ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

2 **John Bennett (CONS/PE)** **Case No. 0624948**

Atty **Kruthers, Heather H (for Petitioner/Conservator Public Guardian)**

(1) Sixth Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorney and (3) for Continued Dispensation of Accounts (Prob. C. 2620; 2623; 2628(b); 2942)

Age: 55 years		
DOB: 9/10/1956		
Cont. from		
	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	

PUBLIC GUARDIAN, Conservator, is petitioner.

Account period: 8/1/2008 – 8/31/2011

Accounting - **$81,830.11**
Beginning POH - **$49,848.33**
Ending POH - **$ 1,049.09**

Conservator - **$8,710.76**
(61.96 Deputy hours @ $96/hr and 36.35 Staff hours @ $76/hr)

Attorney - **$2,500.00** (o.k. per Local Rule)

Petitioner request that due to the insufficiency of the estate to pay the fees and commissions that a lien be imposed upon the estate for any unpaid balances of the authorized fees and commissions.

Petitioner states that the conservatorship estates meets the requirements of Probate Code § 2628(b) to dispenses with further accountings. Petitioner requests that the court dispense with further accountings as long as conservatorship estate continues the requirements of Probate Code §2628(b).

Petitioner prays for an Order:

1. Approving, allowing and settling the sixth account.
2. Authorizing the conservator and attorney fees and commissions
3. Authorize petitioner to impose a lien on the estate for any unpaid balances of authorized fees and commissions

Court Investigator Jennifer Young's Report filed 10/15/2010.

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: KT

Reviewed on: 11/18/11

Updates:

Recommendation:

File 2 - Bennett

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

3A **Tarek K. Alameldin (Estate)** **Case No. 06CEPR01226**

Atty **Rindlisbacher, Curtis D. (for Naglaa K. Alameldin – Sister – Administrator)**

Atty **Shahbazian, Steven L. (for Roli Elsotari)**

Probate Status Hearing Re: (1) Status Report of Administration of Estate and (2) Petition to Approve First Account (Prob. C. 12201 and 10950)

DOD: 11-6-06

Cont. from: 110110, 120610, 012711, 042811, 070711, 081811, 091411

	Aff.Sub.Wit.	
✔	**Verified**	
✔	**Inventory**	X
✔	**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	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
N/A	**FTB Notice**	

NAGLAA K. ALAMELDIN, sister / Administrator with full IAEA with bond of $190,000.00, is Petitioner. (Appointed 1-2-07)

Account period: 11-6-06 through 9-20-10

Accounting: $ 507,501.26
Beginning POH: $ 477,653.43
Ending POH: $ 105,275.67

Administrator: $ 5,944.34
(Note: Petition does not appear to request statutory commissions at this time.)

Administrator: $ 11,424.99
(Reimburse for costs of administration and repairs to residence – This amount is included in the Ending POH figure as a Note Payable.)

Attorney: $ 5,944.34 *

***Petitioner proposes** to split statutory attorney fees between current attorneys and former attorneys Tuttle & McCloskey, who have filed a Creditor's Claim for $2,140.00, which has not yet been approved by the court or paid, and $3,500.00 estimated statutory fees. This split has not yet been agreed upon yet. **Petition does not appear to request payment of these fees.**

Petitioner states the estate is <u>not</u> in a position to be closed because Petitioner has not been able to collect the amounts owed to the estate by Roli Elsotari and the estate is insolvent.

Petitioner requests that the administration of the estate continue until Roli Elsotari has repaid the sums owed to the estate or other satisfactory arrangements approved by the Court are made for repayment of those sums.

Petitioner prays for an Order:
1. Confirming and approving all acts of Petitioner;
2. Settling and approving the First account;
3. Authorizing reimbursement to Petitioner for costs of $11,424.99
4. Continuing administration of the estate until Roli Elsotari has repaid the sums owed to the estate or other satisfactory arrangements approved by the Court are made for repayment of those sums; and
5. Such further orders as the court deems appropriate.

Declaration filed 8-18-11 addresses the Bank of America creditor's claim.

Minute Order 8-18-11: Counsel requests a continuance to resolve the other issues.

Minute Order 9-14-11: Mr. Rindlisbacher requests a continuance.

NEEDS/PROBLEMS/COMMENTS:
<u>(Page 1 of 3)</u>

<u>Note: This is the 8th hearing on this petition</u>.

<u>Note: Page 3B is Attorney McCloskey's (former attorneys for Administrator) Petition for Ordinary and Extraordinary Attorney's Fees and Costs</u>.

<u>Note</u>: Roli Elsotari (Decedent's ex-wife) filed a petition to remove Administrator on 2-3-10, which was denied on 7-13-10. On that date, the minute order states Atty Rindlisbacher will file an interim accounting; status hearing set for 9-21-10. This Status Report and Account (the interim accounting) was filed 9-21-10 and heard on 11-1-10, and was continued to 12-6-10, 1-27-11, 4-28-11, and 7-7-11.

<u>The following issues remain regarding this petition: See Page 2, 3.</u>

<u>Declaration filed 9-13-11 addresses the issues noted on Page 2 and 3 and requests an additional 30 days to correct the inventory and file an amended account.</u>

<u>As of 11-21-11, nothing further has been filed</u>.

Contacts: Reviewed 11-21-11

Recommendation:

Reviewed by: skc

File 3A - Alameldin

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

3A Tarek K. Alameldin (Estate) Case No. 06CEPR01226

Atty Rindlisbacher, Curtis D. (for Naglaa K. Alameldin – Sister – Administrator)
Atty Shahbazian, Steven L. (for Roli Elsotari)

(1) Status Report of Administration of Estate and (2) Petition to Approve First Account (Prob. C. 12201 and 10950)

NEEDS/PROBLEMS/COMMENTS (Continued) (Page 2 of 3):

1. **Inventory and Appraisal filed 3-23-10 and Amended I&A filed 9-13-11 appear to contain items appraised by Petitioner on Attachment 1 that should have been appraised by Probate Referee on Attachment 2 per Probate Code §8901:**
   - Warrant dated 11-15-06 valued at $13,618.19
   - Warrant dated 5-21-07 valued at $232.61
   - Warrant dated 7-3-07 valued at $18.41

   ***Note**: Descriptions of warrants state: "paid to Roli Elsotari (per Order of Fresno County Superior Court, sustained on appeal, this asset belongs to estate)."*

   ***Note**: Petition addresses the warrants at #3 and #5, as judgments and states interest is accruing and Petitioner plans to levy Ms. Elsotari's wages to enforce the judgment.*

   Declaration filed 9-13-11 states the warrants were properly inventoried. At the time of his death, these warrants represented wages and vacation compensation owed to Decedent. They were paid to Roli Elsotary pursuant to a beneficiary designation, and Petitioner sought judicial relief for an order that she be required to pay those monies back to the estate.

