

**(1) Second and Final Account and Report of Conservator, (2) Petition for Allowance of Compensation to Conservator and Attorney (3) and Distribution [Prob. C. 1860, 2620, 2623, 2630, 2631, 2942, 11850(a)]**

<b>DOD: 05/01/11</b>	<b>PUBLIC GUARDIAN</b> , Conservator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	Final Account period: <b>09/04/10 – 05/01/11</b>	
<b>Cont. from</b>	Accounting - <b>\$114,425.80</b>	
<b>Aff.Sub.Wit.</b>	Beginning POH - <b>\$113,441.80</b>	
<input checked="" type="checkbox"/> <b>Verified</b>	Ending POH - <b>\$64,342.13</b>	
<b>Inventory</b>	Subsequent to the Final Account period:	
<b>PTC</b>	<b>05/02/11 – 08/29/11</b>	
<b>Not.Cred.</b>	Accounting - <b>\$68,076.84</b>	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	Beginning POH - <b>\$64,342.13</b>	
<input checked="" type="checkbox"/> <b>Aff.Mail</b> w/	Ending POH - <b>\$56,745.98</b>	
<b>Aff.Pub.</b>	Conservator - <b>\$877.20</b> (3.20 Deputy hours @ \$96/hr. and 7.50 Staff hours @ \$76/hr.)	
<b>Sp.Ntc.</b>	Attorney - <b>\$1,000.00</b> (per Local Rule)	
<b>Pers.Serv.</b>	Bond fee - <b>\$145.55</b> (ok)	
<b>Conf. Screen</b>	Costs - <b>\$395.00</b> (filing fees)	
<b>Letters</b>	Petitioner requests to distribute the remaining assets of the estate as follows:	
<b>Duties/Supp</b>	Roy Franco - \$27,164.11	
<b>Objections</b>	Roberta Franco Moreno - \$27,164.12	
<b>Video Receipt</b>	<b>Petitioner prays for an order:</b>	
<input checked="" type="checkbox"/> <b>CI Report</b>	1. Determining that the conservatorship terminated upon the death of the conservatee;	
<b>2620(c)</b> n/a	2. Approving, allowing and settling the final account and subsequent to final account;	
<input checked="" type="checkbox"/> <b>Order</b>	3. Authorizing the Conservator and Attorney fees and commissions;	
<b>Aff. Posting</b>	4. Authorizing payment of the bond fee;	
<b>Status Rpt</b>	5. Authorizing disbursement of remaining estate assets to Roy Franco & Roberta Franco Moreno.	
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by:</b> JF
		<b>Reviewed on:</b> 11/17/11
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 1 - Franco</b>

**2 Trust of Peter & Betty Vagnino**

Case No. 10CEPR00337

Atty Davidson, Thornton (for Petitioner Peter Vagnino, III and Victoria Vagnino)

Atty Burnside, Leigh (for Respondent Harvey A. Armas – Co-Trustee)

Atty Thompson, Timothy (for Respondent Catherine Thompson – Co-Trustee)

**Petition for Trust Accounting**

<b>Age:</b>	<b>PETER VAGNINO IV and VICTORIA VAGNINO,</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>DOD:</b>	grandchildren of trust settlors, are Petitioners.	
		<b><u>CONTINUED TO 1/26/12 UPON ATTORNEY DAVIDSON'S REQUEST</u></b>
<b>Cont. from 092711</b>	<b>Petitioners state:</b>	<b>Note:</b> This matter was before this Court on 8/19/10, for 1) <b><u>Petitioner PETER VAGNINO III'S (Petitioners' father and Decedent Settlers' son and also represented by Attorney Davidson) First Amended Petition to Invalidate Amendment to Trust and Other Documents on Ground of Incapacity and Modification After Death, for Attorney Fees, Punitive Damages, for Breach of Trust and Conversion, to Remove Trustee and for Trust Accounting,</u></b> 2) <b><u>Co-Trustee Armas' Demurrer to First Amended Petition to Invalidate Amendment to Trust and Other Documents on Grounds of Incapacity and Modification after Death, for Attorney's Fees, Restitution, Punitive Damages, for Breach of Trust and Conversion, to Remove Trustee and for Accounting, and for 3) Co-Trustee Thompson's Demurrer to First Amended Petition to Invalidate Amendment to Trust and Other Documents.</u></b> The 8/19/10 minute orders indication the Court continued the matters for ruling. It appears that prior to said ruling, Petitioner Vagnino III filed a <i>Request for Dismissal</i> on 9/30/10, dismissing the entire action with prejudice.
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	1. They are the grandchildren of original settlors Peter and Betty Vagnino, who executed the Declaration of Trust dated 5/16/00 ("2000" Trust" – attached as Exh. A); the 2000 Trust was in fact Settlers' Second Trust;	<p><b>1. Need Order</b></p>
<input checked="" type="checkbox"/> <b>Verified</b>	2. Pursuant to the 2000 Trust, 40% is allocated to Co-Trustee Catherine Thompson ("Thompson"), 20% to Thompson's husband Anthony, and 20% to Thompson's son. The balance of assets are to be divided equally between the Petitioners (10% each);	
<input type="checkbox"/> <b>Inventory</b>	3. The 2000 Trust also name Thompson and Harvey Armas ("Armas") as successor trustees;	
<input type="checkbox"/> <b>PTC</b>	4. On 4/17/05, Armas provided Petitioners' father, Peter Vagnino, III, and Analysis of Assets of settlor Peter Vagnino's assets, which purported to provide a compilation of assets, his community property interest, and the allocations to the By-Pass, Family, and Community Property (attached as Exh. B);	
<input type="checkbox"/> <b>Not.Cred.</b>	5. Settlor Betty Vagnino died on 12/14/05;	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	6. Settlers' Wills were filed with the Probate Court on 11/1/07, but the Settlers' 2000 Trust was not;	
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	7. On 12/11/06, Armas provided Peter Vagnino III and Analysis of Allocation of Betty Vagnino's estate (attached as Exh. C);	
<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 type="checkbox"/> <b>Order</b>	X	
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
	<b><u>SEE ATTACHED PAGE</u></b>	
		<b>Reviewed by:</b> NRN
		<b>Reviewed on:</b> 9/20/11
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 2 - Vagnino</b>

8. The 2000 Trust's 1<sup>st</sup> Accounting was performed by the Dritsas, Broom, McCormick LLP ("McCormick") accounting firm, and was submitted on 1/8/08 – 2 years after the last settlor Betty Vagnino's death (*1<sup>st</sup> Accounting attached as Exh. D*);
9. In October 2009, Petitioners, through their Attorney, Mr. Davidson, requested another accounting; among Petitioners' questions was the appraised value of the Settlor's home, and the fact that Settlor's interest in Tornino's (their restaurant catering business) was improperly included among the trust assets;
10. McCormick submitted a 2<sup>nd</sup> Accounting on 2/4/10; it was provided in two different versions to account for the differing values of Settlor's residence – otherwise the 2010 accountings were identical (*copies of the two accountings attached as Exh. E and F respectively*);
11. On 5/26/10, Petitioners, through Attorney Davidson, corresponded with Armas' attorney and requested that Armas produce numerous documents and provide explanations of many disparities and unexplained trust distributions;
12. Despite numerous letters on Petitioners' behalf, Armas has only produced tax returns, monthly banking statements and monthly brokerage account statements;
13. Armas has been unwilling or unable to address the many pertinent issues concerning the Trust, including but not limited to:
  - a. Life Insurance Loan Paperwork – no legal documentation has been provided by Thompson and Armas; 2005 federal tax return shows this debt was never repaid (yet the debt is listed as a loss in two places in the trust accounting – as repayment of the loan);
  - b. Itemized Accounting of Administrative Expenses (including copies of invoices) – Thompson and Armas failed to provide copies of all invoices for the administrative expenses incurred from the time Thompson received power of attorney as well as documented proof of payment;
  - c. Itemized Accounting of Stocks/Securities in Schedule F – Cash on Hand - Thompson and Armas did not provide an itemized accounting of all stocks/securities allocated to Schedule F, and also failed to provide an itemized account of all monies transferred out of Schedule F;
  - d. Withdrawal of \$120,000.00 – Thompson and Armas failed to provide an adequate explanation of these withdrawals, which were originally allocated to settlors, then allocated to care giver expenses, then to administrative expenses, and finally to the "other" Wells Fargo Account that Thomas and Armas are now associating with the \$120,000.00; they have also failed to account for the dates the money was transferred into the account and all dates the money was transferred out, and what the funds were used for;
  - e. Thompson's and her husband's whereabouts after the sale of the residence – Renovations began on the Settlor's residence ("Bluff Residence") in January 2006, and Thompson sold her personal residence in March or April 2006 (deed recorded May 2006); Bluff Residence was never listed for sale and Thompson had sole physical possession of the home from the date of Betty Vagnino's death; Thompson and Armas contend Thompson and her husband lived in a hotel but had not provided proof of this from the date their personal residence was sold until they filed the Quit Claim Deed for the Bluff Residence;

**SEE ATTACHED PAGE**

## 2 Trust of Peter & Betty Vagnino

Case No. 10CEPR00337

- f. “Gains of Sales” transferred out of Petitioners’ accounts – Thompson and Armas have failed to provide an explanation as to why these gains on sales were transferred out of personal accounts; Schedule Ks never reflects these losses however;
- g. Loss of \$47,048.00 – Thompson and Armas have failed to provide an explanation as to why there is a loss of \$47,048.00 in brokerage accounts between Armas’ hand-written analysis and the 1<sup>st</sup> Accounting;
- h. Additional house appraisal - Thompson and Armas have failed to provide the additional house appraisal of \$1.1 M;
- i. Trust payment of \$3,500.00 for Tornino’s appraisal – Thompson and Armas have failed to explain a trust payment for Tornino’s appraisal when family interest in Tornino’s was willed to Thompson and bypassed the 2000 Trust;
- j. Specific Stock information – Thompson and Armas have failed to provide information on the following: 1) May 1, 2006 dividends received from Wrigley (Class B); 2) May 30, 2006 dividends received from Arlema Spons ADR; 3) November 10, 2006 dividends received from Chunghwa Telecom Co.; 4) November 11, 2006 dividends received from Idearc, Inc.; and 5) April – July 2008 in interest received on Georgian Bank CD – there is no record for any of these assets being sold, the dates of sale, carrying value, whether sold at a loss or gain, and whether any of the items were used for Stock/Securities of Schedule F;
- k. The Residence – Thompson and Armas failed to provide an explanation for the following expenses incurred due to renovations that Thompson accepts responsibility for and that are part of the renovation (consist of home maintenance expenses, property taxed, cable, pool, pet control, AT&T, water delivery, etc.); clearly these expenses were not being paid to maintain an empty house;
- l. Caregiver Expenses - Thompson and Armas have failed to provide documentation to support caregiver expenses of \$73,500.00 incurred during a 7-8 month period;
- m. Debts of Decedent settlors – Thompson and Armas have failed to provide a complete listing of all debts of settlors on the 2005 Schedule K. Only a partial listing and all debts paid before the filing of the 2005 tax return was provided.

