, Children's International, Saint Labre Indian School, Poverello House and St. Agnes Hospice.	
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by: KT</b>
		<b>Reviewed on: 11/15/2013</b>
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 8 – Bruce</b>

Atty Bohn, Jeffrey D., sole practitioner (for Erlinda M. Verni, surviving spouse)  
 Atty Baldwin, Kenneth; Thompson, Timothy L.; Cunningham, Nikole E.; of McCormick Barstow (for Nicola Verni, son, and Antonietta R. Verni, daughter, Trustees)  
 Atty Jaech, Jeffrey A.; Marchini, Joseph M.; of Baker Manock & Jensen (for Carmela DeSantis, daughter and beneficiary)

Status Hearing

DOD: 5/25/2009	<p><b>ERLINDA M. VERNI</b>, spouse, filed on 5/13/2010 a <i>Petition to Set Aside the Non-Probate Transfer of Community Property on Death, by Married Person Without Consent of Spouse</i>; an Amended Petition was filed on 7/30/2010; <i>Second Amended Petition</i> was filed on 10/29/2010.</p> <p><b>ANTONIETTA ROSA VERNI</b>, daughter and Successor Trustee of the <b>VERNI FAMILY TRUST</b> and the <b>VERNI MARITAL TRUST</b>, and <b>NICOLA VERNI</b>, son and Successor Trustee of the <b>VERNI SURVIVOR'S TRUST</b>, filed on 9/3/2010 a <i>Response to Amended Petition to Set Aside the Non-Probate Transfer of Community Property, etc.</i>; <i>Response to Second Amended Petition</i> was filed on 2/18/2011.</p> <p><b>Statement of Decision filed 3/14/2013</b> ordered, among the substantive holdings, that a Status Conference be set regarding outstanding issues remaining before the Court (specifically in part, regarding whether any community property accumulated between the date of marriage of Saverio and Erlinda and the date the Post-Marital Agreement was executed.) The following Status Hearing settings and continuances have occurred:</p> <ul style="list-style-type: none"> <li>• <b>Notice of Setting Hearing (Probate) filed 6/28/2013</b> set a Status Hearing on 8/30/2013.</li> <li>• <b>Minute Order dated 8/30/2013 states</b>, in pertinent part, that Mr. Childs informs the Court that he has tried to certify this matter for appeal, but it was rejected. Trial date to be addressed at the [9/27/2013] hearing.</li> <li>• <b>Minute Order dated 9/27/2013</b> continued the matter to 10/17/2013 based upon Mr. Childs' inability to appear.</li> <li>• <b>Minute Order dated 10/17/2013</b> continued the matter to 10/30/2013.</li> <li>• <b>Minute Order dated 10/30/2013</b> states Mr. Thompson is directed to advise Mr. Bohn of the next hearing date; matter continued to <b>12/6/2013</b>.</li> <li>• <b>Minute Order dated 11/7/2013 (Matter Not on Calendar)</b> set this Status Hearing on 11/21/2013, stating: At request of counsel, the matter is set for <i>Settlement Conference</i> on <b>2/3/2014</b> and <i>Court Trial</i> on <b>2/10/2014</b>. Trial estimate is 1 – 2 hours. Counsel is directed to submit their settlement conference statements along with courtesy copies for the Court one week before the hearing.</li> </ul>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Need current status report pursuant to Local Rule 7.5(B).</p> <p><b>Note:</b> <i>Petition for Review of Accounts and Acts of Trustees</i> filed by Carmela DeSantis in the <b>Verni Family Trust (10CEPR00639)</b> is set for hearing on <b>12/6/2013</b>.</p>	
Cont. from 083013, 092713, 101713, 103013			
Aff.Sub.W.			
Verified			
Inventory			
PTC			
Status Rpt			X
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/S			
Objection			
Video Receipt			
CI Report			
9202			
Order			
Aff. Post			
Notice Creditors			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: LEG	
		Reviewed on: 11/18/13	
		Updates:	
		Recommendation:	
		File 9 – Verni	

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

Age: 16 months	<b>TEMPORARY EXPIRES 11/21/13</b>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>CONTINUED FROM 06/25/13</b>  <b>Minute Order from 06/25/13 states: Father objects to guardianship. Temp extended to 11/21/13.</b></p> <p><b>As of 11/14/13, nothing new has been filed in this matter.</b></p> <ol style="list-style-type: none"> <li>1. Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person or Consent &amp; Waiver of Notice or Declaration of Due Diligence</i> for: <ul style="list-style-type: none"> <li>- Darwin Bush, Jr. (father?)</li> <li><b>Note:</b> A notice of hearing for the hearing on the Temporary Guardianship was filed 01/28/13 reflecting personal service on Mr. Bush on 01/11/13, it is unclear however, if he was also served with a copy of the documents and also with a Notice of Hearing regarding the hearing on 03/12/13.</li> </ul> </li> <li>2. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person or Consent &amp; Waiver of Notice or Declaration of Due Diligence</i> for: <ul style="list-style-type: none"> <li>- Paternal grandparents</li> <li>- Maternal grandfather</li> </ul> </li> </ol>
	<b>DONYALE KINGSBY</b> , maternal grandmother, is Petitioner.	
	Father: <b>DARWIN BUSH, JR.</b> – <i>Personally served on 01/11/13</i>	
Cont. from 031213, 062513	Mother: <b>SHAKIRA MONIQUE ROSEMOND</b> – <i>Personally served on 01/15/13</i>	
Aff.Sub.Wit.	Paternal grandfather: NOT LISTED	
✓ Verified	Paternal grandmother: JANET MACKLIN	
Inventory	Maternal grandfather: NOT LISTED	
PTC	<b>Petitioner alleges</b> that the mother is incarcerated and the father is unknown. Petitioner states that the mother gave Petitioner custody of the child.	
Not.Cred.	<b>Court Investigator Samantha Henson filed a report on 03/05/13.</b>	
✓ Notice of Hrg		
Aff.Mail x		
Aff.Pub.		
Sp.Ntc.		
✓ Pers.Serv.		
✓ Conf. Screen		
✓ Letters		
✓ Duties/Supp		
Objections		
Video Receipt		
CI Report x		
9202		
✓ Order		
Aff. Posting		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		
		<b>Reviewed by:</b> JF
		<b>Reviewed on:</b> 11/14/13
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 10 - Bush</b>