   Examiner notes that items such as debts and notes payable are typically appraised by the Probate Referee. If, at the time of death, these items were not warrants, but wages, they should be listed appropriately in whatever form or character they were at the date of death. If they later became debts owed to the estate via judgment or warrant, that is not an inventory item. However, for purposes of continuing this review, this explanation is accepted by Examiner.

2. **Inventory and Appraisal filed 3-23-10 includes "TD Ameritrade Investment Account" valued at $108,013.63 by Administrator on Attachment 1. Petition states this is a money market account, which means that appraisal on Attachment 1 is appropriate per Probate Code §8901(d); *however*, the Petition further states that Decedent had "shorted" a number of stocks against this account and Administrator repaid the loan by purchasing the stocks that had been shorted by Decedent and selling them the same day at a gain of $29,394.36. The court may require further information regarding whether appraisal of this item as a cash asset (including loan and repayment) is appropriate or whether the loan within the asset warrants appraisal by Probate Referee.**

   ***Note**: Minute Order 4-28-11 states Atty Rindlisbacher represents the account was properly accounted for; however, the minute order does not reflect action by the court on the representation. The item remains noted.*

   Declaration filed 9-13-11 states the item is properly appraised on Attachment 1.

SEE PAGE 3

3A Tarek K. Alameldin (Estate) Case No. 06CEPR01226

Atty Rindlisbacher, Curtis D. (for Naglaa K. Alameldin – Sister – Administrator)

Atty Shahbazian, Steven L. (for Roli Elsotari)

(1) Status Report of Administration of Estate and (2) Petition to Approve First Account (Prob. C. 12201 and 10950)

NEEDS/PROBLEMS/COMMENTS (Continued) (Page 3 of 3):

3. Need Allowance or Rejection of Creditor's Claims:

- Bank of America $311.50 (filed 8-27-07)

- Bank of America $40,978.89 (filed 8-27-07)

Note: Itemization attached for the $2,140.00 includes 9.25 attorney hours @ $220.00/hour and 1.5 paralegal hours @ $70.00/hour. Page 3B is a separate petition for these fees.

Note: Petition states Bank of America was paid $37,000.00; however, no Allowance or Satisfaction has been filed.

Note: Petition states Bank of America claim for $311.50 is still pending.

Note: Declaration filed 8-18-11 provides a letter from Bank of America indicating settlement and receipt of $37,000.00; however, the account number referenced on the letter does not match the account number referenced on either B of A creditor's claim. Need clarification.

Declaration filed 9-13-11 states Petitioner is researching to find out why the account numbers don't match, and the smaller claim is still pending.

As of 11-21-11, nothing further has been filed.

4. Petition appears to use net figures instead of gross figures for calculation of gains and losses (vehicles, personal property). This affects the balance of the account.

Declaration filed 9-13-11 states Petitioner is correcting the accounting to use gross figures and will be filing an amended and corrected account.

As of 11-21-11, nothing further has been filed.

5. Petition states the Guaranty Bank balance was transferred to the California State Controller's Office and Petitioner is submitting paperwork to collect this amount. Court may require additional information.

Declaration filed 9-13-11 states this item is pending. Petitioner was recently notified that there may be another asset that was previously unknown that may be a part of the estate.

As of 11-21-11, nothing further has been filed.

3B Tarek K. Alameldin (Estate) Case No. 06CEPR01226

Atty McCloskey, Daniel T. (of Tuttle & McCloskey, former attorney of Naglaa K. Alameldin, Administrator)
Atty Rindlisbacher, Curtis D. (current attorney for Naglaa K. Alameldin, Administrator

Petition for Ordinary and Extraordinary Attorney's Fees and Costs

DOD: 11-6-06

Cont. from 091411

	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	

DANIEL T. MCCLOSKEY, shareholder of Tuttle & McCloskey, previous attorneys for Naglaa K. Alameldin, Administrator, is Petitioner.

Tuttle & McCloskey represented Administrator until replaced by the current attorney.
(Substitution of Attorney was filed 2-6-07.)

Petitioner previously filed a creditor's claim and request for special notice in this case on 6-5-07, and now requests court authorization of the following extraordinary and statutory fees and costs:

- **$2,140.00 in extraordinary fees**
(9.25 attorney hours @ $220.00/hr and 1.5 staff hours @ $70.000/hr, itemized)

- **$3,500.00 in statutory fees**
(15 attorney hours and 7.75 staff hours, plus $385.00 in costs for filing fees, itemized)

Objection of Naglaa K. Alameldin, Administrator, filed 9-13-11 objects to the $2,140.00 in extraordinary fees because four entries totaling $825.00 appear to relate to work customarily performed as part of the statutory fee, and objects to the calculation and allocation of the statutory fees.

Regarding Extraordinary Fees: Objector believes an extraordinary fee of $1,315.00 is all that the court should consider for approval. Objector states that Petitioner's letters to account holders may have put them on notice, but did not prevent them from paying monies out to other named beneficiaries, which have not yet been recovered from the estate. No legal action was initiated by Petitioner to obtain a court order related to these accounts. Attorney McCloskey's declaration "too generously assumes" that the mere fact of sending letters was somehow the basis of the court's ultimate ruling that the certain accounts belonged to the estate. Attorney McCloskey assumes that the estate was benefited in the amount of $195,520.00. There has been no gain to the estate.

SEE PAGE 2

NEEDS/PROBLEMS/COMMENTS:

Note: Page 3A is the continued hearing on the first account and status report of the Administrator, who is currently represented by Attorney Curtis Rindlisbacher.

Note: Examiner notes that the amount requested for statutory fees is approx. 27% of the statutory fees based on the inventoried estate value.

Note: Probate Code §10814 states: If there are two or more attorneys for the personal representative, the attorney's compensation shall be apportioned among the attorneys by the court according to the services actually rendered by each attorney or as agreed to by the attorneys.

Updates:

Contacts: Reviewed 11-21-11

Recommendation:

Reviewed by: skc

File 3B - Alameldin

3B Tarek K. Alameldin (Estate) Case No. 06CEPR01226

Atty **McCloskey, Daniel T. (of Tuttle & McCloskey, former attorney of Naglaa K. Alameldin, Administrator)**
Atty **Rindlisbacher, Curtis D. (current attorney for Naglaa K. Alameldin, Administrator**

Petition for Ordinary and Extraordinary Attorney's Fees and Costs

Regarding Statutory Fees: Objector provides a calculation for the fee base for statutory compensation totaling $5,944.34 and states this amount should be allocated according to services actually provided. Petitioner requests 27% of the assumed statutory fee he used in his petition. 27% of the actual statutory compensation would be $1,604.97. **Objector and her counsel would have no objection to allocating 40% of the actual statutory fee to Petitioner in the amount of $2,377.74.**

Objector prays for an Order:

1. **That the Court award no more than $1,315.00 in extraordinary compensation**
2. **That the Court allocate 40% of the statutory fee calculated on a fee base of $164,811.26 be paid to Petitioner in the amount of $2,377.74**

As of 11-21-11, nothing further has been filed.