**Petitioners request the Court issue an Order:** 1) for a complete accounting of the 2000 Trust; 2) for removal of Thompson and Armas as Co-Trustees; 3) for costs of suit including reasonable attorney fees.

**3A Edward Moore & Marie Moore Family Trust 11/12/91 Case No. 11CEPR00596**

Atty Markeson, Thomas A. (for Jonna M. Key, Richard A. Elston and Vern E. Elston – Petitioners)  
 Atty Roberts, Gregory J. (for Timothy E. Moore – Named 2<sup>nd</sup> Successor Trustee – Petitioner to Compel Account)  
 Atty Coleman, William H., or Koligian, Rema (of Coleman & Horowitz, for Terence Moore – Trustee)

**Petition to Determine Validity of Purported Trust, Petition for Breach of Trust and to Impose Constructive Trust, Petition for Return of Property Pursuant to Section 850 of Probate Code (Prob. C. 17200, 16420, 850)**

<p><b>Marie Moore</b> DOD: 10-15-96</p>	<p><b>JONNA M. KEY, RICHARD A. ELSTON and VERN E. ELSTON</b>, children of Marie Moore, First-Deceased Settlor, are Petitioners.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>
<p><b>Edward C. Moore</b> DOD: 9-16-06</p>	<p>Petitioners state they are the children of Marie Moore, who died 10-15-96. Edward C. Moore was their step-father. His children are Terence Moore, Timothy Moore and Deborah R. Moore Houston.</p>	<p><b>Page 3B is a status hearing on the filing of an account by the current acting trustee.</b></p>
<p></p>	<p>On 11-12-91, Mr. and Mrs. Moore executed a trust, which states that on the death of the second settlor, the assets are to be distributed equally between the six children. The trust provides that on the death of either Settlor, certain designations became irrevocable.</p>	
<p><input type="checkbox"/> Aff.Sub.Wit.</p>		
<p><input checked="" type="checkbox"/> Verified</p>		
<p><input type="checkbox"/> Inventory</p>		
<p><input type="checkbox"/> PTC</p>		
<p><input type="checkbox"/> Not.Cred.</p>		
<p><input checked="" type="checkbox"/> Notice of Hrg</p>		
<p><input checked="" type="checkbox"/> Aff.Mail</p>	<p>W</p>	
<p><input type="checkbox"/> Aff.Pub.</p>		
<p><input type="checkbox"/> Sp.Ntc.</p>		
<p><input type="checkbox"/> Pers.Serv.</p>		
<p><input type="checkbox"/> Conf. Screen</p>		
<p><input type="checkbox"/> Letters</p>		
<p><input type="checkbox"/> Duties/Supp</p>		
<p><input type="checkbox"/> Objections</p>		
<p><input type="checkbox"/> Video Receipt</p>		
<p><input type="checkbox"/> CI Report</p>		
<p><input type="checkbox"/> 9202</p>		
<p><input type="checkbox"/> Order</p>	<p>X</p>	
<p><input type="checkbox"/> Aff. Posting</p>		
<p><input type="checkbox"/> Status Rpt</p>		
<p><input type="checkbox"/> UCCJEA</p>		
<p><input type="checkbox"/> Citation</p>		
<p><input type="checkbox"/> FTB Notice</p>		
<p></p>	<p>However, in 1997, Mr. Moore executed a purported amendment that distributes the entire trust estate to his children and directs that Petitioners receive nothing “since the Trust Estate is all of the separate property of Edward C. Moore.”</p>	
<p></p>	<p>Petitioners request the Court rescind and nullify the purported trust amendment on the grounds that it was not permitted by the terms of the trust.</p>	
<p></p>	<p>Petitioners learned of the existence of the trust and purported amendment in September of 2011 and prior to that date had not received notice of the existence of such documents. The trustee has yet to provide any such notice. Terence E. Moore has acted as trustee since 9-16-06. Petitioners request this Court find him to be responsible for all damages, attorney’s fees, and costs, according to proof, caused by his failure to serve the notice as provided by Probate Code §16061.9.</p>	
<p></p>	<p>Petitioners believe the assets of the trust on the death of Mr. Moore were about \$475,000.00, and that at least \$450,000.00 has already been distributed (\$150,000.00 each to Terence E. Moore, Timothy Moore and Deborah R. Moore Houston) and that the assets of the trust have now been exhausted. Terence E. Moore has yet to account for his activities as acting trustee.</p>	
<p></p>	<p>Petitioners allege that Terence E. Moore knew or should have known that the trust was irrevocable after the death of the first settlor, that he failed to properly and timely notify Petitioners of the existence of the trust, that he failed to determine the validity of the purported amendment despite the fact he knew or should have known the amendment was done after the trust became irrevocable, and that he concealed his activities from Petitioners despite the fact he knew or should have known the amendment was executed after the trust became irrevocable.</p>	
<p></p>	<p><b>SEE PAGE 2</b></p>	
<p></p>		<p><b>Reviewed by:</b> skc</p>
<p></p>		<p><b>Reviewed on:</b> 11-18-11</p>
<p></p>		<p><b>Updates:</b></p>
<p></p>		<p><b>Recommendation:</b></p>
<p></p>		<p><b>File 3A – Moore</b></p>

**3A Edward Moore & Marie Moore Family Trust 11/12/91 Case No. 11CEPR00596**  
Atty Markeson, Thomas A. (for Jonna M. Key, Richard A. Elston and Vern E. Elston – Petitioners)  
Atty Roberts, Gregory J. (for Timothy E. Moore – Named 2<sup>nd</sup> Successor Trustee – Petitioner to Compel Account)  
Atty Coleman, William H., or Koligian, Rema (of Coleman & Horowitz, for Terence Moore – Trustee)

**Petition to Determine Validity of Purported Trust, Petition for Breach of Trust and to Impose Constructive Trust, Petition for Return of Property Pursuant to Section 850 of Probate Code (Prob. C. 17200, 16420, 850)**

**SUMMARY (Continued):**

Petitioner request the Court order the removal of Terence E. Moore as trustee and find he has breached his duties as trustee; impose an equitable lien and/or a constructive trust on trust property already distributed to the three children of Mr. Moore; order return of all assets of the trust already distributed to be held for the person entitled to distribution of the assets; order that Terence E. Moore personally pay the attorney fees incurred in bringing this petition; and impose punitive damages against Terence E. Moore as a result of his actions. Petitioners also request the Court find the trustee has in bad faith wrongfully take, concealed or disposed of property belonging to the trust and to find him personally liable for twice the value of the property as provided for by Probate Code §859.

**Petitioners pray for an Order:**

1. Finding the purported amendment void due to its execution after the trust became irrevocable;
2. Finding that Terence E. Moore has breached the trust;
3. Finding that Terence E. Moore has breached his fiduciary duties owed to the Petitioners;
4. Finding Terence E. Moore is liable to Petitioners in an amount according to proof, including all damages, attorney's fees and costs, for failing to notify Petitioners of the existence of the trust and purported amendment as provided for by Probate Code §16061.9;
5. Removing Terence E. Moore as trustee and denying him any compensation as trustee;
6. Imposing an equitable lien and/or constructive trust on all assets of the trust already distributed to Terence E. Moore, Timothy E. Moore and Deborah R. Moore Houston and finding they hold such assets as constructive trustees;
7. Requiring Terence E. Moore, Timothy E. Moore and Deborah R. Moore Houston to return all trust assets distributed to them;
8. Requiring Terence E. Moore to personally pay the attorney fees of Petitioners according to proof;
9. Requiring Terence E. Moore to personally pay costs of suit;
10. Finding Terence E. Moore liable for punitive damages to the Petitioners and/or the other beneficiaries of the trust for failing to notify Petitioners of the existence of the trust when the trustee suspected, knew or should have known the purported amendment was invalid;
11. Finding that Terence E. Moore is liable for damages according to proof for breach of trust and/or breach of fiduciary duty;
12. Finding that Terence E. Moore in bad faith wrongfully took, concealed or disposed of property belonging to the trust and finding him personally liable to Petitioners for twice the value of the property as provided for by Probate Code §859; and
13. Imposing such other and further relief as the Court deems appropriate.

**Status Hearing Re: Petition to Compel Trustee to Account for Attorney's Fees and for Removal of Trustee**

<b>Marie Moore</b> <b>DOD: 10-15-96</b>	<b>TIMOTHY E. MOORE</b> , Beneficiary and Second Successor Trustee, filed a Petition to Compel Trustee to Account and Removal of Trustee on 7-11-11.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Edward C. Moore</b> <b>DOD: 9-16-06</b>	On 8-25-11, the Court ordered <b>TERENCE MOORE</b> , the current acting Trustee, to prepare an accounting.	<p><u>Note:</u> Page 3A is Petition to Determine Validity of Purported Trust; Petition for Breach of Trust and to Impose Constructive Trust; Petition for Return of Property Pursuant to Section 850 of Probate Code filed by Jonna M. Key, Richard A. Elston and Vern E. Elston, who are the children of Marie Moore, the first-deceased Settlor.</p>
<input type="checkbox"/> Aff.Sub.Wit.	On 11-10-11, Attorney Coleman informed the Court that “the accounting is done, but is a little off balance which he can correct with additional information.”	<p><u>Note:</u> A Petition for Settlement of Account has been filed and is set for hearing on 1-19-12.</p>
<input type="checkbox"/> Verified	The Court set this status hearing for filing of the account for 11-29-11.	
<input type="checkbox"/> Inventory	<b>On 11-22-11, TERENCE MOORE filed a Petition for Settlement of Account that is set for hearing on 1-19-12.</b>	
<input type="checkbox"/> PTC	<b>Also on 11-22-11, Deborah R. Moore Huston, beneficiary and natural sister of Timothy and Terence, filed a Declaration in Opposition to Timothy’s Petition to Compel Accounting, Removal of Trustee and Attorney Fees:</b>	
<input type="checkbox"/> Not.Cred.	Ms. Moore Huston objects to removal of Terence as Trustee and to appointment of Timothy as a successor trustee. She was not properly notified and does not believe this was an honest mistake. She was insulted by Mr. Roberts’ response to her complaint in Court about not being properly notified. Proper notice is a serious matter and she prays the Court will take proper action.	
<input type="checkbox"/> Notice of Hrg	Ms. Moore Huston states she and Terence have discussed filing a petition to invoke the Trust’s no-contest clause against Timothy, and they fully intend to exercise this right if this frivolous petition is not dismissed or settled.	
<input type="checkbox"/> Aff.Mail	Ms. Moore Huston is aware that Terence has exercised the right granted to him in the Trust to award annual gifts of up to \$10,000.00 and support that decision.	
<input type="checkbox"/> Aff.Pub.	<b>Ms. Moore Huston adamantly requests that Terence remain as Trustee.</b>	
<input type="checkbox"/> Sp.Ntc.		Reviewed by: skc
<input type="checkbox"/> Pers.Serv.		Reviewed on: 11-18-11
<input type="checkbox"/> Conf. Screen		Updates: 11-22-11
<input type="checkbox"/> Letters		Recommendation:
<input type="checkbox"/> Duties/Supp		File 3B - Moore
<input checked="" type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input checked="" type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