Petition for Probate of Will and for Letters Testamentary (Prob. C. 8002, 10450)

<b>DOD: 06/12/2013</b>		<b>MARC GRAHAM</b> , son/named executor without bond, is petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Proposed personal representative is a resident of Chandler, Arizona. Probate Code § 8571 states notwithstanding a waiver of bond, the Court in its discretion may require a nonresident personal representative to give a bond in an amount determined by the Court. – Declaration of the Petitioner filed on 11/18/13 states he is aware of the decedent's financial affairs. There are no known liabilities and the estate is solvent. Therefore he requests that the bond be waived.</p> <ul style="list-style-type: none"> <li>- Waiver of bond filed by Kenneth Graham (the other beneficiary of the estate) on 11/18/2013.</li> </ul> <p><b>Note: If the petition is granted status hearings will be set as follows:</b></p> <ul style="list-style-type: none"> <li>• <b>Friday, 04/25/2014 at 9:00a.m. in Dept. 303</b> for the filing of the inventory and appraisal <u>and</u></li> <li>• <b>Friday, 01/23/2015 at 9:00a.m. in Dept. 303</b> for the filing of the first account and final distribution.</li> </ul> <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>
		Petitioner is a resident of Chandler, Arizona.	
<b>Cont. from 100313</b>			
	<b>Aff.Sub.Wit.</b>	IAEA – Not Requested	
✓	<b>Verified</b>	Will dated: 02/17/1994	
	<b>Inventory</b>	Residence: Fresno	
	<b>PTC</b>	Publication: The Business Journal	
	<b>Not.Cred.</b>		
✓	<b>Notice of Hrg</b>	<b>Estimated value of the Estate:</b>	
✓	<b>Aff.Mail</b>	Real property - \$170,800.00	
✓	<b>Aff.Pub.</b>	Probate Referee: Rick Smith	
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
✓	<b>Letters</b>		
✓	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
	<b>9202</b>		
✓	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		
		<b>Reviewed by:</b> LV	
		<b>Reviewed on:</b> 11/15/2013	
		<b>Updates:</b> 11/20/13 (KT)	
		<b>Recommendation:</b>	
		<b>File 11 – Graham</b>	

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

<b>Age: 4 months</b>		<b><u>TEMPORARY EXPIRES 07/21/13</u></b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>CINDY MENDEZ</b> , paternal grandmother, is Petitioner.		1. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: <ul style="list-style-type: none"> <li>- Paternal grandfather</li> <li>- George Dominguez (maternal grandfather)</li> <li>- Barbara Dominguez (maternal grandmother)</li> </ul>	
		Father: <b>SAMUEL FIERRO</b> – Personally served on 09/22/13			
		Mother: <b>SAMANTHA DOMINGUEZ</b> – Personally served on 09/22/13			
		Paternal grandfather: NOT LISTED			
		Maternal grandfather: GEORGE DOMINGUEZ			
		Maternal grandmother: BARBARA DOMINGUEZ			
		Siblings: JAMES HICKEY (9), MATTHEW MENDOZA (4)			
		<b>Petitioner alleges</b> that neither parent is currently able to provide a safe home due to drug abuse. The father is currently completing a rehab program, but the mother refuses to get help. On 07/05/13, Pepper and her siblings were removed from their mother's care by CPS due to her unstable and unhealthy living environment.			
		<b>Court Investigator Jennifer Young, filed a report on 11/14/13.</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<b>Verified</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Inventory</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>PTC</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Not.Cred.</b>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Aff.Mail</b>	<input checked="" type="checkbox"/>	x		
<input type="checkbox"/>	<b>Aff.Pub.</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Sp.Ntc.</b>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<b>Pers.Serv.</b>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<b>Conf. Screen</b>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<b>Letters</b>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<b>Duties/Supp</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Objections</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Video Receipt</b>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<b>CI Report</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>9202</b>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<b>Order</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Aff. Posting</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Status Rpt</b>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<b>UCCJEA</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Citation</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>FTB Notice</b>	<input type="checkbox"/>			
				<b>Reviewed by:</b> JF	
				<b>Reviewed on:</b> 11/18/13	
				<b>Updates:</b>	
				<b>Recommendation:</b>	
				<b>File 12 – Fierro</b>	