Note:

- If the parties and the Court settle on a dollar amount for the statutory and extraordinary fees at this hearing, this petition can go forward today.

- However, if the parties and the Court wish to allocate a percentage, then this hearing may require continuation for review of the Amended Inventory and Appraisal regarding the issues noted on Page 3A.

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

4 **Ann W. Wood Amoruso (Estate)** **Case No. 07CEPR00750**

Atty **Krbechek, Randolf (for Randolph D. Wood – Executor – Petitioner)**

(1) Petition for Final Distribution on Waiver of Accounting and (2) for Allowance of Attorney's Fees (Prob. C. 11640, 10954)

DOD: 7-18-03		
	Aff.Sub.Wit.	
✔	**Verified**	
✔	**Inventory**	
✔	**PTC**	
✔	**Not.Cred.**	
✔	**Notice of Hrg**	
✔	**Aff.Mail**	W
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✔	**Letters**	9-25-08
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✔	**9202**	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	X

RANDOLPH D. WOOD, Executor with full IAEA without bond, is Petitioner.

Accounting is waived.

I&A: $541,495.62
POH: $131,622.62 in cash and securities, plus a one-half interest in certain real property

Executor: Waived

Attorney: $7,500.00 (Less than statutory)

Costs: $395.00 (Filing fee)

Distribution pursuant to Decedent's will and preliminary distributions previously made:

Randolf D. Wood: Residue of estate

NEEDS/PROBLEMS/COMMENTS:

1. **The petition does not address statutory fee allocation with reference to Attorney Krbechek's former firms, Klein Denatele Goldner, et al., and Caswell Bell and Hillison, and Probate Code §10814, which states that attorney's compensation shall be apportioned according to services actually rendered by each attorney, or as agreed to by the attorneys.**

   <u>Note</u>: Attorney Robert K. Hillison's Request for Special Notice has been withdrawn. Attorney Hagop T. Bedoyan's Request for Special Notice has not been withdrawn.

   <u>The Court may require consent of the former attorneys/firms to all statutory fees to be paid to Attorney Krbechek, or itemization</u>.

2. **Petitioner does not state whether notice was sent to the Franchise Tax Board pursuant to Probate Code §9202(c).**

   <u>Note</u>: This requirement applies if Letters issued after 7-1-08. Here, Letters issued on 9-25-08.

3. **Need Order.**

Reviewed by: skc

Reviewed on: 11-21-11

Updates:

Recommendation:

File 4 - Amoruso

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

5 Marylou Rivera (Estate) Case No. 09CEPR00851

Atty **Hurlbutt, James P., sole practitioner of Visalia (for Petitioner John Hernandez, Administrator)**

(1) First and Final Account and Report of Administrator; Petition for Approval of Final Account and Report; (2) for Allowance of Statutory Fees Rendered by Administrator and Administrator's Attorney and (3) for Final Distribution

DOD: 1/31/2009		
Cont. from 091411		
	Aff.Sub.Wit	
	Verified	
✓	**Inventory**	
✓	**PTC**	
✓	**Not.Cred.**	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	W/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	120209
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	**9202**	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	**FTB Notice**	

JOHN HERNANDEZ, brother and Administrator with Will Annexed, is Petitioner.

Account period: 12/2/2009 – 6/20/2011

Accounting - **$561,222.00**
Beginning POH - **$561,222.00**
Ending POH - **$561,195.23**
($71,356.73 cash and right to annuity payments)

Administrator - **$14,224.44**
(statutory; fee base calculated using total annuity value;)

Attorney - **$14,224.44**
(statutory; fee base calculated using total annuity value;)

Costs - [**$1,300.26]**
(please refer to Exhibit D; for filing fees, probate referee, publication, CourtCall, [less $26.41 for *photocopies and $29.81 for postage disallowed per Local Rule 7.17(B) and (C)];)*

Closing Reserve - **$3,229.41**

Petitioner states:

- The estate consists of all beneficial interest in AVIVA Life Insurance Co. fixed annuity valued at **$561,222.00**, in the form of 228 monthly payments of **$2,461.50 each**, to be made until 2/15/2028; this annuity cannot be accelerated, liquidated or otherwise altered;
- Prior to Decedent's death, a personal injury action on behalf of Decedent in Case #06CECG00436 resulted in creation of the **MARY LOU RIVERA IRREVOCABLE TRUST dated 12/19/2007**, which was a special needs trust contained in Case #**10CEPR00595**, and of which Petitioner was the Trustee; the Trust was to hold and administer the proceeds of the settlement in compliance with state and federal law while preserving Ms. Rivera's existing Medi-Cal and other benefits; *[Trust case is now closed; see next bullet point]*;

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

Continued from 9/14/2011. ***Minute Order*** **states the Court directs Mr. Hurlbutt to give notice to the State and submit any further argument in writing by 10/31/2011. Matter continued to 11/30/2011.**

Note: ***Proof of Service by Mail*** **filed 10/27/2011 shows notice with a copy of the** ***Supplemental Brief*** **was mailed o the Department of Healthcare Services Estate Recovery Section on 10/25/2011.**

Note: Costs reimbursement amount has been reduced on both of the alternative proposed orders to $1,300.26 to reflect deductions for the non-reimbursable costs for photocopies and postage disallowed pursuant to Local Rule 7.17(B) and (C).

~Please see additional page~

Reviewed by: LEG	
Reviewed on: 11/22/11	
Updates:	
Recommendation:	
File 5 – Rivera	

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

Petitioner states, continued:

- The State of CA, Department of Health Care Services (DHS) asserted a claim *[in ~2009]* against the **MARY LOU RIVERA IRREVOCABLE TRUST dated 12/19/2007**, and this Court's *Order Approving Amended First and Final Account and Report of Trustee and Petition for Full and Final Distribution of Trust Assets on Hand* signed 11/10/2010 [by Judge Kazanjian] in that case ordered the DHS to be paid by the Trust in the sum of **$123,250.16 plus interest** [totaling **$123,255.96]** against the total DHS claim of **$304,344.82**; *(please refer to Exhibits A through C attached)*;
- As a result of the partial payment of the DHS claim, a balance in the sum of **$181,088.[86]** remains unpaid to the State of DHS; however, Petitioner asserts that no monies whatsoever should be paid to the DHS from the assets of Decedent's estate because the DHS has failed to comply with the requirements of Probate Code § 9100 et seq., pursuant to which the DHS had a limited period to file a creditor's claim of four months from the date *Letters* were issued or 60 days after date of mailing the *Notice to Creditor*, which was served in the case on 12/17/2009 such that 4/2/2010 was the expiration date of this limited period; pursuant to Probate Code § 9002, any claim against the Decedent's estate is barred in the event that a timely creditor's claim is not filed, and because the DHS did not file a creditor's claim as required, no monies should be paid to the DHS from Decedent's estate;
- In the alternative, if the Court determines that the DHS still has a viable claim against Decedent's estate, the full amount of the claim should be limited to **$181,088.[86]**, in the form of partial cash payment and an assignment of annuity payments (58 payments @ **$2,461.50** each, totaling **$142,767.00**) to the DHS *(please refer to Lines 21 through28 on Page 3 and Lines 1 through 18 on Page 4 of Petition for calculations)*.