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

<b>DOD: 08/16/11</b>		<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>OFF CALENDAR</b></p> <p>Matter was dismissed on 11/21/11</p>	
<b>Cont. from 101111</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		s/p
<input checked="" type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input type="checkbox"/>	<b>Notice of Hrg</b>		x
<input type="checkbox"/>	<b>Aff.Mail</b>		x
<input type="checkbox"/>	<b>Aff.Pub.</b>		x
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input 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 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> 11/22/11	
		<b>Updates:</b>	
		<b>Recommendation:</b>	
		<b>File 4 – Kearns</b>	

**5A In Re Durable Power of Attorney of Arthur Hermosillo Case No. 11CEPR00777**

Atty LeVan, Nancy J., sole practitioner (for Katrina Leal, daughter, and Jason Hermosillo, son)  
 Atty Magness, Marcus, of Gilmore Wood Vinnard & Magness (for Arthur Hermosillo, proposed Conservatee, and for Jessica Hermosillo, daughter)  
 Atty Kruthers, Heather H., of County Counsel (for Public Guardian, former Temporary Conservator)

**Petition to Compel Formal Accounting from Jessica Hermosillo, Attorney-in-Fact, and Declaring Fiduciary has Violated or is Unfit to Perform the Fiduciary Duties Under Power of Attorney; Revocation of Current Power of Attorney Because of Incapacity of Principal and Invalid Notarization and for Attorney Fees and Costs (Prob. C. 4541, 4545)**

Age: 53 years	KATRINA LEAL, daughter, and JASON HERMOSILLO, son, are Petitioners.	NEEDS/PROBLEMS/COMMENTS:	
DOB: 1-1-1958			
	Petitioners state:	<p><b>NOTE: This matter will be heard at 10:30 a.m. in Dept. 303.</b></p> <p><u>Continued from 11/7/2011.</u></p> <p><u>Page 5B</u> is Arthur Hermosillo's <i>Motion to Consolidate Proceedings in Case #11CEPR00777 (Power of Attorney case).</i></p> <p><u>Page 5C</u> is Jessica Hermosillo's <i>Motion to Strike Portions of Petition to Compel.</i></p> <p><u>Page 22</u> is Arthur Hermosillo's <i>Motion to Consolidate Proceedings in Case #11CEPR00214 (Conservatorship case).</i></p> <p><u>Note: Minute Order</u> dated 10/3/2011 from the hearing on the <i>Petition for Appointment of Probate Conservator</i> set the matter for Court Trial on <u>2/14/2012.</u></p>	
Cont. from 110711			<ul style="list-style-type: none"> <li>ARTHUR HERMOSILLO, Principal under a <i>General Durable Power of Attorney for Healthcare and Finance</i> executed <u>1/4/2011</u> naming his daughter, JESSICA HERMOSILLO, as attorney-in-fact, is currently separated from his wife, SANDIE HERMOSILLO, and he resides with Jessica after filing for divorce based upon lies by Jessica alleging Sandie was attempting to steal all of the community property for herself;</li> <li>Arthur executed a previous <i>Durable Power of Attorney</i> on <u>8/6/2006</u>, after he and Sandie's separation in the summer of 2005, which named Sandie as attorney-in-fact, giving Sandie full power to receive, disburse, manage and control all of Arthur's property; neither Sandie's nor Jessica's <i>Power of Attorney</i> eliminate Petitioners' rights to bring this <i>Petition</i>;</li> <li>At the advice of an attorney and for the benefit of Arthur's and Sandie's children, Sandie as Trustee transferred all community property into the <b>HERMOSILLO FAMILY TRUST</b>, naming all three children as beneficiaries, to avoid probate and because of the circumstances of Arthur's erratic behavior;</li> <li>Following Arthur's strokes in 2006 and 2007, Sandie moved into Arthur's residence and took care of Arthur and his finances as agreed upon by him; Sandie hired a caregiver from 8 am to 5 pm six days a week while Sandie handled all financial matters;</li> <li>At a family meeting it was agreed that Jessica would take Arthur into her home to care for him and would be paid <b>\$350.00</b> per month for rent, which was raised to <b>\$600.00</b> upon Jessica's request and family agreement; Jessica continued to ask for more money to care for Arthur and to pay for her <b>\$6,000.00</b> school loan;</li> <li>Jessica began to have financial problems in October 2010, which coincides with her refusal to bring Arthur to family functions and her isolation of him from the family;</li> </ul> <p align="center">~Please see additional page~</p>
Aff.Sub.Wit.		Reviewed on: 11/18/11	
✓ Verified		Updates:	
Inventory		Recommendation:	
PTC		File 5A - Hermosillo	
Not.Cred.			
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Duties/Supp			
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UCCJEA			
Citation			
FTB Notice			

**Petitioners state, continued:**

- In December 2010, Jessica demanded more money for the care of Arthur, and following Sandie's refusal Jessica began acting strangely by sending the care provider away from the home and leaving the house when the caretaker or family members would visit Arthur;
- Arthur was diagnosed with a brain bleed on 1/7/2011 following an MRI and was immediately taken to the emergency room; Sandie brought her Power of Attorney for Health Care but could not get any information because Arthur signed a Revocation of Power of Attorney and a new Power of Attorney for Health Care and Finance naming Jessica as agent; Arthur signed these documents while suffering a brain bleed and he was not competent to sign any legal document;
- On 1/28/2011, Jessica took Arthur to Wells Fargo Bank and withdrew **\$82,000.00** from a home line of equity which was tied to a joint account belonging to Arthur and Sandie; Jessica had no authority to do this from Sandie nor justification for her actions; Jessica stated she and Arthur were going to make payments but not payments have been made and Arthur only gets **\$1,205.00** from Social Security, and Jessica makes a \$1,200.00 per month withdrawal, leaving nothing left to make a payment on the home equity line of credit;
- Per the 3/29/2011 Court order, Attorney Marcus Magness provided Petitioners with a list of deposits and withdrawals Jessica made from Arthur's account; however, the list did not include reasons for hundreds of dollars in withdrawals and does not address what happened to the **\$3,000.00** cash given to Jessica when she took Arthur to Wells Fargo;
- Petitioners request the Jessica provide a full accounting pursuant to Probate Code §§ 4540 and 4541(c), following the form of accountings in estate and conservatorship matters; the receipts provided along with the informal accounting does not total the amounts withdrawn or spent;
- Petitioners also request the revocation of the Durable Power of Attorney naming Jessica as agent under Probate Code § 4541(d)(1), as the notary used for both the revocation and the power of attorney is **ELIZABETH ROUSE**, who was hired as Arthur's caregiver on 3/25/2011 and is also Jessica's landlord, and would have a financial interest in the document she notarized; Government Code § 8224 provides "a notary public who has a direct financial or beneficial interest in a transaction shall not perform any notarial act in connection with such transaction" and the documents allow Ms. Rouse beneficial interests for payment of rent and payment as caregiver;
- Jessica has violated her fiduciary duty to Arthur by obtaining a loan without a plan to repay, spending the money for her own benefit, attempting to justify fees paid to caregivers by preparing and submitting false receipts, and used her friendship with Ms. Rouse to have documents notarized that put Jessica in charge of Arthur's finances;
- Jessica is unfit to fulfill the office of power of attorney because she currently has three pending judgments against her for breach of contract for failure to pay attorney fees in other matters; she has been reported to the Welfare Fraud Division for falsely receiving benefits for her children that do not reside full time with Jessica and she has fraudulently received over **\$4,000.00** from welfare; Jessica and her husband Joe previously took out a **\$30,000.00** line of credit on a house purchased by Arthur and Sandie, which was taken in 2002 and Sandie did not learn about until 2003;
- Arthur did not have capacity when he executed the Revocation of Power of Attorney and signed the new Power of Attorney naming Jessica, and under Probate Code § 4541(d)(2), the Court can make this determination.

**Petitioners pray that the Court order:**

1. Jessica Hermosillo must provide a complete accounting from the period when she was attorney-in-fact from 1/4/2010 until 6/27/2011;
2. The current Durable Power of Attorney naming Jessica Hermosillo as attorney-in-fact is void because of the lack of capacity of Arthur to sign legal documents on the day they were executed and were notarized by a financially interested party;
3. That Jessica Hermosillo breached her fiduciary duty to Arthur and should be held liable for twice the amount of loss the estate has suffered.

*~Please see additional page~*

*Respondent Jessica Hermosillo's Opposition to Petition to Declare Fiduciary Has Violated or is Unfit to Perform Fiduciary Duties under Power of Attorney, Etc. filed on 11/2/2011 states:*