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

<b>Age: 18</b>		<b><u>GENERAL HEARING 11/21/2013</u></b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<p><b>GURSHARN MANGAT</b>, mother is petitioner and requests appointment as conservator of the person, with medical consent powers.</p>		<p><b>Court Investigator Advised Rights on 11/01/2013.</b></p>	
<b>Cont. from</b>		<p>Declaration of Manlin Jin, M.D. supports request for medical consent powers.</p>		<p><b>Voting Rights Affected need Minute Order.</b></p>	
	<b>Aff.Sub.Wit.</b>		<p>Voting Rights Affected</p> <p><b>Petitioner states:</b></p> <ol style="list-style-type: none"> <li>1) Cereb Degen in Child Nos ICD – 9- CM 330.9</li> <li>2) Lobectomy or Lung NEC 32.49</li> <li>3) Acute and Chronic Respiratory Failure 518.84</li> <li>4) Respirator Dependent Status v 46.11</li> <li>5) Tracheostomy v 55.0</li> <li>6) Gastrostomy v 55.1</li> <li>7) Epi Par cont with intro Epi 345.21</li> </ol> <p><b>Court Investigator Charlotte Bien's Supplemental report filed 11/05/2013.</b></p>	<ol style="list-style-type: none"> <li>1. Need Citation.</li> <li>2. Need proof of personal service of the citation and a copy of the Petition on the proposed conservatee.</li> <li>3. Need Notice of Hearing.</li> <li>4. Need proof of service at least fifteen (15) days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Conservator for:           <ul style="list-style-type: none"> <li>• Ripodaman S. Mangat (Father)</li> <li>• Gumoor K. Mangat (Sister)</li> <li>• Gurchetan S. Mangat (Brother)</li> <li>• Avinder S. Mangat (Grandfather)</li> <li>• Kamua Jeet K Mangat (Grandmother)</li> <li>• Central Valley Regional Center per Probate Code § 1822 (e).</li> </ul> </li> <li>5. Need Video Receipt for conservator pursuant to Local Rule 7.15.8(A).</li> <li>6. Confidential Screening form is incomplete.</li> </ol>	
<input checked="" type="checkbox"/>	<b>Verified</b>				
	<b>Inventory</b>				
	<b>PTC</b>				
	<b>Not.Cred.</b>				
	<b>Notice of Hrg</b>	x			
	<b>Aff.Mail</b>	x			
	<b>Aff.Pub.</b>				
	<b>Sp.Ntc.</b>				
	<b>Pers.Serv.</b>				
	<b>Conf. Screen</b>				
<input checked="" type="checkbox"/>	<b>Letters</b>				
<input checked="" type="checkbox"/>	<b>Duties/Supp</b>				
	<b>Objections</b>				
	<b>Video Receipt</b>				
<input checked="" type="checkbox"/>	<b>CI Report</b>				
	<b>9202</b>				
<input checked="" type="checkbox"/>	<b>Order</b>				
	<b>Aff. Posting</b>				
	<b>Status Rpt</b>				
	<b>UCCJEA</b>				
	<b>Citation</b>				
	<b>FTB Notice</b>				
				<b>Reviewed by: LV</b>	
				<b>Reviewed on: 11/15/2013</b>	
				<b>Updates:</b>	
				<b>Recommendation:</b>	
				<b>File 13 – Mangat</b>	

Adriana, age 11	<p><b>TEMP GRANTED EX PARTE EXPIRES 11-21-13</b></p> <p><b>GENERAL HEARING 1-9-14</b></p> <p><b>OFELIA GONZALEZ HERNANDEZ</b>, Maternal Grandmother, is Petitioner.</p> <p>Father (Adriana): <b>JORGE AMARO</b>                  Father (Melanie and Nathan):  <b>VIDAL JESUS SALAIZ</b></p> <p>Mother: <b>YVETTE MEDRANO</b></p> <p>Paternal Grandfather (Adriana): Lucio Barrios                  Paternal Grandmother (Adriana): Alfa Hernandez</p> <p>Paternal Grandfather (Melanie and Nathan): Guadalupe Salaiz                  Paternal Grandmother (Melanie and Nathan): Unknown</p> <p><b>Petitioner states</b> the mother is on the streets using drugs. CPS is involved and has asked her to file for guardianship. Temporary guardianship is necessary because Adriana's father is going to the school and taking her whenever he feels like it. He threatens to take her to live with him but he has a long criminal history. He is a gang member and was arrested for having weapons in his vehicle. He is also curnelty paying a ticket for DUI and continues to drink. He was at Wasco and may still be on parole. The minor has told Petitioner that his wife screams at her and she does not want to go there, she wants to be with her siblings and stay in Petitioner's care.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Need proof of personal service of Notice of Hearing at least five court days prior to the hearing per Probate Code §2250(e) on:</p> <ul style="list-style-type: none"> <li>- Jorge Amaro (Father)</li> <li>- Vidal Jesus Salaiz (Father)</li> <li>- Yvette Medrano (Mother)</li> </ul> <p><b>Note to Judge:</b> Temp was granted ex parte; therefore, there is no order in the file to sign. Temp may be extended by minute order.</p>	
Melanie, age 7			
Nathan, age 5			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
Aff.Mail			
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><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 11-15-13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 14 – Medrano &amp; Salaiz</b></p>		