Petitioner requests Decedent's estate be distributed 100% to the Petitioner John Hernandez pursuant to Decedent's Will.

NEEDS/PROBLEMS/COMMENTS, continued:

1. ***Order Approving Amended First and Final Account and Report of Trustee and Petition for Full and Final Distribution of Trust Assets on Hand* signed on 11/10/2010 finds in Paragraph 17 that "to the extent that the claim of the California Department of Health Services is not satisfied in full by the distribution of the trust assets on hand, the California Department of Health Services will obtain payment from the separate Estate of Mary Lou Rivera, Deceased, which is now subject to pending probate administration in the matter of the Estate of MaryLou Rivera aka Mary Lou Rivera, bearing Fresno County Superior Court Case No. 09CEPR00851" [*emphasis added*]. Further, the Court's 11/10/2010 *Order* states at Lines 8 through 9 on Page 9 that "the interests of the California Department of Health Services are fully protected," and per the *Notice of Hearing* filed on 7/14/2010 the Department of Health Care Services was sent notice by mail on 7/13/2010 with a copy of the *First and Final Account of the Trustee* containing the information regarding payment of the remaining balance of the claim to DHS. It appears based upon the Court's 11/10/2010 *Order* and the other facts involved that payment to the DHS is expected as ordered, and that no alternative is available for distributing the entire estate to Petitioner without first satisfying the DHS claim. It appears that because the Court's 11/10/2010 *Order* created an expectation on the part of DHS for payment of the balance due on the claim from the specific estate case, the *Order* obviated the need for the DHS to have filed a formal creditor's claim in the estate case within the deadline as alleged by the Petitioner.**

Note: Two proposed orders have been submitted: one that distributes partially to the DHS and to partially to the Petitioner, and one that distributes the entire estate to the Petitioner.

~Please see additional page~

***Supplemental Brief in Support of Petition for full and Final Distribution Concerning the Failure of the Department of Health Care Services to Comply with Requirements of Probate Code § 9100, et seq.* filed on 10/27/2011 states:**

- Upon the death of Decedent, as required by the terms of the special needs trust and applicable law, the Trustee provided written notice of death to the CA Department of Health (DHS) and made the necessary arrangements to transfer the remaining assets of the special needs trust to DHS as partial reimbursement of the total MediCal benefits paid to Decedent during her lifetime;

- Part of those arrangements included the filing of a Petition (Case #10CEPR00595) to obtain court approval of a required trust accounting and to obtain court determination of the full amount of the allowed DHS reimbursement claim; the Court determined the amount owed DHS was **$304,344.82**; however, the trust assets on hand after payment of allowed costs of trust administration totaled **$123,250.16**, leaving the remaining unpaid sum of **$181,094.66**;

- *Order Approving Amended First Account, etc.*, signed on 11/10/2010 directs transfer of **$123,250.16** from the irrevocable trust to DHS;

- Under proper circumstances, the remaining unpaid amount of **$181,094.66** could be paid from the separate Estate of Marylou Rivera, which is subject to court administration in the case; however, DHS never filed the required Creditor's Claim in the proceeding, despite the fact that Petitioner served DHS with a Notice to Creditors on 12/17/2009, specifically advising DHS of its obligation to file a Creditor's Claim;

- On 8/11/[2011], the Petitioner served DHS with both Notice of Hearing and a complete copy of the Petition for full and final distribution in this action; the Petition explicitly alleged that DHS was given a proper form of Notice to Creditors, that it failed to file a timely Creditor's Claim and that it was therefore barred from any reimbursement recovery against this estate;

- DHS did not object or otherwise respond to the Petition; DHS was quite aware of the requirement to file a timely Creditor's Claim because it sent a formal ex parte inquiry to the Court as part of an in-house investigation in this matter to determine why a Creditor's Claim had not been filed; at the time of the initial hearing on the Petition for Final Distribution on 9/14/2011, the Court [Judge Oliver] indicated from the bench that DHS in fact mailed to the Court some sort of inquiry for the purpose of investigating the failure of its staff to file a Creditor's Claim; Petitioner was not provided a copy of this reported inquiry;

- DHS was not excused from the requirement of filing a property Creditor's Claim; DHS never filed any objection to the Petition for full and final distribution and DHS never argued that it was somehow excused from the requirement of filing a Creditor's Claim; the Court's Probate Examiner unilaterally advocates on behalf of DHS and contends the 11/10/2010 Order in the separate Case #10CEPR00595 excused DHS from filing a Creditor's Claim in this separate Case #09CEPR00851; a careful review of the following circumstances compels the conclusion that the 11/10/2010 Order in the separate action did not excuse or waive the requirement of filing a Creditor's Claim in this action;

  1. The 11/10/2011 Order was the result of an *Amended First and Final Account and Report of Trustee, etc*., filed by the Trustee of a special needs trust; the Petition's prayer for relief (at Page 9) did not request any orders whatsoever concerning the administration of the separate Estate of Marylou Rivera; the Trustee of the special needs trust did not request any orders excusing the filing of a Creditor's Claim in this separate action.

  2. The specific disposition orders and relief provided by the Court in the 11/10/2010 Order mirror the prayer for relief in the underlying Petition and are limited to the administration of the assets of the irrevocable trust; there is no order which waives the requirement of the filing of a Creditor's Claim.