- Arthur Hermasillo and Sandie Hermosillo have been separated since the summer of 2005 and have made no attempts to reconcile their marriage since that time; Arthur had set up an appointment to initiate divorce proceedings but suffered his first stroke before he was able to meet with the attorney, and following his strokes in 2006 he was dependent upon others to provide assistance with daily activities; caregivers were hired by Sandie who never actually provided Arthur with any care, and Arthur's dependence on others precluded him from filing divorce proceedings as he would not go anywhere without Sandie's approval;
- Contrary to Petitioner's allegations that Jessica unduly influence Arthur to file for divorce, in truth Arthur filed for divorce after he discovered that Sandie, without his knowledge, transferred title to two of their rental properties and title to their personal residence into her own name, and from her own name into a revocable trust that she controls under a power of attorney that Arthur purportedly signed in 2006 immediately after his first stroke;
- Sandie purportedly transferred her and Arthur's community property into a revocable trust for the benefit of Arthur and their children; however, Arthur is not a beneficiary of the trust, and if Sandie were to die before Arthur, he would be almost penniless and dependent upon the mercy of his children;
- Sandie has taken complete control of Arthur's assets and the only person Sandie intended to benefit from transferring Arthur's assets into the trust was herself; had Arthur not discovered Sandie's action, she would have taken all of his property;
- Even if the 2006 Durable Power of attorney was valid, which is questionable, this document did not authorize Sandie to transfer Arthur's assets to a trust without his knowledge or consent; Sandie's conduct was in clear violation of her fiduciary duties to Arthur including her duties of loyalty, to keep him informed, and to hold his property separate and identifiable;
- After Sandie moved back into the couple's residence in 2007, Arthur's living situation became intolerable; he was forced to stand by as Sandie spent their money on lavish vacation while he was left home and brought her boyfriends home to their residence to spend the night;
- In 2010, after Sandie took two month-long vacations and one three-week vacation, Arthur told his family that he did not want to continue living with Sandie, and Jessica offered to have Arthur live with her;
- After Arthur moved in with Jessica, Sandie only gave Jessica **\$350** per month for Arthur's food, rent, prescriptions and other expenses, which was Arthur's only money, and even his Social Security check was automatically deposited into a checking account that Sandie controlled; Arthur's expenses averaged at least **\$800** per month and the money from Sandie did not even cover half of his expenses; after a family meeting, Sandie and Petitioners agreed Sandie would pay Jessica **\$500** per month and the Petitioners would donate **\$50** per month, but the **\$600** per month still did not cover Arthur's expenses and Jessica continued to spend \$300 of her own money each month to cover the difference;
- Petitioners' allegation that Jessica asked Sandie to pay off her student loan is a complete fabrication; rather, Jessica talked to Sandie about different payment options on student loans since Sandie is a college counselor and has personal experience with student loans;
- Jessica denies that she began having financial problems in October 2010; she has been able to timely pay her bills and financially maintain her household; she has been using her own money to help pay Arthur's monthly expenses;
- Jessica did not refuse to bring Arthur to 2010 Thanksgiving and Christmas celebrations, as Arthur makes his own decisions as to his holidays and he prefers to spend them with his 87-year-old mother and his siblings;
- Petitioner (Katrina) arranged with Arthur on 10/3/11 after the Court hearing to pick up Arthur on 10/7/11 to spend the night with her family, after Arthur packed and was prepared to go on 10/7, Katrina never showed up; Jessica has at no time prevented Arthur from visiting Petitioners, and she has never refused to answer the door nor purposely left the house to avoid their visits; it is Petitioners who have failed to come and visit when they told Arthur they would;
- Jessica requested more money in 12/2010 to assist with Arthur's care; the caregiver Sandie hired was unreliable and would often not show up or would leave early without advance notice, and Jessica had to continually take time off work without advance notice to her employer to stay home and assist Arthur;

*~Please see additional page~*

- Arthur was diagnosed with a subdural hematoma (brain bleed) before his MRI and was admitted to the hospital as a precautionary measure but was released after two days; Jessica never withheld any information about Arthur's medical condition because neither Sandie, Katrina nor Jason (Petitioner) ever asked her for any such information;
- Petitioners' contention that Arthur revoked Sandie's power of attorney and she could not get medical information at the hospital [on 1/7/2011] is a sham, as Arthur did not revoke it until 2/2011; more important, the purpose of Sandie's visit to the hospital was not to check on Arthur's medical condition but to try to talk the hospital social worker into releasing Arthur into her car without Arthur or Jessica's knowledge; Arthur became extremely upset upon learning that he was going to be released into Sandie's care, and the social worker found Arthur was able to make his own decision on where he wanted to go upon release; Arthur was adamant he did not want to go with Sandie and wanted to go home with Jessica;
- It is not so, as Petitioners contend, that Arthur was not competent when he signed the 1/4/2011 Durable Power of Attorney naming Jessica as his attorney in fact because he was suffering a brain bleed, as the subdural hematoma/brain bleed had no effect on Arthur's cognitive abilities and Petitioners have produced no evidence to the contrary; Arthur was fully able to communicate and understand what he was signing and the consequences of signing it; even so, this contention is moot as Jessica never exercised her powers under that document and it has since been revoked;
- It is incorrect, as Petitioners contend, that Jessica was responsible for the **\$82,000** line of credit on Arthur's account, as Arthur is co-owner of the account and signed and submitted the application on his own volition and the bank accepted it; there was no need for Jessica to exercise her powers under the Durable Power of Attorney; Arthur was fully justified in taking out the line of credit because Sandie has been keeping all of this money and property from him for years; until 1/2011 Sandie was keeping Arthur's **\$1,205** monthly Social Security check from him, and until 7/2011 Sandie was also keeping Arthur's pension benefits for herself after she filed an application with the City of Azusa for his pension benefits, without Arthur's knowledge, and Arthur became aware only after the Public Guardian discovered they were being deposited into an account over which Sandie had control; because Sandie refuses to turn over the joint bank account statements to Arthur's divorce attorney and the Public Guardian, it is not clear how long the City of Azusa has been paying these benefits but it is clear Sandie received and kept them from at least 1/2011 through 6/2011; ultimately, the responsibility for the **\$82,000** debt will be decided in Arthur's divorce proceeding; the **\$3,000** retained from the **\$82,000** line of credit was used to partially reimburse Jessica for the expenses she paid on behalf of Arthur from 3/2010 through 12/2010;
- Jessica's previous drug addiction has no bearing on her ability to serve as Arthur's attorney-in-fact, but to clarify the situation, she went through a painful divorce and found herself involved in the wrong crowd and became addicted to methamphetamine; in 12/2005 Jessica admitted herself to a rehabilitation facility and she has been drug-free since then;
- As Arthur's temporary conservator, the Public Guardian has standing to seek the Court's authorization to revoke the 3/25/2011 Durable Power of Attorney but it has not done so, and there is no reason to do so because it has found no wrongdoing by Jessica;
- The true purpose behind these proceedings is to stop Arthur from going through his divorce so Sandie can retain control over his money and property; Jessica alleges that Petitioners are using Arthur's own funds to pursue this proceeding and the related conservatorship action filed against Arthur; **Sandie is paying the attorney fees and costs and is using community property funds to do so, and as a result Arthur is entitled to a surcharge against Petitioners; this proceeding was brought by Petitioners without reasonable cause and Jessica is entitled to an award of attorney's fees and costs pursuant to Probate Code §§ 1002 and 4545 (a).**

Atty LeVan, Nancy J., sole practitioner (for Katrina Leal, daughter, and Jason Herмосillo, son)  
 Atty Magness, Marcus, of Gilmore Wood Vinnard & Magness (for Arthur Herмосillo, proposed Conservatee, and for Jessica Herмосillo, daughter)  
 Atty Kruthers, Heather H., of County Counsel (for Public Guardian, former Temporary Conservator)

**Notice of Motion and Motion of Arthur Herмосillo to Consolidate Proceedings**

<b>Age:</b> 53 years	<p><b>ARTHUR HERMOSILLO</b> moves the Court pursuant to Code of Civil Procedure § 1048(a) and CA Rule of Court 3.350 for an order granting consolidation of Case No. 11CEPR00214 with Case No. 11CEPR00777, on the following grounds:</p> <ul style="list-style-type: none"> <li>The two cases involve common questions of law and fact; Petitioners <b>KATRINA LEAL</b> and <b>JASON HERMOSILLO</b> allege their father, Arthur Herмосillo, is incapacitated and their sister, <b>JESSICA HERMOSILLO</b>, with whom Arthur resides and who serves as his attorney-in-fact, is taking advantage of Arthur and diverting her funds to her own uses; to allow both cases to proceed separately would result in Arthur incurring duplicative costs and attorneys' fees in conducting discovery, retention of expert witnesses, and trial;</li> <li>Judicial economy will be served by consolidation; issues present in both cases include whether Arthur has capacity, whether Jessica breached her fiduciary duty under the <i>Durable Power of Attorney</i>, and whether Arthur requires the appointment of a conservator; percipient witnesses will be the same, the same experts will testify at trial in both actions, and the evidence presented will be substantially the same; and</li> <li>No other party to either action will be prejudiced by consolidation.</li> </ul> <p><b>Movant states:</b></p> <ul style="list-style-type: none"> <li>Petitioners <b>KATRINA LEAL</b> and <b>JASON HERMOSILLO</b> are represented by Nancy J. LeVan in both case numbers;</li> <li><b>ARTHUR HERMOSILLO</b>, who has appeared in Case No. 11CEPR0021, is represented by the law firm of Gilmore, Wood, Vinnard &amp; Magness;</li> <li>Concurrently with this <i>Motion</i>, <b>JESSICA HERMOSILLO</b> is filing a <i>Motion to Strike</i> in Case No. 11CEPR00777, which is her first appearance in that case, and she is represented by the law firm of Gilmore, Wood, Vinnard &amp; Magness;</li> <li>This <i>Motion</i> is based on the <i>Notice of Motion</i>, the <i>Memorandum of Points and Authorities</i>, the <i>Declaration of Marcus D. Magness</i>, all of the pleadings, files and records in this proceeding, all other matters of which the Court may take judicial notice, and any argument or evidence that may be presented to or considered by the Court.</li> </ul>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b><u>NOTE:</u> This matter will be heard at 10:30 a.m. in Dept. 303.</b></p> <p><b><u>Continued from 11/7/2011.</u></b></p>
<b>DOB:</b> 1-1-1958		
<b>Cont. from 110711</b>		
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<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
		<p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 11/18/11</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 5B - Herмосillo</b></p>

Atty LeVan, Nancy J., sole practitioner (for Katrina Leal, daughter, and Jason Hermosillo, son)  
 Atty Magness, Marcus, of Gilmore Wood Vinnard & Magness (for Arthur Hermosillo, proposed Conservatee, and for Jessica Hermosillo, daughter)  
 Atty Kruthers, Heather H., of County Counsel (for Public Guardian, former Temporary Conservator)

**Respondent Jessica Hermosillo's Notice of and Motion to Strike Portions of Petition to Compel Formal Accounting, etc.; Memorandum of Points and Authorities in Support Thereof**

<b>Age:</b> 53 years	<p><b>JESSICA HERMOSILLO</b> (Respondent) moves the Court pursuant to Code of Civil Procedure § 436 for an order granting her <i>Motion to Strike</i> the following portions from the <i>Petition to Compel Formal Accounting from Jessica Hermosillo</i>:</p> <ul style="list-style-type: none"> <li>• Portion of <i>Petition</i> requesting that Jessica provide a full accounting pursuant to Probate Code § 4540 and 4541(c) following the format of accountings required in estate and conservatorship matters; and</li> <li>• Portion of <i>Petition</i> requesting a complete accounting from Jessica for the period she was attorney-in-fact for Arthur from 1/4/2010 until 6/27/2010.</li> </ul> <p><b>Movant states Petitioners are not entitled to receive a formal accounting from Respondent for the following reasons:</b></p> <ol style="list-style-type: none"> <li>1. Petitioners have failed to comply with Probate Code § 4541(c) as they have not and cannot allege that they made a written request to Respondent to submit an accounting and the Respondent failed to comply with such written request within 60 days from date of the request;</li> <li>2. There has been no finding by the Court that Petitioners are parties entitled to a formal accounting; even assuming Petitioners have standing to bring this Petition, the only party who is entitled to a formal accounting is the Public Guardian, Arthur's Temporary Conservator;</li> <li>3. Petitioners have failed to show good cause for this Petition, as Respondent has submitted two timely informal accountings to the Public Guardian, who has found them satisfactory; as such, Petitioners' request is not reasonably necessary for the protection of Arthur or his estate.</li> </ol> <p>This <i>Motion</i> is based on the <i>Notice of Motion</i>, the <i>Memorandum of Points and Authorities</i>, the <i>Declaration of Marcus D. Magness</i>, all of the records, pleadings, and papers on file with the Court, and upon such further oral and documentary evidence which may be presented at the hearing.</p> <p align="center">~Please see additional page~</p>	<p><b>NEEDS/PROBLEMS/ COMMENTS:</b></p> <p><b>NOTE: This matter will be heard at 10:30 a.m. in Dept. 303.</b></p> <p><u>Continued from 11/7/2011.</u></p>	
<b>DOB:</b> 1-1-1958			
<b>Cont. from 110711</b>			
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		<b>Reviewed by:</b> LEG	
		<b>Reviewed on:</b> 11/18/11	
		<b>Updates:</b>	
		<b>Recommendation:</b>	
		<b>File 5C - Hermosillo</b>	