**Petition for Appointment of Temporary Guardianship of the Person**

<b>Age:</b> 17	<b>GENERAL HEARING 1-13-14</b>	<b>NEEDS/PROBLEMS/ COMMENTS:</b>
	<b>VERONICA AREVALO</b> , Paternal Aunt, is Petitioner.	<p>1. <b>Need proof of service of Notice of Hearing with a copy of the temp petition on the minor (age 17) and the parents per Probate Code §2250(e).</b></p>
	Father: <b>JUAN ANTONIO AREVALO</b> Mother: <b>MARTA LUZ IRAHETA GARCIA</b>	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Paternal Grandfather: Luis Alonso Membreno Hernandez Paternal Grandmother: Leonidas Arevalo Viuda de Gonzalez	
<input checked="" type="checkbox"/> <b>Verified</b>	Maternal Grandfather: Antonio Hernandez (deceased) Maternal Grandmother: Maxima Membreno (deceased)	
<input type="checkbox"/> <b>Inventory</b>	Siblings: Luis Alonzo Arevalo; Angela D. Jesus Arevalo	
<input type="checkbox"/> <b>PTC</b>	<b>Petitioner states</b> the minor's mother abandoned him in El Salvador when he was a baby. He has had little to no contact with his father because his father's new girlfriend forbids them to have contact. The minor needs a legal guardian to direct medical treatment should an emergency arise and school has no legal guardian to contact regarding his education concerns/needs. Petitioner states the minor has been in the United States for the last two months, and besides the proposed guardian, the minor has no knowledge of the whereabouts of any other family member in the US willing to care for him. The father resides in New York but refuses to have contact with him. It is believed that the mother is somewhere in El Salvador.	
<input type="checkbox"/> <b>Not.Cred.</b>	Declaration of minor Francisco A. Arevalo-Iraeta states he entered the US in June 2013 and is requesting that Veronica Arevalo be appointed as his guardian. When he lived in El Salvador, his life was in danger because he was constantly being approached by gang members. His grandparents were unable to protect him and were also unable of financially provide for him; therefore, he came to the US. Since arriving, he has been with his aunt, Petitioner Veronica Arevalo. He hopes to have a better life in the US and is extremely scared to return to El Salvador.	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	As such, the minor is attempting to adjust his status through the Special Immigrant Juvenile of the Immigration and Nationality Act. To do so, he must file the application before he turns 18.	
<input type="checkbox"/> <b>Aff.Mail</b>	The minor states Petitioner has been taking very good care of him and he feels safe with her. Because of how she provides for him, he is doing well in school.	
<input type="checkbox"/> <b>Aff.Pub.</b>	<b>Attached:</b> Translated document from the grandparents giving guardianship of the minor to Petitioner.	
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input checked="" type="checkbox"/> <b>Pers.Serv.</b>		
<input checked="" type="checkbox"/> <b>Conf. Screen</b>		
<input checked="" type="checkbox"/> <b>Letters</b>		
<input checked="" type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input checked="" type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
		<p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 11-15-13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 15 – Arevalo-Iraheta</b></p>

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

		<b>TEMP EXPIRES 11-21-13</b>	<b>NEEDS/PROBLEMS/ COMMENTS:</b>
		<b>DARLA and JESUS GRAJIOLA</b> , Paternal Grandmother and Step-Grandfather, are Petitioners.	<p><b>Note: This petition is for minor Jayda Esparza only.</b></p> <ol style="list-style-type: none"> <li>1. Need Notice of Hearing.</li> <li>2. Need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing date per Probate Code §1511 <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on: <ul style="list-style-type: none"> <li>- Manuel Esparza (paternal grandfather)</li> <li>- Maternal Grandfather</li> <li>- Aurora Pacheco (maternal grandmother)</li> </ul> </li> <li>3. Notice to the mother was excused at the temp hearing on 10-31-13. The Court may require clarification regarding further efforts to have her personally served for this hearing pursuant to Probate Code §151.</li> <li>4. According to the Proof of Service filed 10-31-13, Joe Manuel Esparza (father) was served at the Fresno County Jail with a Notice of Hearing only, without a copy of the petition. The Court may require amended service pursuant to Probate Code §1511. (Note: Also, because a Notice of Hearing was not filed, it is not known whether the Notice indicated the correct information about today's hearing date.</li> </ol>
	<b>Aff.Sub.Wit.</b>	Father: <b>JOE MANUEL ESPARZA</b>	
✓	<b>Verified</b>	- Served with Notice of Hearing only 10-31-13	
	<b>Inventory</b>	Mother: <b>YVONNE PACHECO</b>	
	<b>PTC</b>	- Declaration of Due Diligence filed 9-30-13	
	<b>Not.Cred.</b>	- Diligence Found at temp hearing 10-3-13	
	<b>Notice of Hrg</b>	X	
	<b>Aff.Mail</b>	X	
	<b>Aff.Pub.</b>	Paternal Grandfather: Manuel Esparza Maternal Grandfather: Unknown Maternal Grandmother: Aurora Pacheco	
	<b>Sp.Ntc.</b>	Siblings: Jacob Navarez, Jayson Villa	
	<b>Pers.Serv.</b>	X	
✓	<b>Conf. Screen</b>	<b>Petitioner states</b> Jayda was removed by CPS from her home on 9-13-13 due to the living conditions and the fact that her grandmother where she was living is unable to give proper care and guidance. A copy of the Team Decision-Making Summary Report Permanency Planning dated 9-16-13 is attached.	
✓	<b>Letters</b>		
✓	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
✓	<b>CI Report</b>		
✓	<b>Clearances</b>		
✓	<b>Order</b>	<b>Court Investigator Dina Calvillo filed a report on 11-6-13.</b>	
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
✓	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		
			<b>Reviewed by:</b> skc
			<b>Reviewed on:</b> 11-18-13
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 16A – Esparza &amp; Villa</b>

		NEEDS/PROBLEMS/COMMENTS:  <u>CONFIDENTIAL</u>
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: 11-18-13
		Updates:
		Recommendation:
		File 16B – Esparza & Villa

