

1 Terrance R. Harker, Steven Harker, Eddie Harker, (CONS/P) Case No. 0228740 and Michael Harker

Probate Status Hearing Re: Confirmation of Receipt of Transfer

Steven Age: 58 yrs		NEEDS/PROBLEMS/COMMENTS:
Eddie Age: 61 yrs		
Michael Age: 60 yrs		
Terence Age: 62 yrs		
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: LEG	
	Reviewed on: 11/19/14	
	Updates:	
	Recommendation:	
	File 1 – Harker	

Atty Wright, Janet L., of Wright Hawkins & Johnson (for Petitioners Kate Singh and Hubert Mitchell, Co-Conservators of the Person)  
 Atty Wilkinson, Robert D., of Baker Manock & Jensen (for Petitioner Bruce D. Bickel, Conservator of the Estate)

(1) Petition for Approval of Second Account and Report of Conservator of the Estate; (2) Request for Approval of Payment of Fees to the Conservator of the Estate; (3) Request for Approval of Payment of Attorney's Fees and Reimbursement of Costs Advanced

<b>Age: 77 years</b>	<b>KATE A. SINGH</b> , niece, and <b>HUBERT MITCHELL</b> , brother, Co-Conservators of the Person, and <b>BRUCE BICKEL</b> , Conservator of the Estate, are Petitioners.		<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. <i>Petition</i> does not but should address the amount and sufficiency of bond posted for the Conservatorship estate pursuant to Probate Code § 2320.  2. Need original billing statements for the account period from the Conservatee's residential care facility, Cottonwood Court, pursuant to Probate Code § 2620(c)(5).  ~Please see additional page~
	<b>Account period: 3/1/2013 – 6/30/2014</b>		
<b>Cont. from</b>	Accounting -	\$1,520,324.74	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Beginning POH -	\$1,366,341.24	
<input checked="" type="checkbox"/> <b>Verified</b>	Ending POH -	\$1,135,256.98 (\$20,208.72 is cash)	
<input type="checkbox"/> <b>Inventory</b>	Conservator/Person -	<b>Not requested</b>	
<input type="checkbox"/> <b>PTC</b>	Conservator/Estate -	\$17,071.15	
<input type="checkbox"/> <b>Not.Cred.</b>	<i>(per Declaration of Bruce D. Bickel filed 10/15/2014; for services from 3/1/2013 through 6/30/2014 totaling 187.50 hours, for monitoring efforts re sale of commercial real properties, administrative duties, transactional duties, case management and clerical, at varying rates from \$35.00/hour, \$150.00/hour, \$175.00/hour, with an overall rate of \$109.05/hour, discounted from \$20,446.75 to an overall rate of \$91.00/hour;)</i>		
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	Attorney for		
<input checked="" type="checkbox"/> <b>Aff.Mail</b> W/	Conservator/Person -	\$10,192.50	
<input type="checkbox"/> <b>Aff.Pub.</b>	<i>(payable to Wright &amp; Johnson, per Declaration of Summer Johnson filed 10/15/2014; for services from 9/5/2012 to 8/8/2014, broken down by type of service including eminent domain @ 11.15 hours, petition for payment of fees for conservator of estate and of person @ 19 hours, marshalling assets @ 2.85 hours, and status of Conservatee @ 2.05 hours; paralegal/attorney rates between \$190/hour and \$300/hour; includes \$870.00 costs;)</i>		
<input type="checkbox"/> <b>Sp.Ntc.</b>	Attorney for		
<input type="checkbox"/> <b>Pers.Serv.</b>	Conservator/Estate -	\$12,782.50	
<input type="checkbox"/> <b>Conf. Screen</b>	<i>(payable to Baker Manock &amp; Jensen per ; per Declaration of Robert D. Wilkinson filed 10/15/2014; for 46 hours @ attorney rates from \$255.00 to \$390.00 per hour and paralegal rate of \$150.00 per hour; includes \$435.00 costs;)</i>		
<input type="checkbox"/> <b>Letters</b>	Bond -	[\$966,000.00?] <i>(initial + additional?)</i>	
<input type="checkbox"/> <b>Duties/Supp</b>	<i>(\$124,000.00 filed 2/29/2012 and/or 4/23/2012; \$842,000.00 filed 7/19/2012;)</i>		
<input type="checkbox"/> <b>Objections</b>	~Please see additional page~		
<input checked="" type="checkbox"/> <b>Video Receipt</b>			
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<input checked="" type="checkbox"/> <b>Order</b>			
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<input type="checkbox"/> <b>UCCJEA</b>			
<input type="checkbox"/> <b>Citation</b>			
<input type="checkbox"/> <b>FTB Notice</b>			
			<b>Reviewed by:</b> LEG <b>Reviewed on:</b> 11/21/14 <b>Updates:</b> <b>Recommendation:</b> <b>File 2 – Mitchell</b>

**Petitioner prays for an order:**

1. Approving, allowing, and settling the [Second] Account;
2. Ratifying, confirming and approving all acts and transactions of the Conservator of the Estate as set forth in the *Petition*; and
3. Authorizing the fees and costs to the Conservator of the Estate, and the fees and costs to the Attorney for the Conservator of the Estate, and the Attorney for the Conservator of the Person.

**Court Investigator Jennifer Young's Report was filed on 7/1/2014.**

**NEEDS/PROBLEMS/COMMENTS, continued:**

3. Bank account statements submitted by Petitioner are copies attached to the accounting schedules rather than original bank statements pursuant to Probate Code § 2620(c)(2); further, the statements were not filed in a separate affidavit in accordance with Probate Code § 2620(c)(7). (*Note: This issue is raised for future reference of the attorney.*)

**Note:** Court will set status hearing as follows:

- **Monday, August 31, 2015 at 9:00 a.m. in Dept. 303** for the Third Accounting.

Pursuant Local Rule 7.5, if the documents noted above are filed 10 days prior to the dates listed, the hearings will be taken off calendar and no appearance will be required.

DOD: 9-25-11		<p><b>JULIO A. HINOJOSA</b>, Executor with Full IAEA without bond, is Petitioner.</p> <p>I&amp;A: \$1,892.89 (cash)</p> <p><b>Petitioner states</b> he was appointed in order to defend the estate against a creditor's claim filed by Jose Diaz and to determine if there were any assets subject to the probate administration. The dispute was settled on 3-3-14 and all cash listed on the I&amp;A was used to pay the settlement of the dispute. After payment of the settlement, there was no cash left in the estate. It was then determined that there are no remaining assets subject to probate administration.</p> <p><b>Petitioner states</b> the following creditor's claims were filed, but the creditor's failed to file suit within the time period allowed by CCP 366.2 and the statute of limitations has expired:</p> <ul style="list-style-type: none"> <li>• DCM Services for \$389.59 filed 5-14-12</li> <li>• DCM Services for \$1,458.51 filed 5-17-12</li> <li>• DCM Services for \$2,019.50 filed 5-29-12</li> </ul> <p>Petitioner has agreed to be personally responsible for all costs incurred by Dowling Aaron Incorporated in the administration of the estate.</p> <p><b>Petitioner prays for an order</b> terminating further proceedings and discharging Petitioner as the court appointed personal representative.</p> <p><b>See Page 2.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Petitioner filed rejections of three creditor's claims on 11-10-14 indicating that notice of rejection was mailed 10-29-14. Creditors have 90 days to act on a rejected claim. See Probate Code §9250(c)(8). Therefore, it appears additional continuance is necessary.</li> <li>2. The Court may require clarification regarding the use of the entirety of the estate's funds to settle one creditor's claim rather than apportionment pursuant to Probate Code §11450 (priority within debt class).</li> <li>3. Petitioner states he has agreed to be personally responsible for all costs of administration incurred by Dowling Aaron Incorporated in administration of the estate. Note that pursuant to Probate Code §10813, an agreement for higher compensation than the statutory calculation is void. Petitioner does not itemize the costs incurred. The Court may require clarification or itemization of costs to be paid outside of probate by Petitioner.</li> <li>4. Petitioner was formerly represented by Attorney Gary Bagdasarian; therefore, pursuant to Probate Code §10814, he may be entitled to a portion of the statutory attorney's compensation. The Court may require clarification or agreement re apportionment of statutory compensation.</li> <li>5. Petitioner must request discharge via the appropriate procedure. See Mandatory Judicial Council Form DE-295 Ex Parte Petition for Final Discharge and Order.</li> </ol>
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		<p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 11-19-14</p> <p><b>Updates:</b> 11-24-14</p> <p><b>Recommendation:</b></p> <p>File 3 - Hinojosa</p>	

**Status Report filed 11-24-14 by attorney Klassen states:**

Probate Code §9256 provides that if the personal representative refuses or neglects to act on a claim within 30 days after the claim is filed, it is deemed equivalent to giving a notice of rejection on the 30<sup>th</sup> day. So, under the Code, notice of rejection of all claims made was served and filed. Pursuant to the Court's request, the Court required that the representative serve and file rejection notices on the remaining creditors. No response has been received by the personal representative from any creditor. All rights to assert creditor claims have expired pursuant to Probate Code §9253 and CCP §366.2, which provides for a one year statute of limitations. The personal representative requests that the probate in this case be terminated.

**Amended First and Final Account and Report of the Status of Administration and  
 Petition for Settlement Thereof; For Allowance of Statutory Attorneys'  
 Compensation and for Final Distribution (Probate Code 1060, et seq., 9611, 11640,  
 10800, 10810, 10900 and 12201)**

<b>DOD: 3-2-13</b>	<b>DIANE ESPARZA</b> , Executor with Limited IAEA without bond, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>1. Petitioner does not state whether notice of administration was given to the California Franchise Tax Board pursuant to Probate Code §9202(c).</b>  <b>2. Need clarification as to how the Costco membership purchased 7-19-13 for \$55.00 is an estate expense. There do not appear to be any estate purchases from Costco. The Court may deduct this amount from Petitioner's request for reimbursement.</b>  <b>3. Petitioner includes the \$10,400.00 that she owes the estate for rent as a "receipt" in calculating statutory compensation for herself and her attorney. However, this amount was not received by the estate during this account period. The Court may require authority to include this amount as a "receipt." If not approved, Examiner calculates statutory compensation at \$5,940.84. (Note: This affects the distribution amount as well.)</b>  <b>4. Need order.</b>
<b>Conf. from 093014</b>	<b>Account period: 3-2-13 through 6-30-14</b>	
	Accounting: \$175,094.62	
	Beginning POH: \$164,061.64	
	Ending POH: \$175,105.87	
	(\$54,505.87 cash plus real property, personal property, and rent due from Executor Diane Esparza of \$10,400.00)	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Executor (Statutory): \$6,252.84	
<input checked="" type="checkbox"/> <b>Verified</b>	Attorney(Statutory): \$6,252.84	
<input checked="" type="checkbox"/> <b>Inventory</b>	Petitioner states she advanced estate expenses totaling \$13,868.21 during this account period. Petitioner also resided in the home; therefore, she owes rent of \$650/month from 3-2-13 through 6-30-14 totaling \$10,400.00. Therefore, the balance due Petitioner for unreimbursed expenses is \$3,468.21.	
<input checked="" type="checkbox"/> <b>PTC</b>	<b>Petitioner requests distribution pursuant to Decedent's will:</b>	
<input checked="" type="checkbox"/> <b>Not.Cred.</b>	Diane Esparza and Ray A. Esparza, as trustees of the Ray P. and Virgie Esparza Trust dated 11-1-96: \$159,059.08	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	<b>Objection by Ray A. Esparza filed 9-23-14 states</b> Objector has concerns and believes not all of the assets are accounted for and that many of the expenses are inappropriate.	
<input checked="" type="checkbox"/> <b>Aff.Mail</b>	See Page 2.	
<input type="checkbox"/> <b>Aff.Pub.</b>		
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		<b>Reviewed by:</b> skc <b>Reviewed on:</b> 11-19-14 <b>Updates:</b> 11-21-14 <b>Recommendation:</b> <b>File 4 - Esparza</b>

**Page 2**

Objector states the following assets were not included on Schedule Entitled Property On Hand March 2, 2013:

1. Money in the Murphy Bank Account.
2. Decedent's Ford Explorer.
3. Jewelry.

Objector states the following assets should not have been included on the Schedule Entitled Property On Hand March 2, 2013:

1. Chase Account xx371. This account named Petitioner and Objector as beneficiaries and should have been distributed directly to them. If distributed pursuant to the will and the trust, there are additional beneficiaries who are not designated as beneficiaries of this account.