***Memorandum of Points and Authorities [sans citations] attached to the Motion to Strike states:***

- Petitioners are requesting the Court appoint them as conservators of Arthur Hermosillo's person and estate [in Case No. 11CEPR00214], and the evidence demonstrates that the purpose behind these related proceedings is not to protect Arthur or his estate, but is instead a blatant attempt to prevent Arthur from divorcing Sandie Hermosillo and retaining control of his ½ of the community property assets;
- Since Petitioners have so far been unsuccessful in being appointed conservators, they are now resorting to vicious and unfounded personal attacks against Respondent to challenge the Durable Power of Attorney naming her as Arthur's attorney-in-fact;
- Petitioners' request for an accounting is simply a ruse to divert the Court's attention from the fact that Sandie Hermosillo is continuing to steal Arthur's ½ of the community property assets, consisting of 18 residential properties earning ~\$20,000.00 in rental income each month, while Arthur is forced to live on his \$1,205.00 monthly Social Security check and Respondent's financial assistance;
- Petitioners did not file any objections to Respondent's two information accountings before they filed the instant *Petition*, and they never asked for additional information or explanation; Petitioners filed an *Objection to Accounting* on 9/26/2011 in the conservatorship proceedings 5 months after the information accountings were voluntarily provided;
- The Public Guardian has requested and been provided with all backup documents and explanation, and Public Guardian submitted to this Court under penalty of perjury that it found no wrongdoing;
- Petitioners' request for an accounting fails to comply with the requirements of Probate Code § 4541(c) and was brought in bad faith, and as such, the request to compel a formal accounting should be stricken from the *Petition*;
- Respondent is entitled to her attorney's fees incurred in filing this *Motion* since the *Petition* was filed without any reasonable cause.

***Request for Judicial Notice in Support of Respondent Jessica Hermosillo's Motion to Strike Portions of Petition to Compel Formal Accounting, etc., filed on 10/13/2011 requests the Court take judicial notice pursuant to Evidence Code § 452 of the following document:***

- *Declaration of Deputy Public Guardian Renee Garcia-Widjaja Regarding Conservatee's Finances* [filed on 8/11/2011] (copy attached as Exhibit A).

Amended Petition for Letters of Administration: Authorization to Administer Under the Independent Administration of Estates Act

DOD: 11/17/09	<b>TIANA HEFLEY-FAVILA,</b>		<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> <li>Petitioner states that she is the only heir and waives the requirement of bond (in an attachment to the original Petition, no waiver of bond is attached to the amended Petition); however, the Petition indicates that the decedent had a spouse, therefore it appears that the Petitioner is not the only intestate heir. Need waiver of bond from spouse (Christina Wells-Hefley).</li> <li>A Declaration of Publication was filed 10/21/11 reflecting the previous hearing date of 11/08/11. Need new Declaration of Publication reflecting the hearing date on this amended Petition.</li> </ol>
	daughter, is Petitioner, and requests appointment as Administrator without bond.		
	Full IAEA – <b>NEED</b>		
Cont. from	Decedent died intestate.		
<input type="checkbox"/> Aff.Sub.Wit.	Residence: Fresno		
<input checked="" type="checkbox"/> Verified	Publication: <b>NEED</b>		
<input type="checkbox"/> Inventory	<b>Estimated Value of the Estate:</b>		
<input type="checkbox"/> PTC	Real property - \$108,000.00		
<input type="checkbox"/> Not.Cred.	Probate referee: <b>STEVEN DIEBERT</b>		
<input checked="" type="checkbox"/> Notice of Hrg			
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<input type="checkbox"/> Sp.Ntc.			
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<input type="checkbox"/> FTB Notice			
			Reviewed by: JF
			Reviewed on: 11/17/11
			Updates:
			Recommendation:
			File 6 - Hefley

**Probate Status Hearing Re: Filing First Account or Petition for Final Distribution**

<b>DOD: 7/25/00</b>	<b>ARTHUR MIHARA</b> was appointed Executor without bond on 7/15/03 and Letters issued.	<b>NEEDS/PROBLEMS/ COMMENTS:</b>
<b>Cont. from: 081710, 113010, 032911, 062811, 082311, 101111</b>	I & A - \$265,690.83 filed 8/23/04.	<b>Continued from 10/11/11.</b>
<b>Aff.Sub.Wit.</b>	<b>Status Report of Attorney Lawson Renge filed on 8/17/11</b> states since the last status conference, the Unclaimed Property Division, California State Controller's Office has sent the Safeamerica Credit Union claim for \$7,257.11 to the Executor leaving only the Riversource Securities claim (5,570,581 Shares) outstanding.	
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>	Pursuant to instructions received from the Unclaimed Property Division, brokerage information was mailed to said Division on 7/2/11, confirming that brokerage accounts had been open with Chase Investment Services.	
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>	Mr. Renge states he telephoned the Unclaimed Property Division on several occasions to ascertain the status of the securities transfer to the Estate's brokerage account. Despite leaving messages, to date no return call has been received.	
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>	<b>Status Report filed on 11/22/11</b> states on 11/21/11 the Unclaimed Property Division, California State Controller's Office was again contacted concerning transfer of 5,570.581 shares of Riversource Investment Company. Mr. Renge states he was informed by the Controller's Office that said securities (now known as Columbia Balanced Fund) has been cleared/approved for transfer to the estate account tin approximately two weeks. Once received a supplemental inventory will be prepared so that the estate can be closed.	
<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>Reviewed by: KT</b>
<b>Status Rpt</b>		<b>Reviewed on: 11/17/11</b>
<b>UCCJEA</b>		<b>Updates: 11/28/11</b>
<b>Citation</b>		<b>Recommendation:</b>
<b>FTB Notice</b>		<b>File 7 - Mukai</b>

Atty Gonzalez, Olivia A. (pro per – guardian)  
 Atty Hodson, Shannon (pro per – mother/Petitioner)

Petition for Termination of Guardianship

Age: 5	SHANNON HODSON, mother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
DOB: 09/10/06		
	OLIVIA GONZALEZ, half-sister, was appointed Guardian of the minor on 10/01/09.	1. Need <i>Notice of Hearing</i> . 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                  Termination or Consent and Waiver of                  Notice or Declaration of Due Diligence</i> for: - Olivia Gonzalez (guardian) - Pete Gonzalez (father) - Paternal grandfather (unknown) - Pauline Murillo (Paternal grandmother) - Maternal grandfather (unknown)
Cont. from	Father: PETE GONZALEZ	
Aff.Sub.Wit.		
✓ Verified	Paternal grandfather: UNKNOWN	
Inventory	Paternal grandmother: PAULINE MURILLO	
PTC		
Not.Cred.	Maternal grandfather: UNKNOWN	
Notice of Hrg	Maternal grandmother: SUSAN TUCKER – <i>consents &amp; waives notice</i>	
Aff.Mail	Petitioner states that she is now in a position to accept full responsibility for the minor’s care. She states that she has come full circle and has no doubt that she is now capable of caring for the minor as he should be cared for.	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
✓ CI Report		Court Investigator Dina Calvillo’s report was filed 11/18/11.
9202		
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: JF
		Reviewed on: 11/18/11
		Updates: 11/22/11
		Recommendation:
		File 8 - Gonzalez



Atty Scarabello, Judy  
 Atty Scarabello, Ellena M.

Status Hearing Re: Filing of the Inventory and Appraisal

Age:		NEEDS/PROBLEMS/COMMENTS:  <b>OFF CALENDAR.</b> Inventory and Appraisal filed on 10/13/11.
DOD:		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 11/18/11
		Updates:
		Recommendation:
		File 10 - Scarabello

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

DOD: 5/9/11	<b>MAGDALENA MANCILLA</b> , daughter, is petitioner and requests appointment as Administrator without bond.  All heirs waive bond.  Full IAEA - o.k.  Decedent died intestate.  Residence: Sanger Publication: Sanger Herald  <u>Estimated value of the estate:</u> Personal property - \$ 5,000.00 Real property - \$35,000.00 <b>Total - \$40,000.00</b>  <b>Probate Referee: Steven Diebert</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>	
Cont. from 072811, 090811, 102711			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
✓ Aff.Mail			W/
✓ Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: KT	
		Reviewed on: 11/17/11	
		Updates:	
		Recommendation:	
		File 11 - Anguiano	

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

DOD: 12-3-10	MELODY MILES, unknown relationship, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		<u>Minute Order 8-23-11</u> : Examiner notes provided to Petitioner. Petitioner is directed to cure the defects.
	40 days since DOD	<u>Minute Order 10-18-11</u> : Mr. Bacigalupi is appearing on behalf of Fresno Unified School District. The Examiner notes are provided to the Petitioner. The Petitioner is directed to cure the defects. Mr. Baciglupe advises the Court that they are filing an eminent domain action the first week of November. Matter continued to 11/29/11.
Cont. from 082311, 101811	No other proceedings.	<u>Note</u> : As of 11-18-11, Petitioner is now represented by Attorney John E. Barrus. However, nothing further has been filed.
Aff.Sub.Wit.		<u>The following issues remain</u> :
✓ Verified	The petition is incomplete. Petitioner does not state a specific request or a basis for determination of property.	1. Petitioner does not provide her relationship to the Decedent.
Inventory		2. Petitioner does not list any names or relationships of heirs at #14.
PTC		3. The attached Inventory and Appraisal is incomplete. Appraisal of real and personal property must be done by a probate referee per Probate Code §§ 13152, 8802, 8902.
Not.Cred.		4. Petitioner requests determination that real and personal property passes to her, but the incomplete I&A appears to reference only real property.
Notice of Hrg	X	<i>Examiner notes that the attached property description appears to be an incomplete printout of confidential school district records.</i>
Aff.Mail	X	5. Need Notice of Hearing.
Aff.Pub.		6. Need proof of service of Notice of Hearing per Probate Code §§ 13152, 1220 on appropriate parties ( <i>list not provided</i> ).
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		Updates: Reviewed 11-21-11
Status Rpt		Contacts:
UCCJEA		Recommendation:
Citation		Reviewed by: skc
FTB Notice		File 12 - Miles