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

Age: 4		<b><u>GENERAL HEARING 01/14/14</u></b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		SHARRI HOOD, paternal great-aunt, is Petitioner.		1. Need <i>Notice of Hearing</i> .	
		Father: JONATHAN LOPES Mother: MATCHETTE LOPEZ		2. Need proof of personal service at least 5 court days before the hearing date of <i>Notice of Hearing</i> with a copy of the <i>Petition for Temporary Guardianship or Consent &amp; Waiver of Notice</i> for:	
Cont. from		Paternal grandfather: EDWARD LOPES Paternal grandmother: LINDA ROBERSON – <i>Consent &amp; Waiver of Notice filed 11/12/13</i>		- Jonathan Lopes (father) – Declaration of Due Diligence filed 11/18/13 states that the father is homeless and Petitioner has went to every place the father is known to stay, but has been unable to locate him	
<input type="checkbox"/>	Aff.Sub.Wit.			- Matchette Lopez (mother) – Declaration of Due Diligence filed 11/18/13 states the mother is homeless. Petitioner states that she has tried texting her several times, but she does not respond. Petitioner states that she has let her know about the hearing by text message but she has not responded.	
<input checked="" type="checkbox"/>	Verified	Maternal grandfather: UNKNOWN Maternal grandmother: KYLENE BENNETT			
<input type="checkbox"/>	Inventory	Siblings: JORDAN, JOSHUA, SARAH, ANGELINA			
<input type="checkbox"/>	PTC	<b>Petitioner alleges</b> that the mother is homeless, on drugs, and in an abusive relationship. Aiden has special needs and needs to be enrolled in special education classes. Petitioner states that temporary guardianship is needed so that she can enroll Aiden in school.			
<input type="checkbox"/>	Not.Cred.				
<input type="checkbox"/>	Notice of Hrg	<input checked="" type="checkbox"/>			
<input type="checkbox"/>	Aff.Mail				
<input type="checkbox"/>	Aff.Pub.				
<input type="checkbox"/>	Sp.Ntc.				
<input type="checkbox"/>	Pers.Serv.	<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/>	Conf. Screen				
<input checked="" type="checkbox"/>	Letters				
<input checked="" type="checkbox"/>	Duties/Supp				
<input type="checkbox"/>	Objections				
<input type="checkbox"/>	Video Receipt				
<input type="checkbox"/>	CI Report				
<input type="checkbox"/>	9202				
<input checked="" type="checkbox"/>	Order				
<input type="checkbox"/>	Aff. Posting			Reviewed by: JF	
<input type="checkbox"/>	Status Rpt			Reviewed on: 11/18/13	
<input checked="" type="checkbox"/>	UCCJEA			Updates: 11/19/13	
<input type="checkbox"/>	Citation			Recommendation:	
<input type="checkbox"/>	FTB Notice			File 17 – Kaiserman	

Atty Widdis, Lawrence A.; Widdis, Laura, of Widdis & Widdis, Glendale (for Temporary Conservator, Carol J. Wertheim)

Atty Fanucchi, Edward L.; Mahoney, Michael; of Quinlan Kershaw & Fanucchi (Court-appointed for Conservatee)

**Notice of Motion and Motion of Proposed Conservatee, Ellard V. Youngberg, for Reconsideration of Court's 10-25-13, Order Appointing Conservator; Memorandum of Points and Authorities; Declaration of Edward L. Fanucchi**

Age: 91 years	<p><b>CAROL J. WERTHEIM</b>, daughter, Petitioned the Court requesting appointment as Conservator of the Person with medical consent and dementia powers to administer dementia medications; and of the Estate with bond set at <b>\$255,700.00</b>.</p> <p><b>Minute Order dated 10/25/2013 from the hearing on the Petition to Appoint Conservator appoints Carol Wertheim as Temporary Conservator of the Person, and states in pertinent part:</b></p> <ul style="list-style-type: none"> <li>• Dan Fry was present on 7/25/2013 and he is not present here today;</li> <li>• Mr. and Mrs. Youngberg were directed to be present today and they are not;</li> <li>• A representation has been made to the Court that the terms of the mediation agreement have not been adhered to, specifically the installation of the telephone; and</li> <li>• On 7/25/2013, Mr. Fanucchi was ordered to set up an appointment to have Ellard Youngberg examined, which did not take place until 10/23/2013;</li> <li>• The Court appoints Carol Wertheim as temporary conservator of the person with limited powers to facilitate visits as deemed appropriate, ensure the installation of the telephone, look into a hearing device, and to take such actions as deemed necessary to facilitate communication with the staff at the facility regarding meals etc.;</li> <li>• The temporary conservator shall be limited to these powers until further order of the Court;</li> <li>• This temporary conservatorship does not authorize the execution of documents or any estate planning on behalf of Ellard Youngberg;</li> <li>• The Court indicates to the parties that it is issuing this temporary conservatorship based on what is believed to be in the best interest of Ellard Youngberg, and based on the voluntary mediation agreement that was not followed;</li> <li>• The Court orders that the temporary conservatorship expire on 12/6/2013;</li> <li>• Mr. and Mrs. Youngberg are ordered to be present at the next hearing [on <b>12/6/2013</b>].</li> </ul>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> Order on Ex Parte Application for Order Moving Hearing on Motion for Reconsideration of 10/25/2013 Order Appointing Conservator filed on 11/15/2013 finds the instant Motion shall be heard on 11/21/2013 rather than 11/20/2013. However, Court records <b>do not</b> show that Petitioner Carol Wertheim nor her attorney Mr. Widdis were served with notice of the Order containing the changed 11/21/2013 date. The verified statement on Page 2 of the Declaration of Edward Fanucchi in Support of Ex Parte Application states he spoke with Attorney Widdis, who advised him that he was available on 11/21/2013.</p> <p><b>Note:</b> Hearing on the Petition for Appointment of Probate Conservator of the Person and Estate remains set for <b>12/6/2013 at 10:00 a.m. in Department 303</b>, per Minute Order dated 10/25/2013.</p>	
Cont. from 111413			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
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			
~Please see additional page~			
		<p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 11/18/13</p> <p><b>Updates:</b> 11/19/13</p> <p><b>Recommendation:</b></p> <p><b>File 18-Youngberg</b></p>	