~Please see additional page~

***Supplemental Brief in Support of Petition* filed 10/27/2011, continued:**

3. The references in the [11/10/2010] Order to the availability of the assets of the Estate of MaryLou Rivera to pay any remaining portions of the DHS recovery claim do no constitute dispositive orders which affirmatively waive the requirement of the filing of a Creditor's Claim by DHS, but rather are descriptive in nature and only provide relevant background information;
    - **Paragraph 17** of the Order states: "To the extent that the claim of the California Department of Health Services is not satisfied in full by the distribution of the trust assets on hand, the California Department of Health Services will obtain payment from the separate Estate of Mary Lou Rivera, Deceased, which is now subject to pending probate administration in the matter of the Estate of Mary Lou Rivera, bearing Fresno County Superior Court Case No. 09CEPR00851."
    - **Paragraph 19** of the Order states: "The then unsatisfied portion of the claim will be paid from the assets on hand in the separate Estate of Mary Lou Rivera, Deceased, now under court directed probate administration. The assets of the Estate of Mary Lou Rivera, Deceased, as set forth herein, are more than adequate to satisfy the remaining amount of the claim."
    - **Paragraph 20** of the Order states: "…the claim of the California Department of Health Services will be paid in full, by a combination of payments from the remaining Trust assets and from the separate Estate of Mary Lou Rivera, Deceased, now under court supervision and administration. Therefore, the interests of the California Department of Health Services are fully protected."

    These particular portions of the Court order are simply a verbatim repetition of the allegations contained in Paragraph 17, Paragraph 19, and Paragraph 20 of the underlying Petition. The underlying Petition includes these same Paragraphs under the heading "Additional Considerations." The underlying Petition did not request any orders whatsoever concerning the administration of the assets of the Estate of Mary Lou Rivera. The only reasonable reading of Paragraphs 17, 19 and 20 of the 11/10/2010 Order is that they constitute statements of fact and background information, lifted from the "Additional Considerations" of the underlying Petition. The assets of the Estate of Mary Lou Rivera were in fact available to DHS to satisfy any remaining unpaid portion of the recovery claim, provided that DHS complied with the Probate Code in making a claim against the estate assets. The dispositive portion of the 11/10/2010 Order contained on Pages 9 and 10, does not order the Administrator of the Estate of Mary Lou Rivera to make any distribution to DHS and does not expressly or impliedly excuse DHS from the requirement of filing a Creditor's Claim.

4. Petitioner never understood or accepted the 11/10/201 Order in Case No. 10CEPR00595 as an order excusing DHS from the requirement of filing a timely Creditor's Claim in this Case No. 09CEPR00851. <u>After</u> the 11/10/2010 Order, and on 12/17/2010, Petitioner served a Notice to Creditors on DHS, affirmatively advising DHS of its obligation to file a timely Creditor's Claim. There was no need to serve this Notice to Creditors if DHS had been excused already from the requirement of filing a Creditor's Claim.

5. DHS obviously never understood the 11/10/2010 Order to excuse the normal requirement of filing a Creditor's Claim in the proceeding. Otherwise, DHS would have filed a timely objection and response to the Petition for full and final distribution and relied on the Order.

- The 11/10/2010 Order in separate Case No. 10CEPR00595 was not intended to make any distribution or any ruling whatsoever concerning the assets of the Estate of Mary Lou Rivera which are the focus of this Case No. 09CEPR00851; there is no basis for concluding that the parties or the Court understood the 11/10/2010 Order to excuse the filing of a Creditor's Claim in this proceeding or to mandate payment to DHS of any amounts whatsoever from the Estate of Mary Lou Rivera, Deceased; Paragraphs 17, 19 and 20 of the Order are simply a statement of underlying facts; they are lifted verbatim from the underlying Petition which set them forth simply as "Additional Considerations." They were not included in the Prayer for Relief in the underlying Petition and they are not included in the dispositive portion of the 11/10/2010 Order;

~Please see additional page~

***Supplemental Brief in Support of Petition*, continued:**

- This Court cannot conclude, based on the circumstances presented herein, that the Court in separate Case No. 10CEPR00595, which concerned only the Mary Lou Rivera Irrevocable Trust Dated 12/19/2007, went beyond the confines of its jurisdiction and issued any effective orders whatsoever concerning the separate Estate of Mary Lou Rivera, Deceased, which is the concern of this separate Case No. 09CEPR00851;
- For the foregoing reasons, and for the reasons set forth in the initial Petition, Petitioner respectfully requests that the Court issue its Order disallowing recovery by DHS.

6 **Twila Glee Pedersen (Estate)** **Case No. 11CEPR00951**

Atty **Sullivan, Robert L (for Petitioner Sue Ann Hays)**

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

DOD: 7/22/10			SUE ANN HAYS, daughter, is petitioner and requests appointment as Administrator without bond.	**NEEDS/PROBLEMS/COMMENTS:**
Cont. from			All heirs waive bond.	
	Aff.Sub.Wit.			
✓	**Verified**		Full IAEA- o.k.	
	Inventory			
	PTC		Decedent died intestate.	
	Not.Cred.			
	Notice of Hrg		Residence: Fresno Publication: Fresno Business Journal.	
✓	**Aff.Mail**	W/O		
✓	**Aff.Pub.**			
	Sp.Ntc.		**<u>Estimated value of the estate</u>:**	
	Pers.Serv.		Real property - $315,000.00	
	Conf. Screen			
✓	**Letters**			
✓	**Duties/Supp**			
	Objections		**Probate Referee: RICK SMITH**	
	Video Receipt			
	CI Report			
	9202			
✓	**Order**			
	Aff. Posting			**Reviewed by: KT**
	Status Rpt			**Reviewed on: 11/18/11**
	UCCJEA			**Updates:**
	Citation			**Recommendation: SUBMITTED**
	FTB Notice			**File 6 - Pedersen**

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

7 **Thomas C. Harrison (Estate)** **Case No. 11CEPR00952**

Atty **Sullivan, Robert L (for Petitioner Edwina G. Harrison)**

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

DOD: 1/8/11			**EDWINA G. HARRISON**, named executor without bond, is petitioner.
			Full IAEA – o.k.
Cont. from			
	Aff.Sub.Wit.		Will dated: 12/29/2003
✓	Verified		
	Inventory		Residence: Clovis
	PTC		Publication: Fresno Business Journal
	Not.Cred.		
	Notice of Hrg		
✓	Aff.Mail	W/O	
✓	Aff.Pub.		**Estimated value of the estate:**
	Sp.Ntc.		Personal property - $1,075,000.00
	Pers.Serv.		Annual income - $ 15,000.00
	Conf. Screen		**Total - $1,090,000.00**
✓	Letters		
✓	Duties/Supp		**Probate Referee: STEVEN DIEBERT**
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

NEEDS/PROBLEMS/COMMENTS:
Reviewed by: KT
Reviewed on: 11/18/11
Updates:
Recommendation: SUBMITTED
File 7 - Harrison

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

8 **Garry Lee Gerjets (Spousal)** **Case No. 11CEPR00957**

Atty **Barrus, John E. (for Petitioner Eva I. Gerjets)**

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

DOD: 8/6/11		
Cont. from		
	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	

EVA I. GERJETS, surviving spouse, is petitioner.