Age: 1	<p><b>TEMPORARY EXPIRES 9-20-11</b></p> <p><b>DENISE and MATTHEW SIFUENTES</b>, Maternal Grandmother and Step-Grandfather, are Petitioners.</p> <p>Father: <b>UNKNOWN</b> - <i>Known only as "Benny"</i></p> <p>Mother: <b>GINA SCHULTZ</b></p> <p>Paternal Grandfather: Unknown Paternal Grandmother: Unknown Maternal Grandfather: Alberto Meza Chavez - <i>Deported to Mexico, address unknown</i></p> <p><b>Petitioners state</b> Mother is incarcerated for domestic violence issues on a no bail warrant. She is a severe drug addict and suffers from mental illness. While the child is in her custody, she is neglected, not fed, and the baby's TANF money is spent on drugs. The baby is severely neglected and abused while in her mother's custody. Petitioners state the father is unknown, other than a first name of "Benny" and that he is in prison somewhere.</p> <p>Per the temporary petition, the child suffers from seizures and requires medical attention.</p> <p>Per the UCCJEA, Petitioners have had the child since 6-18-11. Prior to that, she was with Mother, who was homeless and staying in various houses.</p> <p><b>Court Investigator Jennifer Young's report was filed 9-13-11.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Minute Order 7-28-11</u> (hearing on temporary petition): Ms. Sifuentes advises the Court that the mother has not been served yet. The Court extends the temporary to 9-20-11 (General Hearing date).</p> <p><u>Minute Order 9-20-11</u>: Examiner Notes provided; Petitioner directed to cure defects; Temporary extended to 11-29-11.</p> <p><u>As of 11-17-11, nothing further has been filed. The following issues remain:</u></p> <ol style="list-style-type: none"> <li>Petitioners marked "No" on regarding the Indian Child Welfare Act (ICWA); however, the Court Investigator's Report indicates ICWA. <u>Therefore, this hearing cannot proceed until Notice of Child Custody Proceeding for Indian Child (Form ICWA-030) has been served on the appropriate parties and agencies pursuant to Probate Code §1460.2 and Cal. Rule of Court 7.1015. Need completed form returned to the Probate Clerk's Office for service on the appropriate parties and agencies.</u></li> </ol> <p><u>Note:</u> The Court Investigator previously provided the form to the Petitioners, and the form was provided again at the last hearing, but it has not been filed.</p> <ol style="list-style-type: none"> <li>Need Notice of Hearing.</li> <li>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 <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on: <ul style="list-style-type: none"> <li>- Gina Schultz (Mother)</li> <li>- Father ("Benny")</li> </ul> </li> <li>If notice is not dispensed, 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 <u>or</u> consent and waiver of notice <u>or</u> declaration of due diligence on: <ul style="list-style-type: none"> <li>- Unknown Paternal Grandfather</li> <li>- Unknown Paternal Grandmother</li> <li>- Alberto Meza Chavez (Maternal Grandfather)</li> </ul> </li> </ol>
DOB: 6-16-10		
Cont. from 092011		
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg X		
Aff.Mail X		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv. X		
✓ Conf. Screen		
✓ Letters		
✓ Duties/Supp		
Objections		
Video Receipt		
✓ CI Report		
✓ 9202		
✓ Order		
Aff. Posting		
Status Rpt		
✓ UCCJEA		
Citation		
FTB Notice		
Updates:		
Contacts: Reviewed 9-14-11		
Recommendation:		
Reviewed by: skc		
File 13 - Sifuentes		

Age: 2 years DOB: 3/20/09	<p style="text-align: center;"><b>TEMPORARY EXPIRES 11/29/11</b></p> <p><b>DIANNA JEANNE DECOSTE</b>, paternal grandmother, is Petitioner.</p> <p>Father: <b>AMIR NYN WHITE</b> - <i>Incarcerated (Susanville)- Consents and waives notice.</i></p> <p>Mother: <b>SHALON MOON</b> - <i>Court dispensed with notice per minute order dated 8/18/11.</i></p> <p>Paternal grandfather: Not provided Maternal grandfather: Not provided Maternal grandmother: Virginia Moon – <i>Declaration of Due Diligence filed on 11/22/11.</i></p> <p><b>Petitioner states</b> Mother is homeless and the baby has lived with Petitioner most of her life. When mother takes the baby, she returns her with scratches, marks, colds, rash, and a black eye. Last summer, she came back with a chipped tooth that had to be replaced with a silver tooth. Recently, she returned with a scalp rash that needed medication attention. Mother left her 5 weeks ago and has not called or returned for her. Petitioner states the baby is happy and secure with Petitioner and is very attached to her home and life here. Father is incarcerated.</p> <p><b>Court Investigator Samantha Henson's Report filed on 11/22/11</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>Continued from 10/11/11. Minute order states the Petitioner advises the court that she wishes to pursue the petition. She further advises that she picked up the child from Hanford a month ago and hasn't seen the mother for two weeks. The Petitioner is advised that the mother will need to be noticed if and when her whereabouts become known. As of 11/17/11 the following issues remain:</p> <ol style="list-style-type: none"> <li>1. <i>Need Notice of Hearing.</i></li> <li>2. <i>Need proof of service of the Notice of Hearing along with a copy of the Petition or consent and waiver of notice or declaration of due diligence on:</i> <ol style="list-style-type: none"> <li>a. <b>Paternal grandfather</b></li> <li>b. <b>Maternal grandfather</b></li> <li>c. <b>Virginia Moon maternal grandmother</b> – <i>unless court dispenses with notice.</i></li> </ol> </li> <li>3. <b>Petition does not include the names and addresses of the paternal grandfather and maternal grandfather.</b></li> </ol>	
Cont. from 101111			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			X
Aff.Mail			X
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
		Reviewed by: KT	
		Reviewed on: 10/4/11	
		Updates: 11/28/11	
		Recommendation:	
		File 14 – White	

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

Rachel age: 4 years DOB: 2/13/07		<p><b>THERE IS NO TEMPORARY.</b> No temporary was requested.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>Continued from 10/11/11. Minute order states examiner notes are provided to petitioners. The petitioners are directed to cure the defects. The petitioners inform the court that the father is objecting. The petitioners are advised that the father needs to be personally served and the filing fees need to be paid. As o 11/17/11 the following issues remain:</p> <ol style="list-style-type: none"> <li>1. Fee Waivers for both petitioners were denied. Therefore a filing fee of \$225.00 is now due.</li> <li>2. Need Notice of Hearing.</li> <li>3. Need proof of personal service of the Notice of Hearing along with a copy of the Petition or consent and waiver of notice or declaration of due diligence on:                     <ol style="list-style-type: none"> <li>a. Charles Smith, Jr. (father)</li> </ol> </li> <li>4. Need proof of service of the Notice of Hearing along with a copy of the petition or consent and waiver of notice or declaration of due diligence on:                     <ol style="list-style-type: none"> <li>a. Charles Smith, Sr. (paternal grandfather)</li> <li>b. Paulett (no last name listed) (paternal grandmother)</li> <li>c. Theartist Williams (maternal grandfather)</li> <li>d. Betty Bryant (maternal grandmother) <i>if court does not dispense with notice.</i></li> </ol> </li> <li>5. UCCJEA is incomplete. Need the minors' residence information from 2/13/07 to 6/10/11.</li> <li>6. Confidential Guardian Screening form for Petitioner Everett Smith, Jr. is incomplete at question #8. Petitioner is or is not aware of reports alleging any form of child abuse, neglect, molestation etc. regarding him or another person living in his home.</li> </ol>
Kimberly age: 3 years DOB: 7/5/08			
Cont. from 101111		<p>REARTIST WILLIAMS, maternal aunt and EVERETT SMITH, Jr. fiancé of maternal aunt, are petitioners.</p>	
Aff.Sub.Wit.			
✓	Verified	<p>Father: CHARLES SMITH, JR.</p>	
	Inventory		
	PTC	<p>Mother: RACHEL WILLIAMS – <i>consent and waiver of notice filed on 8/10/11.</i></p>	
	Not.Cred.		
	Notice of Hrg	X	<p>Paternal grandfather: Charles Smith,Sr.</p>
	Aff.Mail	X	
	Aff.Pub.		<p>Paternal grandmother: Paulett (no last name listed)</p>
	Sp.Ntc.		
	Pers.Serv.	X	<p>Maternal grandfather: Theartist Williams</p>
✓	Conf. Screen		
✓	Letters		<p>Maternal grandmother: Betty Bryant – <i>declaration of due diligence filed on 8/10/11.</i></p>
✓	Duties/Supp		
	Objections		<p>Petitioners state the parents do not have a stable home at this time. Both parents are on drugs.</p>
	Video Receipt		
✓	CI Report		<p>Court Investigator Charlotte Bien's Report filed on 9/21/11.</p>
	9202		
✓	Order		
	Aff. Posting		<p>Reviewed by: KT</p>
	Status Rpt		
✓	UCCJEA		<p>Reviewed on: 11/17/11</p>
	Citation		
	FTB Notice		<p>Updates:</p>
			<p>Recommendation:</p>
			<p>File 15 - Smith</p>

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

DOD: 9/4/1995		<p><b>CARL ALBERT THOMPSON,</b> son, is petitioner.</p> <p>40 days since DOD.</p> <p>No other proceedings.</p> <p>Will dated: ??</p> <p>I &amp; A -       <b>\$75,000.00</b></p> <p>Petitioner requests Court determination that decedent's interest in real property and personal property pass to him pursuant to decedent's Will.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><b><u>Continued to 1/25/12</u></b> at the request of the Petitioner.</p> <p>Continued from 10/18/11. Minute order states the petitioner informs the court that he has a copy of the examiner notes. The petitioner is directed to cure the defects. Upon inquiry by the Court, the Petitioner advises the Court that there is a predeceased child. As of 11/17/11 the following issues remain:</p> <ol style="list-style-type: none"> <li><b>#14 of the petition does not include the name and date of death of the deceased spouse. Local Rule 7.1.1D.</b></li> <li><b>Petition states the decedent died testate. A copy of the decedent's will was not attached to the petition as required.</b></li> <li><b>Inventory and appraisal was not completed by the probate referee as required.</b></li> </ol>
Cont. from 101811			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	X		
Aff.Mail	X		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: KT	
		Reviewed on: 11/17/11	
		Updates: 11/28/11	
		Recommendation:	
		File 16 - Thompson	