Objector objects to the rent of \$650.00 and states the rent should be at least \$1,000.00/month. Objector states the total receipts are less than what they should be. They should be \$5,560.00 higher for the 16 months and \$1,000 for each month beyond the 16 month that Petitioner remains in the residence.

Objector objects to the following specific expenses:

1. \$49 bimonthly payment for Howard's Pest Control. Petitioner was residing in the residence and received the benefit of this service. It did not benefit the estate.
2. \$160 monthly White Oak Lawn Service appears to be very expensive and was for the benefit of Petitioner and not the estate.
3. Multiple charges to JJ's Handy Man Service. These expenses were also incurred by Petitioner to live in the residence and were not for the benefit of the estate. They are also excessive.
4. \$1,367.67 for ADT Alarm Installation. The residence already had an alarm. A new alarm system did not benefit the estate.
5. \$55 Costco membership – Why did the estate pay for a Costco membership?
6. Vern's Plumbing – multiple charges.
7. \$864.00 for Wells Fargo Credit Card – Objector believes this includes charges made by Petitioner after the decedent's death including a car rental by Petitioner prior to her taking the Decedent's Ford Explorer.
8. Fresno Ag – various charges for light fixtures, faucets and yard equipment. If equipment was purchased, it should be part of the estate. Why is the estate purchasing new fixtures and equipment?
9. Dumpster charges – Petitioner rented a dumpster to throw away Decedent's papers and belongings before Objector could look at them. This was not necessary.

Objector states there are many expenses that Objector questions and he would like to see receipts and invoices to assure that they are proper estate expenses.

Objector hired an attorney to file the objection to the initial petition to probate the estate and now to this petition. Petitioner's attorney fees are paid by the estate. Objector requests that his attorney's fees also be paid by the estate, or that he be reimbursed by the estate for attorney's fees and costs incurred.

**On 11-20-14, Petitioner Diane Esparza filed Response to Objection of Ray Esparza.** Ms. Esparza states:

1. The Murphy Bank account with approx. \$13,000.00 at the decedent's death was in the decedent's name, but was many times told to Petitioner that it would belong to Petitioner at the decedent's death based on the numerous improvements to the home made over the years by Petitioner.
2. The Ford Explorer was purchased by the decedent and her husband as at the time, Petitioner had no credit history. However, the down payment, all loan payments, and all operating and maintenance expenses were made by Petitioner, and the vehicle was almost never driven by anyone other than Petitioner. The vehicle was at all times the property of Petitioner held for the above accommodation reasons in the name of the decedent.
3. Petitioner found no jewelry to add to the inventory. For months after the decedent's death, Ray Esparza and his guests came into the house at will.
4. Re Chase Account: If documentation can be found directing this asset to Petitioner and Objector as beneficiaries, Petitioner will gladly respond. Petitioner cannot find any.
5. Re Rent: Petitioner states she does live in the house, a 2 bedroom/1 bath 800 sq. ft. house built in 1953 by Petitioner's parents. The house is in poor condition. The house next door, a 2/2 in good condition and maintained by a property manager, rents for \$775/month. Nearby apartments in significantly better condition rent for \$625-750/month.
6. Pest service is typically a landlord expense to protect the long run value of the home. It absolutely benefits the estate.
7. Yard: \$40/week is very inexpensive for yard service and is typically a landlord expense.
8. Handyman services: There is much deferred maintenance in the 1953 home and it needs substantial attention to be habitable.
9. The existing alarm system did not operate and was not repairable. The new system is adequate to protect the home.
10. Petitioner agrees that the Costco membership should be deleted. It was purchased to lower the cost of items the home needs (new toilet, etc.), but those purchases did not fit with the maintenance only occupancy so they were not made.
11. Plumbing – same as above
12. Wells Fargo Credit Card: The decedent rented cars from time to time. The petitioner did not and does not rent cars. All credit card charges were solely by the decedent.
13. Fresno Ag – same as above.
14. Dumpster charges – The houe had much accumulated junk. The removal of junk made the home habitable. Objector used the dumpster to discard items of his as well.

Petitioner states she has all checks and most receipts. This accounting was first distributed to Objector in August 2014 and no objection was made until the filing of the objection in September 2014.

Petitioner states she has been truthful with the Court. There is discord in the family which has greatly increased the burden of this role, but Petitioner has performed her executrix duties responsibly. Objector has greatly increased the burden on Petitioner. Petitioner has not requested extraordinary fees for her services and objects to diminishing the estate to compensate Objector's attorney.

Petitioner also filed a declaration that appears to address examiner notes from June 2014 in connection with the initial petition for probate.

Amended Petition for Termination of Guardianship

	<p><b>LAKEYSHA (SINGLETON) DAWSON</b>, Mother, is Petitioner.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>			
<p><b>Cont. from 101414</b></p>	<p><b>KIMBERLY ANN BUSH</b>, Maternal Grandmother, was appointed Guardian on 10-7-13.          - Mailed service 9-5-14, personally served 10-1-14</p>	<p><u>Note:</u> On 6-4-14, the Court reappointed Attorney Jennifer Walters as counsel for Devin Singleton.</p>			
<table border="1"> <tr> <td data-bbox="99 449 162 478"></td> <td data-bbox="162 449 358 478">Aff.Sub.Wit.</td> <td data-bbox="358 449 415 478"></td> </tr> </table>		Aff.Sub.Wit.		<p>Father: <b>DETRICK SINGLETON</b>          - Mailed service 9-5-14</p>	<p><u>Note:</u> Probate Mediation Agreement dated 7-23-14 was filed on 7-23-14 by the mother addresses a visitation schedule for the mother with Devon.</p>
	Aff.Sub.Wit.				
<table border="1"> <tr> <td data-bbox="99 478 162 508">✓</td> <td data-bbox="162 478 358 508">Verified</td> <td data-bbox="358 478 415 508"></td> </tr> </table>	✓	Verified		<p>Maternal Grandfather: Eugene Dawson          - Declaration of Due Diligence filed 9-30-14</p>	<p>1. If diligence is not found for the maternal grandfather, paternal grandfather, and paternal grandmother, the Court may require notice or further diligence.</p>
✓	Verified				
<table border="1"> <tr> <td data-bbox="99 508 162 537"></td> <td data-bbox="162 508 358 537">Inventory</td> <td data-bbox="358 508 415 537"></td> </tr> </table>		Inventory		<p>Paternal Grandfather: Johnny Brown          - Declaration of Due Diligence filed 9-30-14</p>	
	Inventory				
<table border="1"> <tr> <td data-bbox="99 537 162 567"></td> <td data-bbox="162 537 358 567">PTC</td> <td data-bbox="358 537 415 567"></td> </tr> </table>		PTC		<p>Paternal Grandmother: Patricia Brown          - Declaration of Due Diligence filed 9-30-14</p>	
	PTC				
<table border="1"> <tr> <td data-bbox="99 567 162 596"></td> <td data-bbox="162 567 358 596">Not.Cred.</td> <td data-bbox="358 567 415 596"></td> </tr> </table>		Not.Cred.		<p><b>Petitioner states</b> the open investigation of abuse in Honolulu was closed and dismissed due to lack of foundation or evidence. Petitioner has now received a divorce from Detrick Singleton and he remains in Hawaii. Petitioner now has a 2-bedroom apartment in Las Vegas, NV. There were never any allegations against the mother and Devin had always been with Lakeysha until he visited his maternal grandmother and she refused to return him to his parents. The father gave up his right to visit with Devin and legal custody was awarded to Lakeysha. See attached Decree of Divorce. Lakeysha is the primary custodian of Devin. Lakeysha has no intention to ever return to the marriage. Lakeysha has been the main parent in Devin's life, and in fact, Detrick and Lakeysha have been separated since 2005, when Devin was two. They remained separated until 2013, when they decided to try to reconcile, but the marriage finally ended on 7-21-14. Devin voiced concern that his mother might return to Hawaii, but that is no longer feasible.</p>	
	Not.Cred.				
<table border="1"> <tr> <td data-bbox="99 596 162 625">✓</td> <td data-bbox="162 596 358 625">Notice of Hrg</td> <td data-bbox="358 596 415 625"></td> </tr> </table>	✓	Notice of Hrg		<p>As was found in the Guardianship of M.S.W. (1982) 136 Cal.App.3d 708, where the grandparents made it very, very difficult for the parents to visit and communicate with the child, the Court found that the parents' circumstances had changed and they could now properly care for the child, Lakeysha's circumstances have changed and she can now care for Devin. She has a good paying job and a 2-bedroom apartment around the corner from Swainston Middle School. She has been in this apartment for 7 months and is well settled. See attached rental agreement and pay stubs. She can provide for her and Devin. Petitioner believes termination of the guardianship is in the best interests of Devin.</p>	
✓	Notice of Hrg				
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<table border="1"> <tr> <td data-bbox="99 655 162 684"></td> <td data-bbox="162 655 358 684">Aff.Pub.</td> <td data-bbox="358 655 415 684"></td> </tr> </table>		Aff.Pub.		<p><b>Update:</b> Attorney Jennifer Walters filed a declaration on 11-6-14 regarding her conversation with Devin (11). The declaration states that given Devin's wish to remain in his grandmother's care, Ms. Walters feels it is in Devin's best interest for the guardianship to remain.</p>	
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<table border="1"> <tr> <td data-bbox="99 684 162 714"></td> <td data-bbox="162 684 358 714">Sp.Ntc.</td> <td data-bbox="358 684 415 714"></td> </tr> </table>		Sp.Ntc.		<p><b>Update:</b> Court Investigator Jennifer Daniel filed a Supplemental Report on 11-21-14.</p>	
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<table border="1"> <tr> <td data-bbox="99 831 162 861"></td> <td data-bbox="162 831 358 861">Objections</td> <td data-bbox="358 831 415 861"></td> </tr> </table>		Objections		<p><b>File 5 - Singleton</b></p>	
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<table border="1"> <tr> <td data-bbox="99 978 162 1008"></td> <td data-bbox="162 978 358 1008">Status Rpt</td> <td data-bbox="358 978 415 1008"></td> </tr> </table>		Status Rpt		<p><b>UCCJEA</b></p>	
	Status Rpt				
<table border="1"> <tr> <td data-bbox="99 1008 162 1037"></td> <td data-bbox="162 1008 358 1037">UCCJEA</td> <td data-bbox="358 1008 415 1037"></td> </tr> </table>		UCCJEA		<p><b>Citation</b></p>	
	UCCJEA				
<table border="1"> <tr> <td data-bbox="99 1037 162 1066"></td> <td data-bbox="162 1037 358 1066">Citation</td> <td data-bbox="358 1037 415 1066"></td> </tr> </table>		Citation		<p><b>FTB Notice</b></p>	
	Citation				
<table border="1"> <tr> <td data-bbox="99 1066 162 1096"></td> <td data-bbox="162 1066 358 1096">FTB Notice</td> <td data-bbox="358 1066 415 1096"></td> </tr> </table>		FTB Notice		<p><b>CI Report</b></p>	
	FTB Notice				

