



ATTENTION

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

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

Thank you for your patience.

Jesus Gonzalez Rodriguez, age 9		JESUS N. GONZALEZ, Father, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Continued from 6-11-13, 7-30-13, 9-10-13, 10-8-13. See following pages. Minute Order 9-10-13 states: Ms. Valdivinos is sworn and interprets for Maria Ibarra. Maria Ibarra objects to the petition. Counsel is directed to facilitate counseling between father and child. Matter continued to 10/8/13. Minute Order 10-8-13: Ms. Ibarra is being assisted by an interpreter. Mr. Gonzalez informs the Court that he has an appointment with the counselor today. The Court indicates to the parties that it is not changing the visitation time and they are to mutually agree on a location for visitation to take place during the winter months. The Court orders that Jesus and his father participate in conjoint counseling with a licensed clinical therapist for the purpose of facilitating unsupervised visits. In the event that a licensed therapist is not available in Firebaugh, arrangements are to be made elsewhere with a licensed therapist. Ms. Aguilar is ordered to notify the therapist that the Court will be expecting a report as to how conjoint counseling is progressing. Continued to 12/3/13. As of 11-22-13, nothing further has been filed. Reviewed by: skc Reviewed on: 11-22-13 Updates: Recommendation: File 1 – Rodriguez
		MARIA IBARRA, Maternal Grandmother, was appointed Guardian on 6-26-08. - served by mail 5-27-13	
Cont. from 061113, 073013, 091013, 100813		Mother: Patricia Rodriguez (Deceased)	
<input type="checkbox"/>	Aff.Sub.Wit.	Paternal Grandfather: Jose Gonzalez	
<input checked="" type="checkbox"/>	Verified	Paternal Grandmother: Josefina Gonzalez	
<input type="checkbox"/>	Inventory	Maternal Grandfather: Lorenzo Rodriguez	
<input type="checkbox"/>	PTC	Petitioner requests to have custody of his son and to have his case reviewed. Petitioner sees no reason for his son to be with his grandmother when he is fully capable and willing to be fully responsible for his son. Petitioner doesn't feel the visitation that he is allowed is sufficient to fully bond with his son, especially now that he will be having a sibling. Petitioner believes it is in his son's best interest to be closer to his little brother and father than the 2 hours a week that is currently allowed (sometimes less because the grandmother arrives late).	
<input type="checkbox"/>	Not.Cred.	Petitioner believes his son needs a father figure and he and his wife are able to provide a stable house for his son. Petitioner states there is no need for his son to continue living with his grandmother when he has a loving father who wants to be a part of his life.	
<input checked="" type="checkbox"/>	Notice of Hrg	SEE ADDITIONAL PAGES	
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input checked="" type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input 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		

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Court Investigator Jennifer Young filed a report on 7-26-13.

Minute Order 7-30-13: Also present in the courtroom is Jesus Rodriguez. Rosie Valdivinos is sworn and interprets for Maria Ibarra. Ms. Ibarra objects to the petition. Visitation between father and the minor is ordered as follows: visitation shall be every Sunday from 1:00 p.m. to 5:00 p.m. at a place mutually agreed upon by the parties. Father is ordered not to expose the minor to any horror movies or encourage any horse play with other children that may be uncomfortable for the minor. **The Court orders the court investigator to contact the Carmen Meza Center regarding the minor's therapy. Parties enter into a waiver of confidentiality for said purpose.** Continued to 9/10/13.

Court Investigator Jennifer Young filed a report on 9-3-13.

Guardian Maria Ibarra filed a declaration on 9-6-13. Ms. Ibarra states Jesus has always been in her custody since the death of his mother on 10-31-05. Jesus' mother was murdered with a kitchen knife. Her throat was cut open and Jesus was found on top of his mother's dead body covered in blood (at age 1½). The police turned him over to Ms. Ibarra that day. Shortly after the murder, Ms. Ibarra spoke with Mr. Gonzalez, who stated she could keep Jesus as long as he could use his SSN for his taxes. He did not participate in Jesus' life. When Jesus was two years old, Ms. Ibarra allowed overnight visits. During the visits, Jesus slept on pillows on the floor with the family dog. Mr. Gonzalez never returned him on time and she always had to pick him up. On one occasion, he wasn't even present, and Jesus was running around unsupervised with the grandfather getting drunk with his friends. A police report was made. In 2008, Jesus came home with a burn on his hand. Jesus told her that his aunt Karina was mad at him and grabbed his hand and burned it. A police report was made. Also, Jesus was always starving upon return from his visits.

Of great concern to Ms. Ibarra is the fact that Mr. Gonzalez was inconsiderate of what happened to Jesus. He had him watch the movie "Chucky" where a doll is murdering people with a knife. Mr. Gonzalez should have been more conscious of the fact that Jesus' mother was killed with a knife. Jesus was traumatized.

Ms. Ibarra states that even now, he continues to have little regard for Jesus' needs, and Mr. Gonzalez lacks maturity when it comes to Jesus' care. Recently he forced horseplay (fight) with Jesus' cousins, and tried to block Ms. Ibarra from seeing with a chair.

Further traumatizing Jesus, Mr. Gonzalez had Ms. Ibarra served with court papers in front of Jesus. The person was rude and disrespectful, demanding to see photo identification or verification of her address. She felt forced to show her PGE bill. Jesus was scared that he was going to be removed from her home.

Ms. Ibarra states she regularly attends church on Sunday afternoons. Jesus enjoys this because that is when his friends go to service too. Mr. Gonzalez refuses to change the visitation schedule so Jesus can attend. Ms. Ibarra would like visits to be Sundays 9-12.