**17 Macy Atchley-Driver, Alexis Driver and Jonathan Driver (GUARD/P)**

**Case No. 11CEPR00862**

**Atty Driver, Laura Adair (pro per Petitioner/paternal grandmother)**

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

Macy age: 8 years DOB: 7/4/03		<p align="center"><u><b>TEMPORARY EXPIRES 11/29/11</b></u></p> <p><b>LAURA ADAIR DRIVER</b>, paternal grandmother, is petitioner.</p> <p>Father: <b>KC DRIVER</b> – <i>personally served on 9/30/11</i></p> <p>Mother: <b>JESSICA ELLEN ATCHLEY</b> – <i>personally served on 9/30/11</i></p> <p>Paternal grandfather: Don Driver – <i>served on 9/29/11.</i></p> <p>Maternal grandfather: Robert Atchley- <i>served on 9/29/11.</i></p> <p>Maternal grandmother: Mary Atchley -<i>served on 9/29/11.</i></p> <p><b>Petitioner states</b> both parents are guilty of domestic violence. The girls were in foster care from April 2006 to April 2008. When they were taken by CPS the mother refused to allow the girls to be placed with the petitioner (even though they had already been living with her). During the time they were in foster care, they were in 6 different homes. Petitioner alleges they were physically, mentally and emotionally abused. The children have lived with Petitioner again since May 27, 2011; however, both parents make it abundantly clear that if Petitioner displeases them, or do something they do not want her to do they can take the children at any time. Recently, Petitioner states her son, the biological father, came to her home and demanded money. When Petitioner said no, he made it clear that he just might take the children from her. Both girls are afraid that their mother will come and take them away. Macy shakes and shivers when she thinks her mom might be coming over because she is afraid that she will insist she go with her.</p> <p><b>Court Investigator Samantha Henson’s Report filed on 11/25/11.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>Minute Order from the temporary hearing on 10/6/11 states the Court advises that it has extended the temporary given the children are with her. The Petitioner is directed to make the children available for counseling that may be needed. The petitioner is directed to place herself on calendar in Family Court and request joinder given there is a Family Law case regarding custody of these children.</p>	
Alexis age: 5 years DOB: 8/4/05				
Jonathan age: 2 years DOB: 1/21/09				
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			W/
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input 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 type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input checked="" type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			

<b>Reviewed by: KT</b>
<b>Reviewed on: 11/18/11</b>
<b>Updates: 11/28/11</b>
<b>Recommendation:</b>
<b>File 17 – Atchley-Driver &amp; Driver</b>

Atty Soria, Carmen (pro per Petitioner/maternal grandmother)

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

Jennifer age: 11 DOB: 3/30/2000		<p style="text-align: center;"><b>Temporary Expires 11/29/11</b></p> <p><b>CARMEN SORIA</b>, maternal grandmother, is Petitioner.</p> <p>Father (Jennifer): <b>ROGELIO I. LOPEZ</b> - <i>Court dispensed with notice per minute order dated 11/6/11.</i></p> <p>Father (Juan and Jaydan): <b>JUAN SERGIO MERCADO</b> – <i>consents and waives notice.</i></p> <p>Mother: <b>ERIKA K. SORIA</b> – <i>consents and waives notice.</i></p> <p>Paternal grandfather (Jennifer): Not listed (name crossed out)</p> <p>Paternal grandmother (Jennifer): Alma Resendez</p> <p>Paternal grandfather (Juan and Jaydan): Herman Mercado</p> <p>Paternal grandmother (Juan and Jaydan): Camelia Mercado</p> <p>Maternal Grandfather: Robert Rivera-<i>declaration of due diligence.</i></p> <p><b>Petitioner states</b> Mother is going through some legal matters. Mother has had custody of Juan and Jaydan due to their father’s criminal record and drug abuse, and Jennifer has lived with Petitioner since she was two months old. Jennifer’s father has never been in her life, and Juan and Jaydan’s father has never shown to court (10CEFL02922).</p> <p><b>Court Investigator Jennifer Young’s Report filed on 11/22/11</b> recommends that the guardianship be <b>GRANTED</b>.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Need proof of service of the <i>Notice of Hearing</i> along with a copy of the petition or consent and waiver of notice or declaration of due diligence on:</p> <p>a. Jennifer’s paternal grandfather</p> <p>b. Alma Resendez (Jennifer’s paternal grandmother)</p>	
Juan age: 8 years DOB: 12/9/2002				
Jayden age: 5 years DOB: 5/9/2006				
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			W/
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input checked="" type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input 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 checked="" type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		Reviewed by: KT		
		Reviewed on: 11/18/11		
		Updates: 11/28/11		
		Recommendation:		
		File 18 – Lopez & Soria-Mercado		

**19 Teddy Gerard, Edward Gerard, Jacob Rangel and Jayden Rangel  
(GUARD/P)**

**Case No. 11CEPR00864**

**Atty Flores, Alma R (pro per Petitioner/maternal grandmother)**

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

Teddy age: 16 years DOB: 2/27/1995		<p><b>THERE IS NO TEMPORARY.</b> No temporary was requested.</p> <p><b>ALMA FLORES</b>, maternal grandmother, is petitioner.</p> <p>Father: <b>ANGEL RANGEL</b></p> <p>Mother: <b>MARISOL N. FLORES</b></p> <p>Paternal grandparents: unknown Maternal grandfather: deceased.</p> <p>Petitioner states the mother is unable to give the children a safe and stable home. Children are neglected and getting into trouble on a regular basis. The children's father has not seen the children since 2006 and is impossible to find.</p> <p><b>Court Investigator Charlotte Bien's report filed on 11/14/11.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need <i>Notice of Hearing</i>.</li> <li>2. Need proof of personal service of the <i>Notice of Hearing</i> along with a copy of the petition or consent and waiver of notice or declaration of due diligence on:                         <ol style="list-style-type: none"> <li>a. Angel Rangel (father)</li> <li>b. Marisol Flores (mother)</li> <li>c. Teddy Gerard (minor, age 16)</li> <li>d. Edward Gerard (minor, age 14)</li> </ol> </li> <li>3. Need proof of service of the <i>Notice of Hearing</i> along with a copy of the petition or consent and waiver of notice or declaration of due diligence on:                         <ol style="list-style-type: none"> <li>a. Paternal grandparents (unknown)</li> </ol> </li> <li>4. UCCJEA is incomplete. Need residence information from 2006 to 8/10/11.</li> </ol>
Edward age: 14 years DOB: 3/29/1997			
Jacob age: 9 years DOB: 7/4/2002			
Jayden age: 5 years DOB: 2/17/2006			
Cont. from			
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		Reviewed by: KT	
		Reviewed on: 11/18/11	
		Updates:	
		Recommendation:	
		File 19 – Gerard & Rangel	

Miracle, 2 DOB: 01/29/09		<p align="center"><b><u>GENERAL HEARING 01/24/12</u></b></p> <p>SARAH BANKS, maternal great aunt, is Petitioner.</p> <p>Father: UNKNOWN</p> <p>Mother: LATARA PEOPLES</p> <p>Paternal grandparents: UNKNOWN</p> <p>Maternal grandfather: CALVIN PEOPLES                  Maternal grandmother: DECEASED</p> <p>Petitioner states that the children's mother abuses drugs and is not able to care for them at this time.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Note:</u>                  Petitioner was previously appointed guardian of these minor's sibling, Sharae Peoples on 07/13/09.</p> <ol style="list-style-type: none"> <li>1. Need <i>Notice of Hearing</i>.</li> <li>2. Need proof of personal service at least 5 court days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Temporary Petition or Consent and Waiver of Notice or Declaration of Due Diligence</i> for:                         <ul style="list-style-type: none"> <li>- Father (unknown)</li> <li>- Latara Peoples (mother)</li> </ul> </li> </ol>	
Royalty, 2 months DOB: 09/19/11				
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
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	Notice of Hrg			x
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	Pers.Serv.			x
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
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✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
		Reviewed by: JF		
		Reviewed on: 11/18/11		
		Updates:		
		Recommendation:		
		File 20 - Peoples		

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

Age: 67 years DOB: 12-18-43	<p><b>WILLIAM DURANT, JR.</b>, was appointed Probate Conservator of the Person and Estate on 12/2/08 with medical consent powers and bond fixed at \$51,522.55, as well as certain other specific powers. Bond was filed and Letters issued.</p> <p><b>Minute Order 6/22/10 (Hearing on Petition to Fix Residence Outside the State of California):</b> Order signed as amended on the record. If proof of the conservatorship being established in MA and the final account/petition to terminate are filed by 9/20/10, then no appearance is necessary on 9/21/10.</p> <p>A Pre-Move Notice of Proposed Change of Personal Residence of Conservatee was filed 7/7/10 and a Post-Move Notice of Change of Residence of Conservatee was filed 8/3/10.</p> <p><b>Minute Order dated 10/18/11</b> continued the matter to 11/22/11.</p> <p><b>Status Report filed 11/21/11</b> states that a conservatorship of the person was established in Massachusetts on 08/12/11 and Letters were issued on 10/26/11. The Conservator's Fresno counsel has sent the second and final account to Mr. Durant to review and have been informed by Mr. Durant that the accounting should be received by 11/22/11 and will be filed immediately thereafter.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>OFF CALENDAR</b></p> <p>Second &amp; Final Account filed 11/22/11.          Hearing date set for 01/04/12.</p>
Cont. from 011111, 031511, 051711, 080211, 091311, 101811, 112211		
Aff.Sub.Wit.		
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Citation		
FTB Notice		
	Reviewed by: JF	
	Reviewed on: 11/28/11	
	Recommendation:	
	Updates:	
	File 21 - Banigan	

Atty LeVan, Nancy J., sole practitioner (for Katrina Leal, daughter, and Jason Hermosillo, son)

Atty Magness, Marcus, of Gilmore Wood Vinnard &amp; Magness (for Arthur Hermosillo, proposed Conservatee, and for Jessica Hermosillo, daughter)