***Motion of Proposed Conservatee, Ellard V. Youngberg, for Reconsideration of Court's 10-25-13, Order Appointing Conservator; Memorandum of Points and Authorities; Declaration of Edward L. Fanucchi filed on 10/30/2013 states:***

- Movant Ellard Youngberg moves the Court for an order reconsidering its 10/25/2013 Order Appointing Conservator and issuing a new and different ruling based upon the Court's consideration of the report of **HOWARD B. TERRELL, M.D.**, and on Dr. Terrell's opinions regarding the mental state and need of Ellard Youngberg for appointment of a conservator;
- The *Motion* is made pursuant to Code of Civil Procedure § 1008(a) and on the ground that new or different facts or circumstances exist in that Dr. Terrell's opinion, after examination of Ellard Youngberg, is that it is not necessary or appropriate to appoint a conservator of the person and estate of Ellard Youngberg, and said new or difference facts or circumstances could not have been presented earlier because Dr. Terrell's opinions had not yet been reduced to formal report as of 10/25/2013, and the attorney for Ellard Youngberg, **MICHAEL MAHONEY**, who attended the 10/25/2013 hearing whereat the subject order was made was unaware of Dr. Terrell's opinions at the time of the hearing;
- The *Motion* is based on the *Memorandum of Points and Authorities; Declaration of Edward L. Fanucchi*; the complete files and records of this proceedings, and upon such other and further evidence and argument as may be submitted to the Court prior to or at the hearing on this motion.

***Declaration of Edward L. Fanucchi in Support of Motion of Proposed Conservatee, Ellard Youngberg, for Reconsideration of Court's 10/25/2013 Order Appointing Conservator states:***

- The relief requested by Mr. Youngberg by way of the instant Motion is that the Court give due consideration to the report of Howard B. Terrell, M.D., the psychiatrist who evaluated Mr. Youngberg, and in particular, Dr. Terrell's professional opinion after examination of Mr. Youngberg that Mr. Youngberg does not require the appointment of a conservator for his person or his estate;
- Dr. Terrell's report and opinion has not yet been reduced to a formal writing by Dr. Terrell and therefore, was not available at the time of the Court's 10/25/2013 Order Appointing Conservator;
- He learned of Dr. Terrell's opinion during a conversation with him after the examination of Mr. Youngberg on 10/23/2013;
- He had a conflict and was unable to attend the 10/25/2013 hearing himself; as he was operating under the belief that the 10/25/2013 proceeding was merely a status hearing, and not a hearing where the relief sought by the Petitioner's petition might be granted, he sent his associate, Michael Mahoney, to the 10/25/2013 hearing, but he did not inform him of Dr. Terrell's opinion concerning Mr. Youngberg's mental state or lack of need for a conservator; therefore, Mr. Mahoney was not able to convey that information to the Court during the 10/25/2013 hearing;
- Mr. Youngberg will suffer prejudicial and irreparable harm if the Court's order of 10/25/2013 appointing Conservator is not reconsidered in light of Dr. Terrell's report and opinions, and is allowed to stand merely upon the evidence presented by the Petitioner, because appointment of a conservator for Mr. Youngberg without consideration of this evidence supporting the existence of Mr. Youngberg's autonomy and ability to make his own decisions will constitute a denial of Mr. Youngberg's right to due process.

~Please see additional page~

**Memorandum of Points and Authorities in Support of Motion of Proposed Conservatee, Ellard Youngberg, for Reconsideration of Court's 10/25/2013 Order Appointing Conservator states:**

- **Standard of decision:** A party moving for reconsideration must demonstrate the existence of new or different facts, circumstances or law and an explanation of why those new or different matters were not submitted for the Court's consideration earlier; Code of Civil Procedure § 1008(a);
- **Standard for reconsideration is satisfied in this proceeding:** The proposed Conservatee, Ellard Youngberg, has been evaluated by psychiatrist Howard Terrell, M.D., pursuant to the Court's order; Dr. Terrell is of the opinion that Mr. Youngberg does not require the appointment of a conservator for his person or his estate; Dr. Terrell's opinion could not be presented to the Court at the time of its 10/25/2013 Order Appointing Conservator because Dr. Terrell's report had not been reduced to a formal writing and the attorney who appeared at the 10/25/2013 hearing was unaware of Dr. Terrell's opinion; thus the Court's order appointing the Petitioner, Carol Wertheim, as the Conservator for Mr. Youngberg was based upon incomplete evidence and that order should be reconsidered by the Court in light of the opinion of the expert, who per the Court's order, evaluated Mr. Youngberg and arrived at the opinion that Mr. Youngberg does not need a conservator.
- **Conclusion:** The opinion of the expert psychiatrist who examined Mr. Youngberg at the Court's direction is absolutely necessary and vital for the Court to assimilate and take into account when it renders a decision as important and life-changing as whether or not Mr. Youngberg requires a conservator of his person or estate; since that opinion was not in a proper form to be delivered to the Court on 10/25/2013, and was unknown to the attorney who appeared at what he understood to be merely a status hearing, obviously that opinion was not part of the Court's analysis or decision-making process and reconsideration of the Court's 10/25/2013 Order Appointing Conservator, in light of Dr. Terrell's opinion, is appropriate and necessary to ensure that the best interests and due process rights of Mr. Youngberg are protected;