No other proceedings

Undated will devises entire estate to spouse, Eva Gerjets

Petition states the decedent's Will was ordered through the mail, is not dated and is witnessed by only one witness and is not in compliance with Probate Code §6110(c)(1). Pursuant to Probate Code §6110(c)(2) a Will not executed in compliance with §6110(c)(1) ". . . shall be treated as if it was executed in compliance with that paragraph if at the proponent of the will establishes by clear and convincing evidence that, at the time the testator signed the will, the testator intended the will to constitute the testator's will." Petitioner submits a declaration by Floyd Piquette (witness to the will) regarding execution of the will. Also included is a declaration of Shawanda Gould (petitioner's daughter) who was present when the decedent signed his will. Petitioner submits these two declarations as clear and convincing evidence that the Decedent intended the will he signed to constitute his will.

Petitioner requests court confirmation that decedent's 100% interest in real property located at 4376 Brix in Fresno pass to her.

NEEDS/PROBLEMS/COMMENTS:

<u>Note:</u> Decedent's will is not dated and is not witnessed by two witnesses and therefore was not executed in compliance with Probate Code §6110(c)(1). Petition includes a declaration from the one witness to the will and of the daughter of the petitioner both of who were present when the decedent signed his will. Petition alleges that the declarations are clear and convincing evidence that decedent intended the document he signed to be his will pursuant to Probate Code §6110(c)(2).

Reviewed by: KT

Reviewed on: 11/18/11

Updates:

Recommendation:

File 8 - Gerjets

9 **Pete Rodriguez (Estate)** **Case No. 11CEPR00968**

Atty **Dornay, Val J. (for Petitioner Beatrice Prieto)**

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

DOD: 5/11/11			**BEATRICE PRIETO**, daughter, is petitioner and requests appointment as Administrator, without bond.
Cont. from			All heirs waive bond.
	Aff.Sub.Wit.		
✓	**Verified**		Full IAEA – o.k.
	Inventory		
	PTC		Decedent died intestate.
	Not.Cred.		
	Notice of Hrg		Residence: Fresno Publication: Fresno Business Journal
✓	**Aff.Mail**	W/	
✓	**Aff.Pub.**		
	Sp.Ntc.		
	Pers.Serv.		**Estimated value of the estate:**
	Conf. Screen		Real property - $85,000.00
✓	**Letters**		
✓	**Duties/Supp**		**Probate Referee: STEVEN DIEBERT**
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	**Order**		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

NEEDS/PROBLEMS/COMMENTS:
Reviewed by: KT
Reviewed on: 11/18/11
Updates:
Recommendation: SUBMITTED
File 9 - Rodriguez

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

10 Leon Kasparian (Estate) **Case No. 11CEPR00970**

Atty Kruthers, Heather H (for Petitioner Public Administrator)

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

DOD: 9/8/11			
Cont. from			
✓	Proof of Holographic Inst.		
✓	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		

PUBLIC ADMINISTRATOR is petitioner and requests appointment as Administrator with Will Annexed.

Full IAEA – o.k.

Holographic Will dated: 9/1/09
Holographic Codicil dated: 6/20/99

Residence: Fresno
Publication: Fresno Business Journal

Estimated value of the estate:

Personal property	-	$28,384.44
Real property	-	$85,000.00

Probate Referee: **STEVEN DIEBERT**

NEEDS/PROBLEMS/COMMENTS:

Note: Petition states the original will cannot be located. However the original codicil was located.

Reviewed by: KT
Reviewed on: 1/18/11
Updates:
Recommendation:
File 10 - Kasperian

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

11 Selina Pasillas (CONS/PE) Case No. 11CEPR01030

Atty Kruthers, Heather H (for the Public Guardian – Petitioner)

Petition for Appointment of Temporary Conservator of the Person and Estate (Prob.C. 2250)

Age: 86 years		
DOD: 8/14/25		
Cont. from		
	Aff.Sub.Wit.	
√	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	x
	Aff.Mail	x
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	x
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	x
	9202	
√	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

TEMPORARY GRANTED *EX PARTE*; EXPIRES 11/30/11
GENERAL HEARING 1/3/12

PUBLIC GUARDIAN is Petitioner and requests appointment as Temporary Conservator of the Person and Estate without bond. Temporary Conservatorship of the person and estate was granted *ex parte* on 11/17/11, and expires on 11/30/11.

Declaration of Sue Yie, M.D., filed on 11/16/11, supports request for medical consent powers and dementia powers for the administration of dementia medications and secured placement.

Estimated Value of the Estate:

Personal property	-	$ 129.24
Annual income	-	$5,736.00
Total		**$8,865.24**

Petitioner states that proposed conservatee resides at Nazareth House, and was reportedly diagnosed with dementia in December 2010. Petitioner learned of proposed conservatee through Hinds Hospice in June 2011, as there was concern about her failing health and her daughter RuthAnn's management of the finances and interference with her care (proposed conservatee's husband also resided at Nazareth House prior to his death on 7/8/11). Petitioner's son lives out of state. Through its investigation, Petitioner has determined that proposed conservatee's money had been moved or withdrawn from several bank accounts just before and after her husband's death, and that conservatee's daughter RuthAnn had access to all those accounts. Furthermore, RuthAnn attempted to have her mother sign a power of attorney while at Nazareth House; despite being advised that her mother did not have the capacity to sign such documents, RuthAnn provided Cititbank with a power of attorney executed 8/20/11. RuthAnn currently lives in proposed conservatee's home and claims all of the furniture belongs to her. Petitioner seeks appointment as conservator to make medical decisions and ensure conservatee's continued proper care, and to also marshal conservatee's assets and use them for her care, including an overdue bill from the Nazareth House (RuthAnn has not been paying for proposed conservatee's care). Petitioner also seeks appointment as successor trustee of the Manuel and Selina Pasillas Revocable Trust, dated 8/23/10, and that the Court revoke any and all powers of attorney, whether for healthcare or for finances.

*****Need Court Investigator's Report***

NEEDS/PROBLEMS/COMMENT

*****Need advisement of rights by Court Investigator***

Note: This Petition came before the Court, *ex parte*, 11/17/11, and the Court appointed Petitioner as Conservator of the Person and Estate without bond (the Court did not appoint Petitioner successor trustee or revoke any powers of attorney at that time).

1. **Need proof of 5 court days' notice by personal service of the Notice of Hearing and copy of the temporary Petition for: Proposed conservatee**

Reviewed by: NRN

Reviewed on: 11/21/11

Updates: 11/23/11

Recommendation:

File 11 - Pasillas

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

12 **Megan Elizabeth Vargas (GUARD/P)** **Case No. 11CEPR00404**

Atty **Myers, R. Rich (for Raymond & Marjorie Vargas – Paternal Grandparents – Guardians)**

Atty **Bone O'Neill, Patricia (for Kathryne Hays – Mother)**

Status Conference Re: Further Visitation Orders

Age: 8		
DOB: 1-30-02		
	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	X
	UCCJEA	
	Citation	
	FTB Notice	

RAYMOND A. VARGAS and **MARJORIE A. VARGAS,** paternal grandparents, were appointed Guardians on 10-6-11.