Page 2

**Court Investigator Jennifer Daniel filed a report on 7-30-14 in connection with Ms. Dawson's original petition for termination of guardianship.**

**Court Investigator Jennifer Daniel filed a Supplemental Report on 11-21-14.**

**Petitioner Lakeysha Dawson filed a Supplement to Petition on 11-25-14.** Ms. Dawson states that on a recent visit with Devin, she was able to see some of his school papers, including a Student Progress Report. Petitioner was alarmed at the poor grades and scores on the papers in his backpack. Petitioner recalled Ms. Bush's statements that Devin was doing outstanding in school, and also Ms. Walters' declaration that Devin told her he was doing well in school. The school papers that are attached to this supplement appear to contradict that Devin is doing well in school. As a parent, this is of great concern, because Ms. Dawson knows Devin has the ability to do much better. Petitioner states she asked Devin if his grandmother helps him with his homework, or checks it, and he said she only does those things if she has time. Petitioner was able to spend time and help Devin with his homework for the next day. Petitioner states it appears Ms. Bush does not help Devin with his homework and misled the Court by stating that he is doing excellent in school. This deeply concerns Petitioner for Devin's sake, and Petitioner hopes the Probate Investigator and Ms. Walters will take another look at what is in Devin's best interest. His education is of utmost importance to Petitioner.

**Order to Show Cause for Failure to Appear and Failure to File the First Account or Petition for Final Distribution**

<b>DOD: 7-13-13</b>	<p><b>PAMELA J. STRONG</b>, Spouse, was appointed Executor with Limited IAEA without bond on 9-16-13 and Letters issued 9-17-13.</p> <p>At the hearing on 9-16-13, the Court set status hearing for the filing of the first account or petition for final distribution for 11-14-14.</p> <p>At the hearing on 11-14-14, there were no appearances. The Court set this Order to Show Cause for failure to appear and failure to file the first account or petition for final distribution, and ordered both the Executor and the attorney to appear.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>1. Need first account or petition for final distribution pursuant to Probate Code §12200 or verified written status report pursuant to Local Rule 7.5.</b></p>
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by:</b> skc
		<b>Reviewed on:</b> 11-19-14
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 6 – Strong</b>

**(1) First and Final Account and Report of Administrator and (2) Petition for Allowance of Ordinary and Extraordinary Commissions and Fees and (3) for Distribution**

<b>DOD: 8-19-13</b>	<b>PUBLIC ADMINISTRATOR</b> , Administrator with Full IAEA, is Petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> Consistent with the Court's recent practice, if the Court determines an informal accounting of the closing reserve is warranted, Court will set a Status Hearing as follows:</p> <p style="text-align: center;"><b>Tuesday, June 2, 2015 at 9:00 a.m. in Dept. 303</b> for an Informal Accounting of the \$10,000.00 Closing Reserve.</p> <p>Pursuant Local Rule 7.5, if the document noted above is filed 10 days prior to the date listed, the hearing will be taken off calendar and no appearance will be required. <b>Filing of the informal accounting of closing reserve will not generate a new hearing date.</b></p>
	Account period: 8-27-13 through 9-24-14	
	Accounting: \$ 1,005,326.83	
	Beginning POH: \$ 911,125.61	
	Ending POH: \$ 486,173.33 (cash)	
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified	Administrator (Statutory): \$23,052.01	
<input checked="" type="checkbox"/> Inventory	Administrator (Extraordinary): \$2,248.00 (\$1,000.00 for sale of personal property, \$1,000.00 for the sale of real property pursuant to Local Rule 7.18, and \$248.00 for preparation of fiduciary tax returns)	
<input checked="" type="checkbox"/> PTC	Attorney (Statutory): \$23,052.01	
<input checked="" type="checkbox"/> Not.Cred.	Bond fee: \$2,513.32	
<input checked="" type="checkbox"/> Notice of Hrg	Costs: \$1,048.50 (filing, certified letters)	
<input checked="" type="checkbox"/> Aff.Mail	Closing: \$10,000.00 (for preparation and filing of final fiduciary taxes)	
<input type="checkbox"/> Aff.Pub.	<b>Distribution pursuant to Order Determining Heirship filed 7-7-14:</b>	
<input type="checkbox"/> Sp.Ntc.	Kelly Munro: \$424,259.49	
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input checked="" type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input checked="" type="checkbox"/> FTB Notice		
		<b>Reviewed by:</b> skc
		<b>Reviewed on:</b> 11-19-14
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 7 – McPike</b>

<b>DOD: 03/29/14</b>		<p><b>JOSEPH PATRICK DE LOS REYES,</b>  son/Conservator of the Person and Estate, is  Petitioner. Bond of \$30,000.00 was filed  04/07/14.</p> <p><b>Petitioner states:</b></p> <ol style="list-style-type: none"> <li>Petitioner has been acting as Conservator of the Person and Estate since 04/07/14.</li> <li>Conservatorship was necessary because the conservatee was unconscious and unable to provide for any of his personal or financial needs as he suffered a stroke on 03/31/13. The conservatee died on 05/29/14.</li> <li>Petitioner requests that an accounting be waived pursuant to Probate Code § 2628 because the estate at the beginning and end of the accounting period for which an accounting would be required consisted of property, exclusive of the residence of the conservatee, of a total net value of less than \$15,000.00. The income of the estate for each month of the accounting period, exclusive of public benefits payments, was less than \$2,000.00. All income of the estate during the accounting period, if not retained, was spent for the benefit of the ward or conservatee.</li> <li>All children of the conservatee have waived an accounting.</li> </ol> <p><b>Petitioner prays for an Order:</b></p> <ol style="list-style-type: none"> <li>Terminating the conservatorship;</li> <li>Discharging Petitioner as Conservator of the Person and Estate and exonerating Petitioner's bond; and</li> <li>Stating that the Conservator need not file an accounting.</li> </ol>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>An Inventory &amp; Appraisal has not been filed. Assets of the Conservatorship Estate are unknown without an Inventory &amp; Appraisal and the Petition does not state what the property on hand in the conservatorship estate is but does indicate that the conservator did manage property and/or income of the conservatee. It is noted that the Petition for Appointment of Conservator stated that the Conservatee's assets consisted of:  Personal Property - \$45,000.00  Annual income - 32,568.44  Real property - 150,000.00  Need Inventory &amp; Appraisal and/or Accounting pursuant to Probate Code § 2630 and 2633.</li> <li>The Petition does not request nor address distribution or other disposition of the assets of the conservatorship estate.</li> </ol>
<b>Cont. from</b>			
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<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 checked="" type="checkbox"/>	<b>Notice of Hrg</b>		
<input checked="" type="checkbox"/>	<b>Aff.Mail</b> w/		
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
<b>Reviewed by:</b> JF			
<b>Reviewed on:</b> 11/19/14			
<b>Updates:</b>			
<b>Recommendation:</b>			
<b>File 8 – De Los Reyes</b>			

**Petition for: Removal of Trustee, Accounting, Surcharge to Trustee for Damage to Estate, Damages for Breach of Fiduciary Duty, Appointment of Successor Trustee**

<b>Helene Chung</b> <b>DOD 10-6-12</b>	<b>ROBERT CHUNG</b> , Beneficiary and named successor trustee, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<b>Petitioner states</b> he is one of three living children of Decedent Helene Chung. Helene Chung created the Chung Irrevocable Trust Agreement on 12-28-06, which named Susan Hanley as Trustee. Ms. Hanley accepted her appointment and has continued as trustee since then.	<b>Minute Order 9-2-14:</b> Ms. Hanley has been noticed. The Court removes Ms. Hanley as Trustee and Appoints Mr. Chung. At this time the Court is not ruling on the surcharge nor the damages for breach of Fiduciary. Ms. Haley needs to prepare and file the accounting while she was Trustee. The Court orders Ms. Haney to surrender all property and records. Counsel will submit order. Continued to: 10/21/14 at 09:00a.m. in Dept 303 <b>Petition is granted before Court Trial. Order to be signed ex parte.</b>
<b>Cont. from 090214, 102114</b>	The primary asset is a residence on E. Garland Ave., in Fresno.	<b>Minute Order 10-21-14:</b> The Court vacates its previous order removing Ms. Hanley as the trustee. Continued to 12-2-14.
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Petitioner states the trust agreement provides that a majority of eligible beneficiaries may transfer the trust situs to a more convenient jurisdiction. Petitioner and Vicki Chung make up the majority of the eligible beneficiaries and have signed a written election to establish the trust venue in Fresno County, making Fresno County the proper venue to hear this action.	<b>Examiner's Note:</b> The Order Removing Trustee pursuant to Minute Order 9-2-14 was never signed by the Court.
<input checked="" type="checkbox"/> <b>Verified</b>	Petitioner states the trustee has wasted and mismanaged the trust estate by failing to rent the Garland property and collect income from this valuable asset. Her failure to derive income from the property includes not only the period after Helene Chung's death, but also the entire period from creation of the trust in 2006 to the date of Helene Chung's death. Petitioner states the trustee has wrongfully neglected the estate and has long neglected to perform any act as personal representative. She has never filed an accounting, despite having been requested to do so in writing on 4-11-14. The trust estate has never been distributed or closed. The trustee continues to allow the Garland property to sit idle, without earning income, in breach of her fiduciary duties to the trust beneficiaries, including her two siblings, Petitioner and Vicki Chung.	<b>Note:</b> On 10-1-14, Respondent Susan Hanley filed a Notice of Motion and Motion for Order Setting Aside and Vacating Order Removing Trustee (See Page B).
<input type="checkbox"/> <b>Inventory</b>	<b>SEE ADDITIONAL PAGES</b>	<b>Update:</b> Ms. Hanley filed an Answer to this petition on 11-6-14. See additional pages.
<input type="checkbox"/> <b>PTC</b>		<b>The following issues remain noted with regard to this petition:</b>
<input type="checkbox"/> <b>Not.Cred.</b>		<b>SEE ADDITIONAL PAGES</b>
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>		<b>Reviewed by:</b> skc
<input checked="" type="checkbox"/> <b>Aff.Mail</b>		<b>Reviewed on:</b> 11-19-14
<input type="checkbox"/> <b>Aff.Pub.</b>		<b>Updates:</b>
<input type="checkbox"/> <b>Sp.Ntc.</b>		<b>Recommendation:</b>
<input type="checkbox"/> <b>Pers.Serv.</b>		<b>File 9A - Chung</b>
<input type="checkbox"/> <b>Conf. Screen</b>		
<input type="checkbox"/> <b>Letters</b>		
<input type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		

## Page 2

**Petitioner states** pursuant to §16062, Petitioner is entitled to receive an account of the transactions of the trust at least annually, and pursuant to §17200(b)(7), more than 60 days have elapsed since Petitioner presented a written request for an account. Therefore, Petitioner requests an order of this Court instructing the trustee to deliver an account of the transactions of the trust to Petitioner.