**Mr. Youngberg respectfully requests the Court grant the instant Motion and reconsider its 10/25/2013 Order Appointing Conservator in light of Dr. Terrell's report and opinions.**

**Note:** Declaration of Edward Fanucchi in Support of the Application for Order Shortening Time for Service of Notice of Motion, etc.; (which was granted on 11/5/2013 and set the hearing on 11/14/2013), contains the following documents attached that are not incorporated by reference into the instant Motion for Reconsideration, but are nonetheless briefly summarized in these notes to provide the Court with the information to consider with the instant Motion:

- **Copy of Capacity Declaration completed by HOWARD B. TERRELL, M.D. dated 10/30/2013;** indicates proposed Conservatee has the capacity to give informed consent to any form of medical treatment, and does not have dementia.

~Please see additional page~

Documents attached to *Application for Order Shortening Time*, continued:

- ***Declaration of Donna Friedenberg, R.N, Residential Care Director [at Sierra View Homes, Mr. Youngberg's facility], in Support of Motion of Proposed Conservatee for Reconsideration of Court's 10/25/2013 Order Appointing Conservator states:***
  - Mr. Youngberg came to her office noticeably upset and evidencing signs of panic, and told her he needed help and that somebody had to be with him in the room where his daughter had arrived;
  - When Ms. Friedenberg arrived in Mr. Youngberg's room, she found Carol Wertheim who promptly told her that she had plugged in a telephone which Dan Fry was supposed to have put in months ago; she told Ms. Wertheim that Dan did buy Mr. Youngberg a telephone for his room, but Mr. Youngberg refused to have it in his room; Mr. Wertheim stated she has a court order that he is to have a telephone, and Ms. Friedenberg replied that Mr. Wertheim needed to show her a court order before she can act on it;
  - Mr. Youngberg was up and down nervous and upset during this conversation, and Carol kept telling him to sit down; Ms. Friedenberg states she is familiar with the personality and emotional make-up of Mr. Youngberg, and based upon her acquaintance and professional relationship with Mr. Youngberg, she states that the reason Mr. Youngberg is in residential care is because of his physical weakness, not because of mental problems;
  - Ms. Wertheim began talking about a hearing aid, and Ms. Friedenberg told her that he was recently examined and hearing aids have been ordered per what Laverne Youngberg told her;
  - Ms. Friedenberg decided to notify the state ombudsman because the demands by Ms. Wertheim are in conflict of the desires of Mr. Youngberg, and this is heading toward elder abuse and could lead to a reportable incident by the Home to the Department of Health Care Services;
  - The time spent in the room together was less than two hours, and during the two hours of meeting, Ms. Wertheim kept talking on and on about many things, including that Mr. Fanucchi was not competent to represent her father, and stated she needed a lawyer from the Los Angeles area to get around this "old boys school;"
  - Ms. Friedenberg states that Mr. Youngberg has told her on several occasions that his daughter and grandson interrogate him, and he does not like it;
  - Ms. Friedenberg states that from her professional experiences and her contacts with Mr. Youngberg, he is a competent person and is not in need of a conservator.

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Documents attached to *Application for Order Shortening Time*, continued:

- **Declaration of Ms. Ro Linscheid [Admission and Marketing Director at Sierra View Homes, Mr. Youngberg's facility] in Support of Motion of Proposed Conservatee for Reconsideration of Court's 10/25/2013 Order Appointing Conservator states:**
  - She has come to know Mr. Youngberg quite well as to his choices, his wishes, his personality, and his interests;
  - On 10/25/2013 at ~4:30 p.m., Carol Wertheim came to Ms. Linscheid's office and spent ~1 and ½ hour going from one subject to another about her position with regard to the care of her father;
  - Ms. Wertheim stated she needed to be an advocate for her father, and that his wife, Laverne, and stepson, Dan Fry, were "pulling the wool over his eyes;"
  - Ms. Wertheim stated her father needed someone to conserve his money; Ms. Wertheim stated she wanted the conservatorship to do things for her father, and to prevent Laverne and Dan Fry from controlling her father's finances;
  - Ms. Wertheim stated she had purchased him a telephone, and Ms. Wertheim asked Ms. Linscheid to keep it, and she agreed to do so and stated there would be no change in his wishes to not have a telephone in his room unless Sierra View Homes had a written court order that he must have a telephone in his room, even if he chooses not to have one there;
  - Ms. Wertheim kept telling her over and over that everything she is telling her is confidential;
  - Ms. Linscheid did most of the listening, and Ms. Wertheim did most of the talking;
  - Mr. Youngberg has told Ms. Linscheid on several occasions that his daughter and grandson interrogate him, and he does not like it.