On 10-6-11, the Court made orders regarding visitation for Mother and set this status hearing for review of the visitation.

Per the Court order, Mother's visitation is every other weekend beginning Frdiay 7-22-11 at 5pm, continuing until the Sunday of the same weekend at 5pm. Mother to pick up the minor at the Guardians' residence and bring a licensed driver with her. Guardians to pick up the minor on Sunday.

The Court ordered that Mother shall provide proof of attendance of at least two AA/NA meetings each week at the next hearing.

Note: Father (Alexander Vargas) is deceased.

NEEDS/PROBLEMS/COMMENTS:

1. **Need status of visitation.**
2. **Need proof of attendance at AA/NA meetings from Mother.**

Reviewed by: skc

Reviewed on: 11-21-11

Updates:

Recommendation:

File 12 - Vargas

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

13 Jasalyn M O'Bannon (Guard/P) **Case No. 06CEPR00582**

Atty O'Bannon, Terrie J (pro per/maternal grandmother – current guardian)

Atty O Bannon, Amanda Michelle (pro per/mother – Petitioner)

Petition for Termination of Guardianship

Age: 9 years		
DOB: 11/24/02		
Cont. from		
	Aff.Sub.Wit.	
√	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
√	**Notice of Hrg**	w
√	**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	

AMANDA O'BANNON, mother, is Petitioner.

TERRIE O'BANNON, maternal grandmother, was appointed guardian on 9/25/06.

FATHER: NOT INDICATED *(Petition for Termination indicates minor's father passed away on 7/27/03)*
PATERNAL GRANDPARENTS: Not stated
MATERNAL GRANDFATHER: Not stated

Petition states: Petitioner (mother) believes that the minor is not being taken care of by her mother, current guardian Terrie O'Bannon. Mother states she is currently in WestCare and has been clean the entire time she has been with the program. Petitioner claims guardian's home is dirty and has black mold growing inside of the home, which includes the minor's bedroom and bathroom. Petitioner further claims that an 18-year old disabled male, who is not a family member, share a room together. Petitioner mother further states she believes the current guardian is using drugs and she would like her to be tested. Petitioner states the minor is also behind on her shots.

Court Investigator Jo Ann Morris' report, filed 11/18/11.

NEEDS/PROBLEMS/COMMENTS:

Reviewed by: NRN

Reviewed on: 11/21/11

Updates:

Recommendation:

File 13 – O'Bannon

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

14 **Delilah Zapien, Isis Zapien and Moses Zapien III (GUARD/P) Case No. 06CEPR00871**
Atty **Zapien, Marta (Pro Per – Paternal Grandmother – Guardian)**
Atty **Zapien, Enrique (Pro Per – Paternal Grandfather – Guardian)**
Atty **Zapien, Christy (Pro Per – Mother – Petitioner)**

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

Delilah Zapien
Age: 16
DOB: 3-10-95

Isis Zapien
Age: 9
DOB: 5-7-02

Moses Zapien III
Age: 7
DOB: 10-8-04

	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	X
	Clearances	X
✔	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

CHRISTY ZAPIEN, Mother, is Petitioner.

MARTA and ENRIQUE ZAPIEN, Paternal Grandparents, were appointed Guardians on 12-11-06.

Father: **MOSES ZAPIEN**
Maternal Grandfather: John Ramirez
Maternal Grandmother: Marta Ramirez

Petitioner states she now has a stable place. She has had a job for one year and is able to provide for her children.

Court Investigator Julie Negrete to provide report, clearances.

NEEDS/PROBLEMS/COMMENTS:

Court Investigator to provide report, clearances.

1. **Need Notice of Hearing.**

2. **Need proof of service of Notice of Hearing at least 15 days prior to the hearing per Probate Code §1460(b)(5), or consent and waiver of notice on:**
   - Marta Zapien (Guardian)
   - Enrique Zapien (Guardian)
   - Delilah Zapien (Minor, age 16)
   - Moses Zapien (Father)
   - John Ramirez (Maternal Grandfather)
   - Marta Ramirez (Maternal Grandmother)
   - Any siblings of the minors age 12 or older, with copies to their parent/guardian.

Reviewed by: skc
Reviewed on: 11-21-11
Updates:
Recommendation:
File 14 - Zapien

15A Annette Ciano (Estate) Case No. 08CEPR00918

Atty **Ryan-Pate, Maryann (Pro Per – Daughter – Petitioner)**

(1) Amended First and Final Account and Report of Administrator and (2) Petition for Its Settlement for Final Distribution

DOD: 8-26-08		
Cont. from 101211		
	Aff.Sub.Wit.	
✔	**Verified**	
✔	**Inventory**	
✔	**PTC**	
✔	**Not.Cred.**	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✔	**Letters**	11-21-08
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✔	**9202**	X
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✔	**FTB Notice**	

MARYANN RYAN-PATE, Daughter and Administrator with Full IAEA without bond, is Petitioner.

Account period: 11-21-08 through 8-1-10

Accounting: $96,800.83 / $96,796.63
Beginning POH: $93,000.00
Ending POH: $1.00

Administrator (Statutory): Waived

Administrator (Reimburse costs): $2,098.74

Attorney: $4,516.34 (paid 1-20-11 in violation of applicable law; higher than statutory; Attorney has since been disqualified to act as an attorney.)

Petitioner states the estate is insolvent and that any remaining or undiscovered property should be distributed to the remaining creditors until paid in full: *

Citibank/Sears: $7,556.98
Capital One: $1,559.05
West Asset Management: $1,689.24
Bank of America: $12,662.40

*** *See Examiner Notes*.**

NEEDS/PROBLEMS/COMMENTS:

1. **Petitioner was formerly represented by Sandra Smith, who has been disqualified to act as an attorney. Sandra Smith was given the entirety of the estate account ($4,516.34) without Court authorization.**

   Petitioner states she filed a claim for reimbursement with the State Bar (copy dated 7-12-11 attached).

   The Court may require status on the claim and follow-up before closing the estate.

2. **Need Notice of Hearing for this amended petition and proof of service at least 15 days prior to the hearing on all interested parties (including creditors) per Probate Code 11000:**
   - **Patricia Ciano (Daughter)**
   - **Johanna Wolfe (Daughter)**
   - **Susan Ciano Rodgers (Daughter)**
   - **Citibank/Sears (Creditor)**
   - **Capital One (Creditor)**
   - **West Asset Management (Creditor)**
   - **Bank of America FIA Card Svcs (Creditor)**
   - **St. Agnes Medical Center (Creditor)**

3. **Need Allowance or Rejection of Creditor's Claim (Mandatory Judicial Council Form DE-174) served and filed on each creditor that filed a claim per Probate Code §9250.**

   Note: Petitioner alleges that the Bank of America debt has been cancelled per a 1099, and that the St. Agnes claim has been paid; however, because Creditor's Claims were filed and have not been withdrawn by the creditors, they must be addressed via mandatory Allowance/ Rejection form and included in the allocation of debt in the event of recovery.