Petitioner also requests surcharge for damage to estate and requests damages for breach of fiduciary duty. See petition for details.

**Petitioner prays for relief as follows:**

1. That SUSAN HANLEY be removed as trustee;
2. For an order that SUSAN HANLEY make an accounting and surrender all property and records in her possession belonging to the estate;
3. For an order requiring SUSAN HANLEY to forthwith provide an accounting in compliance with Probate Code §§ 1060 through 1064;
4. For an order and judgment charging SUSAN HANLEY with losses to the estate
5. For interest on such losses at the maximum legal rate;
6. For costs of suit;
7. For reasonable attorney's fees;
8. For compensatory damages to compensate Petitioner and the trust estate for losses sustained as a result of SUSAN HANLEY's breach of her fiduciary duties;
9. For an order appointing Robert Chung as trustee without bond
10. For such other orders as the Court may deem proper.

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**NEEDS/PROBLEMS/COMMENTS (Cont'd):**

1. Petitioner states that Petitioner, the trustee, and Vicki Chung are the beneficiaries and provides addresses, but the petition does not state that they are all of the persons entitled to notice pursuant to §§ 17201 and 17203.) Need verified declaration.

Note: The address provide for the trustee is a PO Box in Pleasanton. The Court may require clarification.

2. The Court may require clarification re Fresno as proper venue. The address provided for the Trustee is a PO Box in Pleasanton, which is Alameda County. However, it is unclear where the trustee resides, or if she was properly served with the Election to Establish Trust Venue in Fresno County or this petition.

---

Ms. Hanley's Answer filed 11-6-14 addresses each count and admits or denies various allegations. Ms. Hanley prays for judgment as follows:

1. That Petitioner take nothing by way of this petition;
2. For costs of suit incurred herein;
3. For reasonable attorneys' fees as permitted by contract or statute; and
4. For such other relief as the Court deems just, equitable, and proper.

*Examiner's Note: The verification appears to be a faxed signature, not an original, and states that Ms. Hanley executed the verification at Pleasanton, CA. Please see issues noted above re venue.*

**Notice of Motion and Motion for Order Setting Aside and Vacating Order Removing Trustee**

		<p><b>ROBERT CHUNG</b>, Beneficiary and named successor trustee, filed a Petition for: Removal of Trustee, Accounting, Surcharge to Trustee for Damage to Estate, Damages for Breach of Fiduciary Duty, Appointment of Successor Trustee, which was heard on 9-2-14.</p> <p><b>Minute Order 9-2-14 states:</b> Ms. Hanley has been noticed. The Court removes Ms. Hanley as Trustee and Appoints Mr. Chung. At this time the Court is not ruling on the surcharge nor the damages for breach of Fiduciary. Ms. Hanley needs to prepare and file the accounting while she was Trustee. The Court orders Ms. Hanley to surrender all property and records. Counsel will submit order. Continued to: 10/21/14 at 09:00a.m. in Dept 303. Petition is granted before Court Trial. Order to be signed ex parte.</p> <p><b>SUSAN HANLEY</b>, Respondent and Trustee, filed this Notice of Motion and Motion for Order Setting Aside and Vacating Order Removing Trustee on 10-1-14.</p> <p><b>Ms. Hanley states</b> this motion will be brought under CCP §473(b), and will seek relief on the grounds that the petition was granted as a result of mistake, inadvertence, surprise, or neglect of the moving party's attorney, to which the attorney has attested in an affidavit or declaration under penalty of perjury. See Declaration of Randolph Krbechek in Support of Motion for Order Setting Aside and Vacating Order of Dismissal.</p> <p><b>Mr. Krbechek's Declaration states</b> he was first contacted by Ms. Hanley on Friday 8-22-14 and received the petition on Saturday 8-23-14. This was the week before Labor Day. His paralegal was out of the office the Thursday and Friday before Labor Day. The attorney did not think to check for the next hearing date on the Banner website. Had his paralegal been there, she surely would have attended to that, as she does with all their litigation matters. Due to the attorney's mistake and inadvertence, he failed to calendar the date set for the hearing (9-2-14). He did not properly communicate with his client that the hearing was set for 9-2-14, and did not clearly articulate who would attend the hearing on her behalf. As a result, neither the attorney nor the client appeared at the hearing to contest the petition. His client emailed on Wednesday, 9-3-14 about the hearing, which had already occurred. Mr. Krbechek apologizes to the Court for his oversight. Any blame should fall on him and not his client. As this motion is brought within the six month period set forth in CCP §473(b), it is requested that the order granting the petition be set aside. See Points and Authorities.</p>	
<b>Cont. from 102114</b>			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input type="checkbox"/>	Aff.Mail		X
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	X	
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order	X	
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

**NEEDS/PROBLEMS/ COMMENTS:**

- Need proof of service of Notice of Hearing at least 15 days prior to the hearing on all interested parties:**  
- Robert Chung  
- Vicki Chung

**Note: A defective Notice of Hearing was filed that indicates personal service on attorney Daniel Tekunoff only; however, there is no proof of service as the wrong attachment was used; therefore, this document is defective.**

As stated at the bottom of Page 2 of the DE-120, if personal service is used, DE-120P should have been attached, which contains the information required for proof of service. Petitioner used the DE-120PA, which is an attachment only and contains no information or signature by the server.

Further, interested parties require direct notice. Cal. Rules of Court 7.51. Petitioner only served notice on the attorney for the petitioner.
- Need order.**

Reviewed by: skc  
Reviewed on: 11-19-14  
Updates:  
Recommendation:  
File 9B - Chung



Pro Per Baldazo, Imelda G. (Pro Per Petitioner, daughter)  
 Atty LeVan, Nancy J., sole practitioner (Court-appointed for Conservatee)

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

Age: 73 years	<b>NO TEMPORARY REQUESTED</b>		<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Court Investigator Advised Rights on 9/16/2014.</b></p> <p><b>Voting Rights Affected – Need Minute Order.</b></p> <p><b>Continued from 10/14/2014.</b>  <i>Minute Order states the Court notes that the Petitioner is not present because of a TB isolation issue with Maria Baldazo. The Court further notes that a capacity declaration is required and service to Juan Baldazo needs to be accomplished. The Court directs that a copy of the minute order and examiner notes be sent to the Petitioner. [Clerk's Certificate of Mailing filed 10/24/2014 shows copy of minute order and examiner notes were sent on 10/24/2014.]</i></p> <p><b>The following issues from the last hearing remain:</b></p> <ol style="list-style-type: none"> <li>1. Need Citation for Conservatorship pursuant to Probate Code § 1823, and proof of personal service of the Citation on the proposed Conservatee with a copy of the Petition for Appointment of Probate Conservator pursuant to Probate Code § 1824.</li> </ol> <p><b>~Please see additional page~</b></p>
Cont. from 101414			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
Cap Dec	X		
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail	W/		
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	X		
FTB Notice			

**IMELDA G. BALDAZO**, daughter, is Petitioner and requests appointment as Conservator of the Person with medical consent and dementia powers to administer dementia medications, and for placement in a secured-perimeter facility.

**Need Capacity Declaration**

**Voting Rights Affected**

**Petitioner states** the proposed Conservatee suffers from dementia and Alzheimer's. Petitioner includes a list of tasks the proposed Conservatee is unable to do on her own, including make decisions about her residence, make medical decisions or take medications, unable to be left alone, to prepare meals and eat without assistance, unable to bathe and groom, unable to appreciate danger, including financial or personal abuse, and is unable to recognize familiar people. Petitioner states at the end of the list in the space for anything else Petitioner would like to make the Court aware of that the proposed Conservatee always ends up giving into her spouse, who always has controlled and abused her physically, mentally and financially.

**Court Investigator Dina Calvillo's Report was filed on 9/30/2014.**

**Reviewed by:** LEG  
**Reviewed on:** 11/19/14  
**Updates:**  
**Recommendation:**  
**File 11 - Baldazo**

**NEEDS/PROBLEMS/COMMENTS, continued:**

2. *Petition* requests medical consent and dementia powers. Need *Medical Capacity Declaration* (Judicial Council form GC-335) in support of Petitioner's request pursuant to Probate Code § 1890(c).
  
3. *Proof of Service by Mail of the Notice of Hearing* filed on 9/15/2014 shows notice to **JUAN V. BALDAZO**, spouse, was made care of another person. Pursuant to CA Rule of Court 7.51(a)(1) and (2), notice sent by mail must be mailed individually and directly to the person entitled to notice and mailing to a person in care of another person is insufficient unless the person entitled to notice is an adult and has directed the party giving notice in writing to send the notice in care of the second person. Court may require direct notice to be served to Juan V. Baldazo.

	<b>JAMES DONALD HURLEY</b> , Beneficiary, is Petitioner.		<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Note:</b> The J.L. Hurley Trust was previously before the Court as Case #0628416. The Court may wish to consolidate this new case #14CEPR00931 matter with the existing case, #0628416 as LEAD.
	<b>Petitioner states</b> the J.L. Hurley Testamentary trust, sometimes also referred to as the J.L. Hurley Family Trust, was established by this Court's order on 4-1-76 in the matter of the Estate of J.L. Hurley, Case No. 51991.		
	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	<p>The initial trustee was Mary J. Hurley. As a result of her death, Mary McGarry became successor trustee, and as a result of her death, William D. Kunz was appointed by the Court as trustee. The named successor trustee in the Court's 1978 Order is the Bank of America National Trust and Savings Association.</p> <p>Petitioner states Mr. Kunz has not for some time acted as trustee and is now deceased as of 10-22-14. Petitioner is the sole income beneficiary of the trust, and on Petitioner's death, the trust estate will be distributed to his two children, George Hurley and David Hurley.</p> <p>Petitioner requests that Mr. Kunz be removed and that Petitioner's son, George Hurley, be appointed as trustee. Petitioner, George Hurley, and David Hurley, all desire for George Hurley to serve without bond as trustee rather than Bank of America. See attached Waiver of Bond and Request and Consent for Appointment of Successor Trustee, and Consent to Act.</p> <p><b>Petitioner requests that:</b></p> <ol style="list-style-type: none"> <li><b>1. The Court remove William D. Kunz as trustee of the trust;</b></li> <li><b>2. The Court appoint George Hurley to serve as trustee of the trust, without bond; and</b></li> <li><b>3. The Court make all further and proper orders, including any order the Court may deem necessary for preservation of the trust.</b></li> </ol>	
			Reviewed by: skc
			Reviewed on: 11-20-14
			Updates: 11-24-14
			Recommendation:
			File 12 – Hurley