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

## Notice of Motion and Motion of Arthur Hermosillo to Consolidate Proceedings

Age: 53 years	<p><b>ARTHUR HERMOSILLO</b> moves the Court pursuant to Code of Civil Procedure § 1048(a) and CA Rule of Court 3.350 for an order granting consolidation of Case No. 11CEPR00214 with Case No. 11CEPR00777, on the following grounds:</p> <ul style="list-style-type: none"> <li>The two cases involve common questions of law and fact; Petitioners <b>KATRINA LEAL</b> and <b>JASON HERMOSILLO</b> allege their father, Arthur Hermosillo, is incapacitated and their sister, <b>JESSICA HERMOSILLO</b>, with whom Arthur resides and who serves as his attorney-in-fact, is taking advantage of Arthur and diverting her funds to her own uses; to allow both cases to proceed separately would result in Arthur incurring duplicative costs and attorneys' fees in conducting discovery, retention of expert witnesses, and trial;</li> <li>Judicial economy will be served by consolidation; issues present in both cases include whether Arthur has capacity, whether Jessica breached her fiduciary duty under the <i>Durable Power of Attorney</i>, and whether Arthur requires the appointment of a conservator; percipient witnesses will be the same, the same experts will testify at trial in both actions, and the evidence presented will be substantially the same; and</li> <li>No other party to either action will be prejudiced by consolidation.</li> </ul> <p><b>Movant states:</b></p> <ul style="list-style-type: none"> <li>Petitioners <b>KATRINA LEAL</b> and <b>JASON HERMOSILLO</b> are represented by Nancy J. LeVan in both case numbers;</li> <li><b>ARTHUR HERMOSILLO</b>, who has appeared in Case No. 11CEPR0021, is represented by the law firm of Gilmore, Wood, Vinnard &amp; Magness;</li> <li>Concurrently with this <i>Motion</i>, <b>JESSICA HERMOSILLO</b> is filing a <i>Motion to Strike</i> in Case No. 11CEPR00777, which is her first appearance in that case, and she is represented by the law firm of Gilmore, Wood, Vinnard &amp; Magness;</li> </ul> <p>This <i>Motion</i> is based on the <i>Notice of Motion</i>, the <i>Memorandum of Points and Authorities</i>, the <i>Declaration of Marcus D. Magness</i>, all of the pleadings, files and records in this proceeding, all other matters of which the Court may take judicial notice, and any argument or evidence that may be presented to or considered by the Court.</p> <p style="text-align: center;">~Please see additional page~</p>	NEEDS/PROBLEMS/ COMMENTS:	
DOB: 1-1-1958			<b>NOTE: This matter will be heard at 10:30 a.m. in Dept. 303.</b>
			Please refer to related cases on Pages 5A, 5B and 5C.
Cont. from 110711			Continued from 11/7/2011.
Aff.Sub.Wit.			Note: <i>Minute Order</i> dated 10/3/2011 from the hearing on the <i>Petition for Appointment of Probate Conservator</i> set the matter for Court Trial on <u>2/14/2012</u> .
✓ Verified			Reviewed by: LEG
Inventory			Reviewed on: 11/28/11
PTC			Updates:
Not.Cred.			Recommendation:
Notice of Hrg			File 22 - Hermosillo
✓ Aff.Mail		W/	
Aff.Pub.			
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CI Report			
9202			
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Status Rpt			
UCCJEA			
Citation			
FTB Notice			

***Declaration of Marcus D. Magness in Support of Motion of Arthur Hermosillo to Consolidate Proceedings filed on 10/13/2011 states:***

- On 3/23/2011, Arthur Hermosillo appointed Jessica Hermosillo as his attorney-in-fact under a Durable Power of Attorney for Management of Property and Personal Affairs; as his agent, Arthur is obligated to defend and indemnify Jessica from any costs and attorneys' fees incurred as a result of her carrying out her duties;
- For that reason, subject to Court approval under the temporary conservator, Arthur will pay Jessica's attorneys' fees and costs incurred in defending against the *Petition to Compel*;
- The allegations in the *Petition for Appointment of Probate Conservator* are essentially the same as those alleged in the *Petition to Compel*; Petitioners allege that Arthur lacks capacity and he lacked capacity at the time he signed the *Durable Power of Attorney* at issue; that Jessica is not providing adequate care of Arthur; and that Jessica is using her undue influence on Arthur and is diverting his assets to her own personal uses;
- The trial on the *Petition for Appointment* has been set for three days beginning on 2/14/2012; a trial on the *Petition to Compel* would also likely take three days if permitted to proceed separately due to the number of witnesses involved and the issues at hand;
- Arthur and Jessica intend to depose the same witnesses and to conduct the same discovery in both cases and have retained the same expert witnesses to testify at trial in both cases; it is anticipated that Petitioners will also call the same witnesses and expert witnesses at trial in both cases;
- Arthur and Jessica will both be presenting the same documents, accountings and other evidence at trial in both cases.

***Request for Judicial Notice in Support of Motion of Arthur Hermosillo to Consolidate Proceeds filed on 10/13/2011 requests the Court take judicial notice pursuant to Evidence Code § 452 of the following:***

- *Petition to Compel Formal Accounting from Jessica Hermosillo* filed on 9/1/2011 (copy attached as Exhibit A); and
- *Objection to Accounting Presented* filed on 9/26/2011 (copy attached as Exhibit B).

***Objection to Accounting Presented filed on 9/26/2011 by Katrina Leal and Jason Hermosillo, Co-Petitioners for Conservatorship of Arthur Hermosillo, states:***

- Objectors have filed a *Petition to Compel* an accounting from **JESSICA HERMOSILLO**, daughter;
- Objectors were told in Court that the licensing and bonding information from Beatrice Jiminez, who received over **\$1,900.00** for the care of Arthur, would be provided to Objectors; no documentation was provided to Objectors;
- Objectors would like an explanation for several withdrawals totaling **\$17,600.89** from EECU;
- Objectors request an accounting regarding the **\$3,000.00** cash taken from Wells Fargo account; there are several withdrawals of **\$1,200.00**, the amount of Jessica's rent, and Jessica also appears to be charging Arthur **\$400.00** rent for staying in her residence;
- Jessica has used her influence over Arthur to begin divorce proceedings against Sandie, spouse, based on lies, and she has incurred significant attorneys' fees;
- The entire accounting is inaccurate and does not add up to the amount spent out of the account nor explain the low remaining balance, and there is no accounting for Arthur's income received for the 5 months covered;

*~Please see additional page~*

***Objection to Accounting Presented filed on 9/26/2011, continued:***

- No documentation has been provided as to Elizabeth Rouse's qualifications to act as Arthur's caregiver, and Ms. Rouse has gained substantial financial benefit from placing Jessica in charge of Arthur's financial matters; Ms. Rouse has a conflict of interest as Arthur's caregiver and as the Notary of Arthur's Durable Power of Attorney signed 1/4/2011 while Arthur was in the hospital; there is no statement from an Ombudsman to indicate that Arthur signed the documents knowingly and without coercion;
- Objectors question why furniture and clothing was purchased for Arthur when he has these at his former residence and could have moved them to Jessica's house without cost.

**Objectors request a formal accounting of all of Arthur's income and a complete detailed accounting of the funds spent from the \$82,000.00 deducted from Wells Fargo Bank.**

***Declaration of Deputy Public Guardian Renee Garcia Regarding Objection to Account Presented filed on 11/23/2011 states:***

- Arthur Hermosillo's case is assigned to her as a part of her caseload of individuals under conservatorship of the Public Guardian's Office; the Public Guardian was appointed temporary conservator of the estate of Mr. Hermosillo on 6/27/2011 by *Minute Order* and has been acting in that capacity since that date;
- There is a companion Case (11CEPR00777) entitled *In Re Durable Power of Attorney of Arthur Hermosillo*; Katrina Leal and Jason Hermosillo, represented by Attorney Nancy J. LeVan, filed a petition to compel an accounting from Jessica Hermosillo, who is represented by Attorney Marc Magness; Ms. Hermosillo has objected to the petition to compel an accounting;
- This declaration is to serve as her response to the *Objection to Accounting Presented* filed by Ms. LeVan on behalf of her clients; the Court requested the Public Guardian to investigate the financial allegations made in the objection, and this declaration serves as the deputy's report;
- The Public Guardian's responses are as follows:
  1. Page 1, Paragraph 2: The Public Guardian has no information about comments made in Court regarding bonding;
  2. Page 1, Paragraph 2: The total withdrawals made on the account from 4/30 to 5/31/2011 amount to **\$17,600.90**; **\$1,200.00** was paid to a property management company; **\$8,968.14** was paid to attorneys representing Mr. Hermosillo; **\$1,600.00** was paid to care providers; these amounts were determined from copies of cashiers' checks;
  3. Page 2, Paragraph 5: All of Mr. Hermosillo's social security in the sum of **\$1,205.00** is spent solely for him; it is a coincidence that this is also the amount of Jessica's rent; she only charges him 1/3 of the rent, and the remaining **\$800.00/month** is spent on his care and personal needs; it should be noted that Mr. Hermosillo has additional income from a pension that he has not received in several months which is not available for his care; it is reportedly deposited into a joint checking account with his wife, Sandie Hermosillo;
  4. Page 2, Paragraph 6: The Public Guardian has no comment regarding Mr. Hermosillo's capacity or allegations of undue influence; her role is to report on the disbursement of Mr. Hermosillo's funds, which in the Public Guardian's opinion, have been properly managed;

*~Please see additional page~*

***Declaration of Deputy Public Guardian Renee Garcia Regarding Objection to Account filed 11/23/2011, continued:***

5. Page 2, Paragraph 7: Jessica only received Mr. Hermosillo's Social Security income of **\$1,205.00**, not his pension; this is verified by bank statements; Mr. Hermosillo's expenses exceed the monthly amount Jessica receives, shown in the following breakdown [*please refer to Page 3 of Declaration indicating itemized expenses; balance is **negative \$1,840.00** remaining after deducting expenses from income*]; the Public Guardian asserts that the amounts shown above are reasonable expenses; in addition, if Jessica were not caring for Mr. Hermosillo in her home with the care providers she utilizes, she would be paying the average charge of **\$75.00/day** for an adult day health care center; even if he was also receiving his monthly pension of **\$549.46/month**, he could still not afford the monthly cost of **\$2,200.00**;
  6. Page 2, Paragraph 8: The Public Guardian has no comment regarding the care provider's qualifications or conflict of interest; Mr. Hermosillo receives more care than he could normally afford without the care providing arrangements that have been made;
  7. Page 3, Paragraph 9: Jessica reported that her father was given a mattress that was soiled and she did not know where it came from; she also stated that she had to buy furniture and clothing for Mr. Hermosillo because her mother, Sandie, would not let her take his property; the Public Guardian has verified that the items purchased are in Mr. Hermosillo's room and are being used by him for his benefit only; in addition, as temporary conservator the Public Guardian will obtain all of Mr. Hermosillo's personal items, including clothing, furniture and a gun as soon as Sandie will allow her to do so;
  8. Page 2, Paragraph 4 and Page 3 Paragraph 10: The following is an "accounting" the Public Guardian has been able to put together for the **\$82,000.00** line of credit; This information supports her assertion that all of Mr. Hermosillo's funds are properly accounted for; **\$35,511.61** was turned over to the Public Guardian on 7/1/2011, which leaves **\$46,488.39** [*please refer to Page 4 of Declaration itemizing all expenditures starting from the \$46,488.39 that was not turned over to the Public Guardian; remaining balance unaccounted for from the total \$82,000.00 calculates as \$2,575.67.*]
- This "accounting" does not include the purchase of a train ticket, out of town spending money, or other spending money that Mr. Hermosillo may have received;
  - The Public Guardian has spent many hours researching and explaining the above expenditures; she is concerned that Mr. Hermosillo's money will be wasted having to pay for her time; if further inquiry is made that appears to the Court to be unreasonable, it is requested that the objectors pay for their investigative services.