SEE PAGE 2

Reviewed by: skc
Reviewed on: 11-21-11
Updates:
Recommendation:
File 15A– Ciano

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

15A Annette Ciano (Estate) Case No. 08CEPR00918

Atty Ryan-Pate, Maryann (Pro Per – Daughter – Petitioner)

(1) First and Final Account and Report of Administrator and (2) Petition for Its Settlement for Final Distribution

NEEDS/PROBLEMS/COMMENTS (Continued):

4. <u>The accounting does not balance and does not contain the required schedules per Probate Code §1060</u>.

- The Summary states the I&A amount was $93,000.00. This is not correct. (That was the sale price of the house.) The Final Inventory and Appraisal filed 10-14-08 reflects that the house was valued at $120,000.00 as of the Decedent's date of death.

- Petitioner states there were $1,524.11 in *receipts*; however, this appears to be the amount of *disbursements*.

- Petitioner indicates both a "gain" and a "loss" on the sale of the house. This is not correct. If the original inventory value was $120,000.00 and the house sold for $93,000.00, then the loss is $27,000.00.

<u>The Court may require clarification or amendment</u>.

5. Petitioner states the St. Agnes creditor's claim ($315.01) was paid. This payments appear to be in violation of Probate Code §11420(b) (proportionate payment of debts).

6. Petitioner states the estate is insolvent, and any property not now known or discovered should be distributed to the remaining creditors until paid in full.

<u>The Order should clarify that the debts shall be paid proportionately pursuant to Probate Code §11420(b) after administration expenses have been reimbursed ($2,098.74 requested)</u>.

7. <u>Need Order</u>. The Order must be in compliance with Local Rule 7.6.1 and #7 above.

15B Annette Ciano (Estate) **Case No. 08CEPR00918**

Atty **Ryan-Pate, Maryann (Pro Per – Daughter – Petitioner)**

			CONFIDENTIAL	**NEEDS/PROBLEMS/COMMENTS:**
	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			**Reviewed by:** skc
	Status Rpt			**Reviewed on:** 11-23-11
	UCCJEA			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 15A– Ciano**

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

16 Bruce Cordae Smith (GUARD/P) **Case No. 11CEPR00607**

Atty Martin, Revee M (Pro Per – Paternal Grandmother – Guardian)

Atty Madden, Tamara (Pro Per – Mother – Petitioner)

Petition for Termination of Guardianship

Age: 4		
DOB: 1-30-07		
	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	X
	Clearances	X
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

TAMARA E. MADDEN, Mother, is Petitioner.

REVEE M. MARTIN, Paternal Grandmother, was appointed Guardian on 9-15-11.

Father: **BRUCE DEANDRE' SMITH**
- *Incarcerated*

Petitioner states Guardian isn't caring for the child properly and his health is at risk. Petitioner states that the Guardian stated to the Court Investigator that the child was taken from Mother's home by DSS, but she has never had a CPS case and he was not taken – Mother dropped him with the father. Petitioner attached medical records and DSS reports.

Court Investigator Dina Calvillo to provide report, clearances.

NEEDS/PROBLEMS/COMMENTS:

<u>Minute Order 9-15-11</u>: The Court finds it is in the best interest of the child to have Revee Martin as Guardian. The Court orders supervised visitation at the home of the Guardian or other location on Wednesdays and Saturdays from 10:30 am to 12:00 noon. Guardian may extend the visits if she believes it is in the best interest of the child and Mother can provide a safe environment without drugs, alcohol or boyfriends.

<u>Court Investigator to provide report, clearances.</u>

1. **Need Notice of Hearing.**
2. **Need proof of service of Notice of Hearing at least 15 days prior to the hearing per Probate Code §1460(b)(5) or consent and waiver of notice on:**
   - Revee Martin (Guardian)
   - Bruce DeAndre' Smith (Father)
3. **Need Order.**

Reviewed by: skc
Reviewed on: 11-21-11
Updates:
Recommendation:
File 16 - Smith

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011

17 Lorenzo D. Leavy (GUARD/P) **Case No. 11CEPR00870**

Atty Leavy, Tamia M. (Pro Per – Sister – Petitioner)

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

Age: 12		
DOB: 11-20-99		
	Aff.Sub.Wit.	
✔	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
	Conf. Screen	X
	Letters	X
	Duties/Supp	X
	Objections	
	Video Receipt	
	CI Report	X
	Clearances	X
	Order	X
	Aff. Posting	
	Status Rpt	
✔	**UCCJEA**	
	Citation	
	FTB Notice	

NO TEMPORARY – none requested

TAMIA M. LEAVY, Sister, is Petitioner.

Father: **NOT LISTED**
Mother: **NOT LISTED**

Paternal Grandfather: Not listed
Paternal Grandmother: Not listed

Maternal Grandfather: Not listed
Maternal Grandmother: Austrila Vines

Siblings: Dewayne Gaster, Tehada Hale (ages not listed)

Petitioner states she is the only thing close to a mother that he has and requests to let him stay close to home. She loves her brother and has taken care of him his whole life and knows he wants to succeed in life.

UCCJEA indicates Lorenzo has lived with Petitioner since July 2008.

Court Investigator Samantha Henson to file report, clearances.

NEEDS/PROBLEMS/COMMENTS:

<u>Court Investigator to file report, clearances</u>.

1. **Need Confidential Guardianship Screening Form (GC-212) and Confidential Court Questionnaire (local form).**
2. **Need Duties of Guardian (GC-248)**
3. **Need Notice of Hearing.**
4. **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 or consent and waiver of notice or declaration of due diligence on:**
   - Lorenzo D. Leavy (Minor, age 12)
   - Father (Name not provided)
   - Mother (Name not provided)

   <u>Note</u>: Petitioner lists a step-father, but law requires notice to natural relatives.

   <u>Note</u>: Petitioner states she is the only thing close to a mother, but does not indicate whether the mother is deceased, or just otherwise absent. Need clarification.
5. **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 or consent and waiver of notice or declaration of due diligence on:- Paternal Grandfather**
   - Paternal Grandmother
   - Maternal Grandfather
   - Maternal Grandmother
   - Siblings age 12 or older and parent or guardian, if still a minor

Reviewed by: skc

Reviewed on: 11-21-11

Updates:

Recommendation:

File 17 - Leavy

Dept. 303, 9:00 a.m. Wednesday, November 30, 2011