	<b>JAMES DONALD HURLEY</b> , Beneficiary, is Petitioner.		<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Note: The Julia Hurley Trust was previously before the Court as Case #0628415. The Court may wish to consolidate this new case #14CEPR00932 matter with the existing case, #0628415 as LEAD.</b>
	<b>Petitioner states</b> the Julia Hurley Testamentary trust was established by this Court's order on 11-27-78 in the matter of the Estate of Julia C. Hurley, Case No. 224317-8.		
	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	<p>The initial trustee was Mary J. Hurley. As a result of her death, Mary McGarry became successor trustee, and as a result of her death, William D. Kunz was appointed by the Court as trustee. The named successor trustee in the Court's 1978 Order is the Bank of America National Trust and Savings Association.</p> <p>Petitioner states Mr. Kunz has not for some time acted as trustee and is now deceased as of 10-22-14. Petitioner is the sole income beneficiary of the trust, and on Petitioner's death, the trust estate will be distributed to his two children, George Hurley and David Hurley.</p> <p>Petitioner requests that Mr. Kunz be removed and that Petitioner's son, George Hurley, be appointed as trustee. Petitioner, George Hurley, and David Hurley, all desire for George Hurley to serve without bond as trustee rather than Bank of America. See attached Waiver of Bond and Request and Consent for Appointment of Successor Trustee, and Consent to Act.</p> <p><b>Petitioner requests that:</b></p> <ol style="list-style-type: none"> <li><b>4. The Court remove William D. Kunz as trustee of the trust;</b></li> <li><b>5. The Court appoint George Hurley to serve as trustee of the trust, without bond; and</b></li> <li><b>6. The Court make all further and proper orders, including any order the Court may deem necessary for preservation of the trust.</b></li> </ol>	
			<b>Reviewed by:</b> skc
			<b>Reviewed on:</b> 11-20-14
			<b>Updates:</b> 11-24-14
			<b>Recommendation:</b>
			<b>File 13 – Hurley</b>

**14 Gerald E. Sellers Trust**

**Case No. 14CEPR00933**

**Atty Franceschini, Richard T. (of San Rafael, CA, for Susan Sellers – Beneficiary – Petitioner)**  
**Petition to Compel Trustee to Comply with Probate Code Sections 16060 and 16061.7 to Account, for relief from Breach of Trust for Suspension of Trustee and for Removal of Trustee [Probate Code §§ 164200, 17200(b)(10)]**

<b>Gerald E. Sellers</b>	<b>SUSAN SELLERS</b> , Daughter and Beneficiary, is	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>DOD: 5-27-13</b>	Petitioner.	
	<b>Petitioner states</b> she is a beneficiary of the	
	Gerald E. Sellers Trust executed by Gerald	
	Sellers. Petitioner does not know the date of	
	execution of the trust since she has never been	
	sent a copy of the trust. Gerald E. Sellers died	
	5-27-13. Since that date, Steven E. Sellers, a	
	resident of Clovis, CA, has been, and currently is,	
	the trustee.	
	Petitioner states the trustee has never provided	
	Petitioner with notice required under Probate	
	Code §16061.7, a copy of the trust instrument, or	
	an account. On 3-12-14, not understanding the	
	difference between a will and a trust, Petitioner	
	requested a copy of the will via email. Petitioner	
	again requested a copy of the will on 7-27-14.	
	On 8-7-14, Petitioner emailed the trustee again	
	and this time correctly requested a copy of the	
	trust document. That day, the trustee emailed	
	Petitioner back and alleged that she was given	
	a copy by their father, and if she had lost the	
	copy, to let him know.	
	On 8-8-14, Petitioner emailed the trustee and	
	informed him that neither she nor their brother	
	Mike had a copy of the trust and requested a	
	copy, along with a full and detailed accounting	
	of trust assets. See attached.	
	As of the date of this petition, the trustee has	
	failed to provide Petitioner with a copy of the	
	trust, the notice required under Probate Code	
	§16061.7, or an accounting of trust assets.	
	Petitioner states more than 16 months have	
	passed since Gerald E. Sellers' death.	
	<b><u>SEE PAGE 2</u></b>	

**NEEDS/PROBLEMS/COMMENTS:**

**1. Need order. Local Rule 7.1.1.F.**

**Reviewed by:** skc

**Reviewed on:** 11-20-14

**Updates:**

**Recommendation:**

**File 14 – Sellers**

## Page 2

**Petitioner states** §16060.7 requires that on the request of a beneficiary, the trustee shall provide the terms of the trust to the beneficiary. Further, when a revocable trust becomes irrevocable because of the death of the settlor, the trustee is required to serve notification under §16061.7 not later than 60 days following the settlor's death. A trustee who fails to do so shall be responsible for all damages, attorney's fees, and costs caused by the failure unless the trustee makes a reasonable diligent effort to comply with that section. §16061.9(a) and (b).

Pursuant to §16062, the trustee shall account at least annually to each beneficiary to whom income or principal is required or authorized in the trustee's discretion to be currently distributed. Further, §16000 puts a duty on a trustee to administer the trust according to the trust instrument. Petitioner believes the trust instrument requires annual accountings.

Petitioner is informed and believes and thereon alleges that the trustee has used trust funds for his benefit in violation of the trustee's duty not to use trust property from the trustee's own profit or for any other purpose unconnected with the trust. Petitioner alleges the trustee is in breach of his duties because he has:

- Failed for over 16 months to provide Petitioner with a copy of the trust instrument;
- Failed for over 16 months to provide Petitioner and the other beneficiaries with notice under §16061.7;
- Failed to provide beneficiaries with an annual account as required by §16062;
- Used trust fund for his own profit and for purposes unconnected with the trust.

Petitioner is informed and believes and thereon alleges that there has been a loss in value of the trust estate as a proximate result of Trustee's numerous breaches of trust.

**Petitioner requests that:**

1. **Trustee be compelled to Provide Petitioner and the other beneficiaries with a copy of the trust instrument;**
2. **Trustee be compelled to prepare and file with this Court an account of the Sellers Trust from May 29, 2013 to present;**
3. **Trustee be compelled to redress his breaches of trust by payment of money damages according to proof at trial;**
4. **Trustee be removed as trustee of the Sellers Trust;**
5. **Trustee be suspended as trustee of the Sellers Trust and the Court appoint a temporary trustee to take possession of the Trust property and administer the Trust;**
6. **The Court order such attorney fees and costs as may be allowable by law;**
7. **The Court order such other and further relief as it may deem proper.**

<b>DOD: 02/25/10</b>	<b>HARRELL J. LAWSON</b> , surviving spouse, is Petitioner.	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>The Petition does not make a statement re Petitioners length or marriage to decedent, when the property seeking to be passed with this Petition was acquired, whether the property was acquired during the marriage, were decedent and petitioner still married at the time of her death, what the nature of the property is [separate property/community property, etc.], or the percentage of property seeking to be passed [did the decedent own 100% of the property, 50%, etc.]. Need more information.</li> <li>Need Order.</li> </ol>
	No other proceedings.	
	Will dated 04/09/98 devises entire estate to spouse, Harrell J. Lawson.	
<b>Cont. from</b>	Petitioner requests court confirmation that real property located at 6332 N. Sharon, Fresno, CA passes to him.	
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by:</b> JF
		<b>Reviewed on:</b> 11/20/14
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 15 – Lawson</b>

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

DOD: 09/26/14		<p><b>NANCY GENTILE</b>, daughter/named alternate Executor without bond, is Petitioner.</p> <p>Full IAEA – OK</p> <p>Will dated 06/23/06</p> <p>Residence: Fresno          Publication: The Business Journal</p> <p><b>Estimated Value of the Estate:</b>          Personal property - \$ 5,000.00          Real property - 140,000.00  <b>Total - \$145,000.00</b></p> <p>Probate Referee: <b>STEVEN DIEBERT</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. Need Order.</p> <p><b>Note: If the petition is granted status hearings will be set as follows:</b></p> <ul style="list-style-type: none"> <li>• <b>Tuesday, 05/05/15 at 9:00a.m. in Dept. 303</b> for the filing of the inventory and appraisal <b>and</b></li> <li>• <b>Tuesday, 02/02/16 at 9:00a.m. in Dept. 303</b> for the filing of the first account and final distribution.</li> </ul> <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter, the status hearing will come off calendar and no appearance will be required.</p>
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit. s/p		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail w/		
<input checked="" type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 11/20/14</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 16 – Pfister</b></p>	

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

<b>DOD: 09/05/13</b>	<b>CHRISTINA PERICAS</b> and <b>MARTIN NONINI</b> , daughter and son, are Petitioners and request appointment as Co-Administrators with Will Annexed without bond.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from</b>		
<input type="checkbox"/> <b>Aff.Sub.Wit.</b> s/p		
<input checked="" type="checkbox"/> <b>Verified</b>	Full IAEA – OK	1. It does not appear that the original will has been deposited with the Court. Need Original Will pursuant to Probate Code § 8200.
<input type="checkbox"/> <b>Inventory</b>	All heirs waive bond	2. Need <i>Notice of Petition to Administer Estate</i> and Proof of Service by Mail of <i>Notice of Petition to Administer Estate</i> to all interested parties.
<input type="checkbox"/> <b>PTC</b>		
<input type="checkbox"/> <b>Not.Cred.</b>	Will dated 09/23/82	
<input type="checkbox"/> <b>Notice of Hrg</b> x	Residence: Fresno	
<input type="checkbox"/> <b>Aff.Mail</b> x	Publication: The Business Journal	
<input checked="" type="checkbox"/> <b>Aff.Pub.</b>		<b>Note: If the petition is granted status hearings will be set as follows:</b>
<input type="checkbox"/> <b>Sp.Ntc.</b>	<b>Estimated Value of the Estate:</b>	<ul style="list-style-type: none"><li>• <b>Tuesday, 05/05/15 at 9:00a.m. in Dept. 303</b> for the filing of the inventory and appraisal <b>and</b></li><li>• <b>Tuesday, 02/02/16 at 9:00a.m. in Dept. 303</b> for the filing of the first account and final distribution.</li></ul>
<input type="checkbox"/> <b>Pers.Serv.</b>	Real property - \$295,000.00	
<input type="checkbox"/> <b>Conf. Screen</b>	Probate Referee: <b>STEVEN DIEBERT</b>	
<input checked="" type="checkbox"/> <b>Letters</b>		Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter, the status hearing will come off calendar and no appearance will be required.
<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>		<b>Reviewed by:</b> JF
<input type="checkbox"/> <b>Status Rpt</b>		<b>Reviewed on:</b> 11/20/14
<input type="checkbox"/> <b>UCCJEA</b>		<b>Updates:</b>
<input type="checkbox"/> <b>Citation</b>		<b>Recommendation:</b>
<input type="checkbox"/> <b>FTB Notice</b>		<b>File 17 – Nonini</b>

Status Hearing Re: Filing Proof of Reduced Bond

Age:			NEEDS/PROBLEMS/COMMENTS:
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		
		<b><u>OFF CALENDAR</u></b>	
		Confirmation of Bond Reduction was filed 11-10-14	
		Reviewed by: skc	
		Reviewed on: 11-20-14	
		Updates:	
		Recommendation:	
		File 18 – Davis-Maynard	