**Response to Ex Parte Application; Objection to Constantly Changing Hearing Dates; Objection to Lack of Notice to Proposed Conservatee's Spouse and Other Interested Persons filed 11/18/2013 by Attorney LAWRENCE WIDDIS on behalf of CAROL WERTHEIM states:**

- Carol Wertheim through her attorneys, Lawrence Widdis and Laura Widdis, comes with the following responses and objections:
  - **Response to Ex Parte Application** – The court-appointed attorney, **EDWARD L. FANUCCHI**, claims that **ELLARD V. YOUNGBERG** will suffer "prejudicial and irreparable" harm to his person and property if the Court signs the temporary conservatorship order and the clerk issues *Letters*; however, Mr. Fanucchi does not cite even one specific concern for his client and no "property" can be accessed under the order for temporary *Letters*:
    - The Court granted Petitioner temporary *Letters of Conservatorship of the Person* [emphasis in original] with a number of restrictions at a noticed hearing and Petitioner has not threatened to do any act, and will not do any act, outside the powers granted by the Court;

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**Response to Ex Parte Application; Objection to Constantly Changing Hearing Dates; Objection to Lack of Notice to Proposed Conservatee's Spouse and Other Interested Persons filed 11/18/2013 by Attorney LAWRENCE WIDDIS on behalf of CAROL WERTHEIM, continued:**

**1. Response to Ex Parte Application, continued:**

- At the hearing on 7/25/2013, all [emphasis in original] attorneys, including court-appointed attorney Fanucchi, and the interested persons present agreed to continue the hearing on the conservatorship petition filed by Carol Wertheim to Friday, 10/25/2013; Mr. Fanucchi did not appear on 10/25/2013 but sent a fill-in attorney whose sole apparent mission was to ask for a continuance since Mr. Fanucchi was otherwise "busy;"
- This was not a "status hearing" on 10/25/2013 as Mr. Fanucchi has claimed;
- The clerk has yet to process the temporary Letters despite prompt preparation, notice, and mailing to the Court of the Letters and Order, nor has the clerk informed Petitioner or her attorneys of any deficiencies with the Letters that were submitted;
- Petitioner requests that the Court's ruling be followed;
- Petitioner and her attorneys "played by the rules," received approval of the Court for temporary Letters, and not cannot get the Letters issued.

**2. Multiple Ex Parte Applications / Notices** – In response to the rulings of the Court on 10/25/2013, Mr. Fanucchi filed/noticed multiple ex parte applications seeking to reverse the Court's decision on temporary Letters; this is unfair to Petitioner;

- Ex Parte hearings should not be used to reverse rulings of the Court made in an attorney's absence because he is otherwise "busy" and after the hearing doesn't like what the Court ruled;
- Petitioner and her attorneys are also "busy" with her high school teaching and their law practice in Southern California, but appeared on 10/25/2013 as agreed and then ordered by the Court;
- Further, the ex parte applications have had FOUR noticed dates [emphasis in original];
- Originally Mr. Fanucchi said it was on 10/31/2013 at 9:00 a.m.; then it moved to 11/12/2013; then it moved to 11/20/2013; an finally it moved to 11/21/2013; an imperative, emergency hearing moved four times is not imperative or an emergency;
- The next "regular" hearing on the conservatorship petition was set for Friday, 12/6/2013, with the agreement of all present at the hearing on 10/25/2013; now Mr. Fanucchi wants the hearing moved to Tuesday, 12/10/2013; this is also unfair to Petitioner who is a high school history teacher and can only "rearrange" her schedule with notice to the school administration; she did get permission for the 12/6/2013 hearing date, but is unsure she can receive permission for 12/10/2013; this is unfair to Petitioner;
- Further, the Court asked Petitioner to facilitate the attendance of her father, the proposed Conservatee; now Petitioner will need to be in Fresno Monday, 12/9/2013 in order to be at her father's residence early in the morning 12/10/2013 to get him transported.

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**Response to Ex Parte Application; Objection to Constantly Changing Hearing Dates; Objection to Lack of Notice to Proposed Conservatee's Spouse and Other Interested Persons filed 11/18/2013 by Attorney LAWRENCE WIDDIS on behalf of CAROL WERTHEIM, continued:**

- 3. Insufficient Notice** – Reviewing the latest papers from Mr. Fanucchi and specifically the *Ex Parte Application's* Proof of Service and the *Notice of Continued Hearing's* Proof of Service, both dated 11/14/2013 (copies attached), notice was not given [emphasis in original] to the spouse of the proposed Conservatee, **LaVERNE YOUNGBERG**, or to the relatives named in the conservatorship petitions such as **JASON WERTHEIM, SAMUEL WERTHEIM, JEANETTE ANTHONY**, and **ILA NELSON**, as Petitioner believes is required under Probate Code § 1822; the notices given by Mr. Fanucchi are deficient.
- 4. Hearing Dates & Conclusion** – The Petitioner respectfully requests that the ex parte application be denied for lack of sufficient notice and lack of urgency and immediate harm; Further, Petitioner requests that the continued hearing of Friday, 12/6/2013 be honored as agreed by all those present at the 10/25/2013 hearing, including the stand-in for Mr. Fanucchi; notice was given to all attorneys and interested parties of the 12/6/2013 hearing date by Petitioner's attorney; in advancing or attempting to advance this hearing to 12/10/2013, insufficient [emphasis in original] notice to all interested persons has been given.

**Note:** *Proof of Service By Mail* attached to Carol Wertheim's response and objection filed 11/18/2013 indicates a "Supplement to Petition Re: Additional Capacity Declaration, etc." was served by mail to all interested persons on 11/15/2013, rather than the response and objection.