	On 06/03/13 <b>JAMIE STARR HAMILTON THOMAS</b> , beneficiary, filed a <b>Verified Petition for (1) Removal of Trustee; (2) Accounting; (3) Surcharge; and (4) Approval of Attorney Fees.</b> The matter was continued numerous times and a settlement conference was set for 05/12/14.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Need status update regarding settlement agreement.  <b>As of 11/20/14, nothing further has been filed in this matter.</b>
<b>Cont. from</b>	On 04/14/14, <b>JAMIE STARR HAMILTON THOMAS</b> , filed an <b>Ex Parte Petition to Remove Gary Hamilton as Trustee and Appoint Interim Trustee Pending Final Hearing.</b> The matter was set for hearing. Minute Order from 04/29/14 vacated the Settlement Conference set for 05/12/14 and Evidentiary hearing that was set for 06/16/14. The matter was continued and status hearings were held. On 08/21/14 the Ex Parte Petition was dismissed.	
<b>Aff.Sub.Wit.</b>	On 10/28/14, a Settlement Conference was held. <b>Minute Order from hearing on 10/28/14 set this matter for a status hearing</b> and states: Also present in court is Allen Thomas. Parties engage in settlement discussions with the Court. Matter resolved. Parties agree that Gary Hamilton will resign as trustee and Bruce Bickel will be appointed as successor trustee. Parties further agree that Bruce Bickel will review the accounting prepared by the prior trustee. Bruce Bickel will be authorized to make any recommendations regarding prior actions of the trustee. Jamie Thomas will be bound by the acts of the successor trustee as set forth by the Court and Mr. Milnes will withdraw his petition. Further terms and conditions of the agreement are as set forth by the Court. Upon inquiry by the Court, each party individually agrees to the terms and conditions of the settlement. Mr. Milnes is directed to prepare the agreement by no later than 11/12/14. Mr. Pimentel will have two weeks thereafter to review and execute said agreement.	
<b>Verified</b>		
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		
<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202 Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by:</b> JF <b>Reviewed on:</b> 11/20/14 <b>Updates:</b> <b>Recommendation:</b> <b>File 19 – Hamilton</b>

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

		<b>TEMP DENIED 10-6-14</b>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note:</b> A competing petition for guardianship of Mary Jane only filed by Maternal Grandmother Debra Johnson. See Page B.</p> <p>1. Petitioner states the paternal grandparents are unknown; however, no declaration of due diligence has been filed. Need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing <u>or</u> consent and waiver of notice <u>or</u> declarations of due diligence on:</p> <ul style="list-style-type: none"> <li>- Paternal Grandfather of AujaNeek</li> <li>- Paternal Grandmother of AujaNeek</li> </ul>
		<b>SHERRELLE MOORE</b> , Maternal Aunt, is Petitioner.	
		Father (AujaNeek): <b>ANTHONY RENEE ROBERTS</b>	
	Aff.Sub.Wit.	- Personally served 9-30-14	
✓	Verified	Father (Mary Jane): <b>RALPH CONTRERAS</b>	
	Inventory	- Deceased	
	PTC	Mother: <b>SHANEEK S. MOORE</b>	
	Not.Cred.	- Deceased	
✓	Notice of Hrg	Paternal Grandparents (both minors): Unknown	
	Aff.Mail	x	
	Aff.Pub.	Maternal Grandfather: Samuel Moore	
	Sp.Ntc.	- Consents and waives notice	
✓	Pers.Serv.	Maternal Grandmother: Debra Johnson	
✓	Conf. Screen	- Competing Petitioner,	
✓	Letters	- Personally served 11-14-14	
✓	Duties/Supp	Minor AujaNeek Moore consents and waives notice.	
	Objections	<b>Petitioner states</b> the mother passed away 9-6-14 and the father has not been in their lives.	
	Video Receipt	<b>Court Investigator Charlotte Bien filed a report on 11-17-14.</b>	
✓	CI Report		
✓	Clearances		
✓	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: skc
			Reviewed on: 11-20-14
			Updates:
			Recommendation:
			File 20A – Moore & Roberts

		<b>NO TEMP REQUESTED</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>DEBRA D. JOHNSON</b> , Maternal Grandmother, is Petitioner.	<p><b>Note:</b> Petitioner Debra Johnson previously filed a petition for guardianship of both AujaNeek and Mary Jane on 12-3-13; however, the petition was dismissed pursuant to the Court's Minute Order of 2-3-14. This petition filed 9-24-14 is for guardianship of Mary Jane only.</p> <p>1. <b>Maternal Grandfather Samuel Moore</b> consented and waived notice of the competing petition for guardianship of both minors filed by Maternal Aunt Sherrelle Moore. Therefore, it appears notice is required pursuant to Probate Code §1511 regarding this petition by Maternal Grandmother Debra Johnson.</p>
		Father: <b>RALPH CONTRERAS</b> - Deceased	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory	Mother: <b>SHANEK S. MOORE</b> - Deceased	
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.	Paternal Grandfather: Otis Jones - Deceased	
<input type="checkbox"/>	Notice of Hrg	x Paternal Grandmother: Nellie Contreras - Deceased	
<input type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.	Maternal Grandfather: Samuel Moore - Consented to competing petition	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input checked="" type="checkbox"/>	Conf. Screen	Sibling AujaNeek Moore was personally served 11-15-14.	
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp	<b>Petitioner states</b> both parents are deceased.	
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt	<b>Court Investigator Charlotte Bien</b> filed a report on 11-17-14.	
<input checked="" type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	Clearances		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input checked="" type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: skc
			Reviewed on: 11-20-14
			Updates:
			Recommendation:
			File 20B – Moore & Roberts

		TEMP DENIED 7-28-14, then GRANTED 11-4-14 TEMP EXPIRES 12-2-14	NEEDS/PROBLEMS/ COMMENTS:
		NORMA OROZCO, Maternal Grandmother, is Petitioner.	<u>Minute Order 7-28-14 (Temp):</u> The petition is denied. The general hearing remains set for 9-16-14. Toni Orozco (Mother) is ordered to be personally present on 9-16-14.
Cont. from 091614, 110414		Father: <b>HECTOR ESCOBEDO</b> - Consents and waives notice	<u>Minute Order 9-16-14:</u> Mother is not to take children out of California. Mother's address and telephone number are provided. Since mother is local, Court Investigation is to now complete her report.
Aff.Sub.Wit.		Mother: <b>TONI OROZCO</b> - Present at temp hearing 7-28-14	<u>Note:</u> DSS Social Worker Irma Ramirez filed a report on 10-28-14.
✓ Verified		Paternal Grandfather: Fernando Escobedo - Consents and waives notice	<u>Minute Order 11-4-14:</u> The Court grants temporary guardianship to Norma Orozco until 12-2-14 and letters are to issue forthwith.
Inventory		Paternal Grandmother: Elvira Escobedo - Consents and waives notice	<u>Update:</u> Ms. Orozco filed Consent and Waiver of Notice signed by all grandparents on 11-17-14; however, it does not appear that she requested her temporary letters at that time.
PTC		Maternal Grandfather: Antonio Orozco - Consents and waives notice	<u>Reviewed by:</u> skc
Not.Cred.		<b>Petitioner states</b> the mother takes the children to Tijuana, Mexico to visit her husband, who was deported for DUI and domestic violence. Petitioner describes one incident where the mother's husband kicked them out and the mother had to walk back to the town on a dirt road in the middle of the night with the children. In another incident, the mother was arrested in Mexico for an unknown reason. She continues to put her daughters in danger by taking them out of the country, even when she knows DSS and CPS have cases open against her. Petitioner is very concerned for her granddaughters. She believes her daughter is mentally unfit to care for the children at this time. Petitioner also filed a declaration with additional information. Please see file for details.	<u>Reviewed on:</u> 11-19-14
Notice of Hrg			<u>Updates:</u>
Aff.Mail			<u>Recommendation:</u>
Aff.Pub.			File 21 - Escobedo
Sp.Ntc.			
Pers.Serv.			
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
✓ Clearances			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
		<b>Court Investigator Charlotte Bien filed a report on 9-5-14.</b>	
		<b>The Court Investigator filed a supplemental report on 10-22-14.</b>	
		<b>DSS Social Worker Irma Ramirez filed a report 10-28-14. See Page 2.</b>	

Pro Per Lazzeroni, Constance (Pro Per Petitioner, maternal grandmother)  
 Pro Per Lazzeroni, Mark (Pro Per Petitioner, maternal step-grandfather)

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

<b>Age: 5 years</b>	<b><u>TEMPORARY EXPIRES 12/02/2014</u></b>		<p><b>NEEDS/PROBLEMS/ COMMENTS:</b></p> <p><b>Minute Order of 10/07/2014 (Judge Cardoza): Mother consents to the petition. Mother is advised that any objections to the petition are to be submitted in writing by no later than 11/03/2014. Failure to file said objections will be deemed a waiver to the petition. Any responses are to be filed by 11/21/2014.</b></p> <p><b>As of 11/20/2014 no objections have been filed.</b></p> <ol style="list-style-type: none"> <li>1. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence for:                     <ul style="list-style-type: none"> <li>• Breanna Griggs (Mother)</li> </ul> </li> </ol> <p><b>Note:</b> Mother was personally served on 09/28/2014 for the hearing on the temporary guardianship</p>
<b>Cont. from</b>			
<b>Aff.Sub.Wit.</b>			
✓ <b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
✓ <b>Notice of Hrg</b>			
✓ <b>Aff.Mail</b>	W/		
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
✓ <b>Pers.Serv.</b>			
✓ <b>Conf. Screen</b>			
✓ <b>Letters</b>			
✓ <b>Duties/Supp</b>			
<b>Objections</b>			
<b>Video Receipt</b>			
<b>CI Report</b>	X		
<b>9202</b>			
✓ <b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
✓ <b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			

**CONSTANCE LAZZERONI** and **MARK LAZZERONI**, maternal grandmother and step-grandfather, are Petitioners.

Father: **WARD PARKER**; personally served 9/28/2014; consents and waives notice.

Mother: **BREANNA GRIGGS**;

Paternal grandfather: Unknown

Paternal grandmother: Nancy Parker; sent notice by mail 9/29/2014.

Maternal grandfather: Steven Griggs; sent notice by mail 9/29/2014.

**Petitioners state** the child's parents are not capable of properly caring for the child at this time, and the child had been alternating between living with her mother and the Petitioners every several days until 8/18/2014, when the Petitioners found it necessary to keep custody and control of the child. Petitioners state they have played an active role in raising the child since her birth, and recently the child began exhibiting severe signs of stress and begging the Petitioners not to return her to her mother's care. Petitioners state the mother has a long history of substance abuse, arrest and incarceration, and the house she lives in is believed to be a drug house where, according to the minor, the police visit regularly. Petitioners state the mother failed to have the child immunized and enrolled in Kindergarten, and the child had been suffering from bouts of lice the last 8 months, becoming re-infested every time she was returned to her mother's care. Petitioners state the child was born with a heart defect and requires monitoring, and Petitioners are not able to add the child to health insurance until a guardianship is in place. Petitioners state the child's father has not participated regularly in the child's life for more than a year.

**Court Investigator Julie Negrete's report filed 11/20/2014.**

**Reviewed by:** LV

**Reviewed on:** 11/20/2014

**Updates:**

**Recommendation:**

**File 22 - Parker**

**23 Mariam Tobon & Monay Tobon (GUARD/P) Case No. 14CEPR00879**

**Atty Rubio, Ramona Esther (Pro Per – Maternal Grandmother – Petitioner)**  
**Petition for Appointment of Guardian of the Person (Prob. C. 1510)**

		<b>TEMP EXPIRES 12-2-14</b>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. If notice to the paternal grandparents is not also dispensed, need notice pursuant to Probate Code §1511.</p>
		<b>RAMONA ESTHER RUBIO</b> , Maternal Grandmother, is Petitioner.	
		Father: <b>GILBERT SEBASTIAN PEREZ</b>	
		- Declaration of Due Diligence filed 9-30-14	
		- Notice dispensed per Minute Order 10-8-14	
		Mother: <b>DENISE V. TOBON</b>	
		- Consents and waives notice	
		Paternal Grandparents: Not listed	
		Maternal Grandfather: Not listed	
		<i>Both minors consent and waive notice.</i>	
		<b>Petitioner states</b> CPS recommended guardianship because the mother has failed to comply with CPS Action Plan to test for drugs with the probation office.	
		<b>Court Investigator Dina Calvillo filed a report on 11-19-14.</b>	
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg	x	
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		
✓	Clearances		
	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		
			<b>Reviewed by:</b> skc
			<b>Reviewed on:</b> 11-20-14
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 23 – Tobon</b>

Atty Rodriguez, Rachel Rayenette (pro per – non-relative/Petitioner)

Atty Rodriguez, Raymundo (pro per – non-relative/Petitioner)

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

Age: 12		<p align="center"><b><u>NO TEMPORARY REQUESTED</u></b></p> <p><b>RACHEL RAYENETTE RODRIGUEZ</b> and <b>RAYMUNDO RODRIGUEZ</b>, non-relatives, are Petitioners.</p> <p>Father: <b>LUCAS JUAREZ</b> – Consent &amp; Waiver of Notice filed 09/29/14</p> <p>Mother: <b>TANYA LAZCANO</b> – Consent &amp; Waiver of Notice filed 09/29/14</p> <p>Paternal grandparents: NOT LISTED (LIVE IN MEXICO)</p> <p>Maternal grandfather: DECEASED Maternal grandmother: CINDY B.</p> <p><b>Petitioners state</b> that they have been raising Cebera since she was 6 months old. Petitioners state that the mother uses drugs and the father has not seen Cebera for at least 6 years. The father has recently made contact with Petitioners and wants to see Cebera.</p> <p><b>Court Investigator Samantha Henson filed a report on – NEED REPORT.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need Notice of Hearing.</li> <li>2. Need proof of service by mail of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person at least 15 days before the hearing <u>or</u> Declaration of Due Diligence <u>or</u> Consent &amp; Waiver of Notice for:             <ol style="list-style-type: none"> <li>a. Paternal grandparents</li> <li>b. Cindy B (maternal grandmother)</li> </ol> </li> </ol>	
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
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<input type="checkbox"/>	Not.Cred.			
<input type="checkbox"/>	Notice of Hrg			x
<input type="checkbox"/>	Aff.Mail			x
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<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			n/a
<input checked="" type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			x
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<input checked="" type="checkbox"/>	Order			
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<input type="checkbox"/>	Status Rpt			
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<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 11/20/14</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 24 – Cebera</b></p>				

**25 Emmy Klein (CONS/PE)**

**Case No. 0602460**

**Atty Kruthers, Heather H. (for Public Guardian – former Conservator of the Person and Estate)**

**Atty Worthan, Kirk (pro per – friend/Successor Conservator of the Person and Estate)**

**Atty Wright, Janet L. (for Conservatee)**

**Probate Status Hearing Re: Filing Bond**

<b>Age: 72</b>	KIRK WORTHAN, friend, was appointed Successor Conservator of the Person and Estate with bond set at \$85,000.00 on 09/23/14.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from 111814</b>	Minute Order from 09/23/14 set this matter for status regarding filing of the bond.	<b><u>OFF CALENDAR</u></b> <b>Bond filed 11/25/14</b>
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>	Letters of Conservatorship have not issued to Mr. Worthan.	<b><u>CONTINUED FROM 11/18/14</u></b> <b>Minute Order from 11/18/14 states: Mr. Worthan represents that he provided additional information to the bonding company today and should have an answer later today. If proof of bond is filed by 11/26/14 then no appearance is necessary on 12/02/14.</b>
<b>Inventory</b>		
<b>PTC</b>	<b>Status Report of Court Appointed Counsel for Conservatee</b> filed 11/17/14 states: Due to misunderstanding as to the time frame and some failure in communication, matters have not been moving forward as expeditiously as expected. Mr. Worthan misunderstood the time frame in which he needed to obtain a bond, however, he now expects to have a bond in place in the next few days.	1. Need bond in the amount of \$85,000.00.
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		<b>Note:</b> a Hearing is currently set on 01/27/15 for filing of the Final Account of former Conservator.
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		<b>Reviewed by:</b> JF
<b>Sp.Ntc.</b>		
<b>Pers.Serv.</b>		<b>Reviewed on:</b> 11/19/14
<b>Conf. Screen</b>		
<b>Letters</b>		<b>Updates:</b> 11/25/14
<b>Duties/Supp</b>		
<b>Objections</b>		<b>Recommendation:</b>
<b>Video Receipt</b>		
<b>CI Report</b>		<b>File 25 – Klein</b>
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		

Atty Kaufman, Jeffrey; Brawley, Mason, of Berliner Cohen of Merced (for Petitioners Eugene Espinola, Marvin Espinola, and Margaret Corvello, Beneficiaries)  
 Atty Esraelian, Robyn, of Richardson, Jones & Esraelian (for James Espinola and Irene Espinola St. Martin, Trustees)  
 Atty Rube, Melvin K., sole practitioner (also for James Espinola and Irene Espinola St. Martin, Trustees)

**Status Re: Settlement Agreement**

Oliver DOD: 9/1/2006	<p><b>EUGENE ESPINOLA, MARVIN ESPINOLA and MARGARET CORVELLO</b>, children and Beneficiaries of 3 irrevocable Sub-Trusts created under the <b>ESPINOLA FAMILY TRUST of 1990</b> (namely <b>SURVIVOR'S TRUST, RESIDUAL TRUST and MARITAL TRUST</b>), filed a <i>Petition for Order Instructing Trustees to Provide Supporting Documentation, Compelling Trustees to Account, and Instructing Trustees to Distribute Trust Assets</i> on 5/12/2014.</p> <p><b>JAMES DOUGLAS ESPINOLA and IRENE ESPINOLA ST. MARTIN</b>, Petitioners' siblings, are the current Trustees of the Sub-Trusts and are the other two beneficiaries of the Sub-Trusts.</p> <p><b>Petitioners allege in the <i>Petition for Order Instructing Trustees</i>:</b></p> <ul style="list-style-type: none"> <li>• During their administration of the Sub-Trusts, James and Irene have provided deficient accounts and have failed to fully and adequately disclose the Trustees' acts and transactions;</li> <li>• Despite the fact that the total value of Sub-Trusts assets is <b>~\$8 million</b> (based on asset schedule provided by Trustees on 1/8/2014 showing <b>~\$4 million in SURVIVOR'S TRUST; ~\$2 million in RESIDUAL TRUST; and ~\$2 million in MARITAL TRUST</b>), the Trustees have not made any distributions to the beneficiaries in the 2 years since Virginia's death;</li> <li>• The Sub-Trusts provide that upon Virginia's death, all of the assets of the Sub-Trusts shall be distributed outright and free of trust among the Settlor's 5 children: <b>EUGENE ESPINOLA, MARVIN ESPINOLA, MARGARET CORVELLO, JAMES DOUGLAS ESPINOLA and IRENE ESPINOLA ST. MARTIN</b>;</li> <li>• Petitioners seek Court orders instructing Trustees to provide the previously requested information, compelling Trustees to submit Sub-Trust accountings for 2011, 2012 and 2013 to the Court for approval, and instructing Trustees to distribute the Sub-Trust assets according to trust terms.</li> </ul>	<p><b>NEEDS/PROBLEMS/ COMMENTS:</b></p> <p><b>Continued from 11/19/2014.</b> Minute Order shows appearances by Jeffrey Kauffman and Melvin Rube.</p> <p><b>Note for background:</b> Minute Order dated 9/22/2014 from a previous Settlement Conference Hearing states: Settlement agreement read in open Court. All parties agree. Counsel will submit settlement agreement for signature. Court records do not show a settlement agreement has been submitted as of 11/24/2014.</p>	
Virginia DOD: 4/29/2012			
Cont. from 111014, 111914			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
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UCCJEA			
Citation			
FTB Notice			
			<p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 11/24/14</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 26 - Espinosa</b></p>

		<b>GENERAL HEARING 1-21-15</b>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>1. <b>Petitioner filed Declarations of Due Diligence 11-25-14 regarding the unknown Father and paternal grandparents. If diligence is not found, need notice pursuant to Probate Code §2250(e) or further diligence.</b></p>
		<b>NELLIE RODRIGUEZ TELLO</b> , Maternal Aunt, is Petitioner.	
		Father: <b>NOT LISTED</b> - Declaration of Due Diligence filed 11-25-14	
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg	x - Declaration of Due Diligence filed 11-25-14 Paternal Grandfather: Not listed Paternal Grandmother: Not listed - Declaration of Due Diligence filed 11-25-14	
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.	x Maternal Grandfather: Deceased Maternal Grandmother: Guadalupe S. Rodriguez - Personally served 11-23-14	
✓	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		
			<b>Reviewed by:</b> skc
			<b>Reviewed on:</b> 11-24-14
			<b>Updates:</b> 11-25-14
			<b>Recommendation:</b>
			<b>File 27 - Rodriguez</b>

Atty Belardinelli, Richard; Georgeson, C. Russell; of Georgeson & Belardinelli (for Petitioner Edmund Nolte, Jr.)  
 Atty Sullivan, Jr., Robert L.; Emerzian, David; of McCormick Barstow (for Respondent Marjorie A. Nolte, Trustee)

**Petition for Recovery of Trust Property and Account**

Edmund Sr. DOD: 12/13/2006	<p><b>EDMUND V. NOLTE, JR.</b>, son and Trust Beneficiary, is Petitioner.</p> <p><b>Petitioner states:</b></p> <ul style="list-style-type: none"> <li><b>MARJORIE A. NOLTE</b> is the duly appointed and acting Trustee of the <b>NOLTE FAMILY TRUST dated 5/20/1999</b>;</li> <li>The Trust that is the subject of this <i>Petition</i> was created pursuant to a written Declaration of Trust subsequently modified and restated pursuant to a document entitled "Resignation of Trustees and Agreement Modifying and Restating the Nolte Family Trust" of <b>EDMUND V. NOLTE, SR.</b>, and <b>ROSETTA M. NOLTE</b>, deceased (<i>copy attached as Exhibit A</i>);</li> <li>As set forth in the Trust, upon the death of the surviving Trustor, Rosetta, the Trustee was directed to distribute the assets of the Trust instrument in equal shares to <b>ERNEST RICHARD NOLTE</b>, son, and to the Petitioner;</li> <li>The Trustee has violated the duty owed to Petitioner as beneficiary in that she has failed and refused to administer the trust property according to the trust instrument, and in particular, has failed and refused to distribute half of the assets of the trust instrument to Petitioner;</li> <li>Marjorie A. Nolte, as Trustee, has failed and refused to provide an account of the Trust at any time;</li> <li>On 1/17/2013, Petitioner, through his counsel, delivered to the Trustee a written request for an accounting of her acts as Trustee (<i>copy of request attached as Exhibit B</i>); the Trustee has failed to provide the requested account.</li> </ul> <p style="text-align: center;">~Please see additional page~</p>	NEEDS/PROBLEMS/COMMENTS:  <p><b>Note: This matter will be heard at 8:30 a.m. in Department 72.</b></p> <p><b>Page 1B</b> is the <i>Status Hearing</i>. (Examiner notes are not prepared for the <i>Settlement Conference</i> set on 12/2/2014 by <i>Minute Order</i> dated 10/21/2014.)</p> <p><b>Continued from 10/21/2014.</b></p> <p><b>Notes:</b></p> <ul style="list-style-type: none"> <li><i>Order Re: Stipulation for Continuance of Settlement Conference</i> filed 10/15/2014 re-sets the Settlement Conference on <b>12/2/2014</b> at 10:30 a.m.</li> <li><i>Minute Order</i> dated 6/20/2013 set the matter for Court Trial on 3/11/2014, which was stipulated and continued to <b>1/20/2015</b>.</li> </ul>
Rosetta DOD: 5/7/2009		
Cont. from 051513, 052013, 062013, 112213, 012414, 102114		
Aff.Sub.W.		
<input checked="" type="checkbox"/> Verified		
Inventory		
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Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/S		
Objection		
Video Receipt		
CI Report		
9202		
Order	X	
Aff. Post		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
Reviewed by: LEG		
Reviewed on: 11/24/14		
Updates:		
Recommendation:		
File 1A - Nolte		

**Petitioner prays for an Order:**

1. Compelling Marjorie A. Nolte, as Trustee, to submit her accounting of her acts as Trustee since 5/7/2009 through present;
2. Compelling Marjorie A. Nolte to redress the breach of trust described in the *Petition* by distributing half of the assets of the Trust to Petitioner; and
3. For costs.

**Reply to Petition for Recovery of Trust Property and Account filed by MARJORIE A. NOLTE on 5/13/2013 states:**

- Edmund V. Nolte, Sr. and Rosetta M. Nolte originally established the **NOLTE FAMILY TRUST** by Declaration of Trust dated 5/20/1999; the Trust was amended and restated in its entirety by *Resignation of Trustees and Agreement Modifying and Restating the Nolte Family Trust* dated 11/7/2005 (*copy attached as Exhibit A*);
- When the Trust was initially established, the Trust was funded with only two assets: (a) a parcel of commercial property located on Marks Ave. in Fresno; and (b) a residence located at Windsor Blvd. in Cambria;
- On 10/28/2005, shortly before the Resignation and Restatement was executed, the commercial property was sold by the Trust and the net proceeds from the sale of the commercial property were deposited into a joint bank account established on 6/28/2005 by the Trustors in the joint names of Edmund V. Nolte, Sr., Rosetta M. Nolte, and their granddaughter, **NATALIE NOLTE**;
- On 11/7/2005, following the sale of the commercial property, Mr. and Mrs. Nolte executed the *Resignation of Trustees*, by which, among other things, they resigned as Trustees of the Trust and appointed their daughter-in-law, Marjorie (Respondent), as Trustee of the Trust; when Respondent became Trustee of the Trust on 11/7/2005, the only remaining asset of the Trust was the Cambria residence; at the time of death of the last surviving Trustor (Rosetta), the Trust became irrevocable and the Cambria residence remained the only asset of the Trust;
- On 9/2/2010, Respondent as Trustee of the Trust caused the Cambria residence to be distributed to the two beneficiaries of the Trust by execution of Grant Deed to Ernest Richard Nolte and Edmund V. Nolte, Jr., in equal shares as tenants in common (*copy of Grant Deed attached as Exhibit B*);
- By making final distribution of the Cambria residence, Respondent completed her duties and responsibilities as Trustee of the Trust;
- Petitioner alleges that Respondent "...has failed and refused to administer the trust property according to the trust instrument, and in particular, has failed and refused to distribute half of the assets of the trust instrument to Petitioner." This allegation is false, for indeed on 9/2/1010, the Respondent did in fact cause all of the assets of the Trust to be distributed to the Trust's beneficiaries;
- Petitioner alleges that Respondent "...has failed and refused to provide an account of the above-described trust at any time." Once again, this allegation is false; in a telephone conversation with Petitioner's counsel on 2/11/2012, Respondent's counsel advised Petitioner's counsel that there was only one asset of the Trust (the Cambria residence); that the residence had been distributed to the Trust's beneficiaries in 2010; and that under these circumstances it would seem a waste of time and money to prepare an accounting which merely showed the distribution in kind of the sole asset of the Trust; at no time did either Respondent or her counsel refuse to provide an accounting;

~Please see additional page~

**Reply to Petition filed 5/13/2013 by MARJORIE A. NOLTE, continued:**

- As demanded in the *Petition*, Respondent has prepared an accounting of the administration of the Trust from 5/7/2009 through 3/31/2013 (copy attached as Exhibit C); Exhibit C, *First and Final Account of Trustee, Marjorie A. Nolte, Covering the Period from 5/7/2009 To and Including 9/2/2010*, shows the following:

Accounting	-	<b>\$850,000.00</b>
Beginning POH	-	<b>\$850,000.00</b>
Ending POH	-	<b>\$ 0.00*</b>

**\*Schedule G, Deductions from Account / Distributions states:** Pursuant to Article Fourth, Section D, Subsection 4 and Article Fourth, Section F, Subsection 2 of the foregoing Trust, distribution of residential real estate in Cambria, CA [legal description omitted] to **ERNEST RICHARD NOLTE** and **EDMUND V. NOLTE, JR.**, each as to an undivided ½ interest as tenants in common, Appraised value -- **\$850,000.00**.

- In connection with the accounting, Petitioner caused the Cambria residence to be appraised as of 5/7/2009 [Rosetta's date of death, showing a value of **\$850,000.00**] by the San Luis Obispo County Probate Referee (copy of the Appraisal Report attached as Exhibit D).

**Respondent prays for an Order:**

1. Denying any and all of the relief sought in the *Petition*;
2. Allowing and approving the account of Trustee which is attached as *Exhibit C*; and
3. Determining that by and upon distribution of the Cambria residence to the Trust's beneficiaries, the Respondent completed and fully performed all of her duties as Trustee of the Trust.

**Status Report filed by Attorney Sullivan for Marjorie A. Nolte, Trustee, on 6/17/2013 states:**

- At the 5/20/2013 hearing on the *Petition for Recovery of Trust Property and Account*, and in response to the question of the Court, Mr. Noyes advised the Court that he wished to proceed with discovery in this matter; to set a mandatory settlement conference; and to have the matter set for trial; Mr. Sullivan advised the Court that Mr. Noyes had represented that he had specific information concerning various accounts of the Trust, but that he had declined to provide them to Mr. Sullivan; the Court ordered that a status conference be set on 6/20/2013; that no discovery proceed until after the status conference; and that Mr. Noyes should provide to Mr. Sullivan the information in his possession concerning accounts held in the name of the Trust;
- On 5/23/2013, Mr. Noyes provided to Mr. Sullivan 112 pages of documents consisting of current and previous estate planning documents of Edmund V. Nolte, Sr., and Rosetta M. Nolte; the only documents delivered which referred to Trust account information at issue were [9 specific pages, copies attached as Exhibits A, B and C];

~Please see additional page~

**Status Report filed by Attorney Sullivan for Marjorie A. Nolte, Trustee, on 6/17/2013, continued:**

- Respondent and her attorney have reviewed the foregoing information and other account information in the possession of the Respondent, and report to the Court as follows:
  1. Exhibits A and B disclose 3 Mid-State Bank [*located in Cambria*] accounts [*numbers omitted*] standing in the name of Edmund V. Nolte, Sr., and Rosetta M. Nolte in May of 1999, the month in which the Trust was originally established;
  2. Exhibit C makes reference to 2 Mid-State Bank accounts [*numbers omitted*] standing in the name of the Trust in March of 2005;
- Respondent was not involved with the Trust in 1999, as she did not become Trustee of the Nolte Family Trust until 11/7/2005, and accordingly, she has no specific knowledge of the disposition of the 3 accounts referenced in Exhibits A and B; however, it appears that the 2006 checking and savings accounts referenced in Exhibit C were merely renumbering of the 1999 accounts referred to in Exhibits A and B in order to reflect the retitling of those accounts in the name of the Nolte Family Trust; the Respondent has no knowledge as to the disposition of the 1999 Certificate of Deposit [*number omitted*];
- At the time the Trust was amended and restated in its entirety on 11/7/2005, the Trust's Mid-State Bank checking and savings accounts continued in existence; both of these accounts were actively used by Edmund V. Nolte, Sr., and Rosetta M. Nolte as Trustees of the Nolte Family Trust from the establishment of the Trust in 1999 until 11/7/2005 when Mr. and Mrs. Nolte restated the Trust, resigned as Co-Trustees and appointed Respondent as Trustee of the Trust;
- Prior to amending and restating the Trust and resigning as Trustee, Mr. and Mrs. Nolte established a joint bank account at Union Bank, not in the name of the Trust but in the name of Edmund V. Nolte, Sr., and Rosetta M. Nolte, and their granddaughter, **NATALIE NOLTE** ("Joint Tenancy Account"); after 2005, the Joint Tenancy Account was the primary account used for the payment of Mr. and Mrs. Nolte's bills and living expenses;
- The Mid-State Bank checking account remained in existence until 5/4/2006, on which date the Respondent instructed Mid-State Bank to close the account by fax transmittal dated 5/4/2006 (*copy attached as Exhibit D*); bank statement for that account dated 5/5/2006 (*copy attached as Exhibit E*), indicates a balance of **\$17.78**, and after applying an account closing charge of **\$2.83**, the bank issued a check for **\$14.95**, thereby closing the account; Respondent has no recollection of the disposition of the **\$14.95** check;
- The Mid-State Bank savings account remained in existence until March of 2008, and the 3/31/2008 statement for the account (*copy attached as Exhibit F*) indicates a closing balance of **\$1,312.91**, and this is the last statement for this account in the Respondent's possession; on 5/6/2009, this account was closed by issuance of a cashier's check for **\$1,314.19** (*copy attached as Exhibit G*), which was deposited into the Joint Tenancy Account on 5/6/2009 by Respondent because this was the account used for the care and benefit of Mr. and Mrs. Nolte during their lifetimes; however, Respondent now realizes the check should not have been deposited into the Joint Tenancy Account in 2009 for the reason that both Mr. and Mrs. Nolte were then deceased, and the beneficiaries of the Trust were not the beneficiaries of the Joint Tenancy Account; had the funds been held in a trust account, they would nevertheless have not been available for distribution to the beneficiaries of the Trust, for the reason that the expenses of administration of the Trust, including preparation of the Trustee's accounting, far exceeded the **\$1,314.19** amount of funds in question;

~Please see additional page~

**Status Report filed by Attorney Sullivan for Marjorie A. Nolte, Trustee, on 6/17/2013, continued:**

- To the best of Respondent's knowledge, the bank accounts referred to in this *Status Report* are the **ONLY** [*emphasis in original*] accounts in which Edmund V. Nolte, Sr., and Rosetta M. Nolte ever held any interest, either individually or through the Trust; the Mid-State Bank accounts referred to in *Exhibit C* are the only bank accounts which ever came into the Trustee's possession and control;
- Accordingly, as fully set forth in Respondent's *Reply* filed 5/13/2013, the only remaining asset of the Trust on the date of Rosetta M. Nolte's death on 5/7/2009 was the Cambria Residence, which was distributed to the beneficiaries of the Trust on 9/2/2010, by reason of which there are no remaining assets in the Trust.

**Respondent requests the Court grant the relief set forth in her *Reply* by entering an Order as follows:**

1. Denying any and all relief sought in the Petition;
2. Allowing and approving the account of the Trustee filed 5/13/2013; and
3. Determining that upon distribution of the Cambria Residence to the Trust's beneficiaries, the Respondent completed and fully performed all of her duties as Trustee of the Trust.