Ms. Ibarra is not opposed to the court ordering Mr. Gonzalez to attend therapeutic visits with Jesus and his counselor. She has attended some sessions, and believes he should also.

Mr. Gonzalez pays only \$128/month child support. Ms. Ibarra pays \$60-70/week in child care. Mr. Gonzalez takes no interest in helping pay for school supplies, uniforms, medical bills, and **refuses to provide her with his insurance card or a letter stating he is not covered. The providers will not accept Medi-Cal because their system shows he has an insurance provider.** Jesus suffers from asthma and this is creating a hardship. Ms. Ibarra cannot afford these bills. All she needs from him is the insurance card.

SEE ADDITIONAL PAGES

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Minute Order 9-10-13 states: Ms. Valdivinos is sworn and interprets for Maria Ibarra. Maria Ibarra objects to the petition. Counsel is directed to facilitate counseling between father and child. Matter continued to 10/8/13.

Declaration of Jesus N. Gonzalez filed 10/03/2013 disputes the claims of the guardian, Maria Ibarra. Mr. Gonzalez is seeking to increase his visitation with the minor child to include overnight visits in order for him to become more familiar with his family and become a stronger part of their lives. Mr. Rodriguez states that both he and the guardian shared custody of Jesus, the minor child, without a structured agreement and transportation of the child was done by both parties as well as the father's sister. The father states that when the child would visit his family he always had a comfortable place to sleep, not on the floor. He states the child was with him one time while watching movie clips on You-Tube and there were a few clips from the movie "Chucky" as well as other comedies, cartoons and other genres. The father states the child did not seem disturbed by any of the movie clips. Mr. Gonzalez states that the safety of his son is always held in high regards. He says that Jesus is a normal 10 year old who regularly plays with all of his cousins. Mr. Gonzalez states that he has always been and is willing to help with the child's needs. He states he has purchased shoes, clothing and other items outside of the dollar amount taken for child support. He states that the guardian makes it difficult to bring gifts from family members since she is an active Jehovah's Witness and has gotten upset with Mr. Gonzalez's mother for taking a birthday cake to celebrate with the child during one of the visits. Mr. Gonzalez states that he has provided the guardian with a letter for the child's medical coverage.

Attached to the declaration are pictures of the child with the father in response to the allegations that the child does not want to visit with the father.

Confidential Supplemental Investigator's Report was filed 10-1-13 by Court Investigator Jennifer Young.

Minute Order 10-8-13: Ms. Ibarra is being assisted by an interpreter. Mr. Gonzalez informs the Court that he has an appointment with the counselor today. The Court indicates to the parties that it is not changing the visitation time and they are to mutually agree on a location for visitation to take place during the winter months. The Court orders that Jesus and his father participate in conjoint counseling with a licensed clinical therapist for the purpose of facilitating unsupervised visits. In the event that a licensed therapist is not available in Firebaugh, arrangements are to be made elsewhere with a licensed therapist. Ms. Aguilar is ordered to notify the therapist that the Court will be expecting a report as to how conjoint counseling is progressing. Continued to 12/3/13.

As of 11-22-13, nothing further has been filed.

Atty Brewer, Janet L., sole practitioner of Palo Alto (for Petitioner Gregg R. Schofield)

(1) Petition for Final Distribution and (2) Waiver of Accounting and (3) Allowance of Attorneys Fees

DOD: 7/3/2011		GREGG R. SCHOFIELD , brother and Administrator, is Petitioner.	<p>NEEDS/PROBLEMS/COMMENTS: Note: Attorney Brewer filed on 11/22/2013 <i>Notice of Intent to Appear By Telephone</i>.</p> <p>1. Pursuant to Probate Code §§ 1250 and 1252, need proof of 15 days' mailed service of the <i>Notice of Hearing</i> with a copy of the <i>Petition</i> for Wells Fargo Card Services, per the <i>Request for Special Notice</i> filed 9/30/2011 attached to the timely-filed <i>Creditor's Claim</i> in the amount of \$547.97. (Note: Proof of Service of the <i>Request for Special Notice</i> shows the request was served to Attorney Brewer on 9/12/2011.)</p> <p>2. <i>Petition</i> does not address <i>Creditor's Claim</i> in the amount of \$547.97 filed on 9/30/2011. Need Allowance or Rejection of <i>Creditor's Claim</i> (DE-174 1/1/09) for this claim pursuant to Probate code § 9250, and information regarding whether the claim has been paid by the estate. ~Please see additional page~</p>
Cont. from		Accounting is waived.	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified	I & A — \$330,910.57	
<input checked="" type="checkbox"/>	Inventory	POH — \$256,998.00 (\$21,103.00 is cash)	
<input checked="" type="checkbox"/>	PTC		
<input checked="" type="checkbox"/>	Not.Cred.	Administrator — \$9,578.15 (statutory)	
<input checked="" type="checkbox"/>	Notice of Hrg	Attorney — \$9,578.15 (statutory)	
<input checked="" type="checkbox"/>	Aff.Mail		
	Aff.Pub.	Costs — [\$46.50] (for document retrieval service; deduction of courier services fees as non-reimbursable per Local Rule 7.17(B).)	
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters	081711	
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
<input checked="" type="checkbox"/>	Order	Distribution pursuant to intestate succession is to: <ul style="list-style-type: none"> L. BRUCE SCHOFIELD – [854.82?] cash, 100% interest in real property, [pick-up truck], furnishings, furniture, and personal belongings. 	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
<input checked="" type="checkbox"/>	FTB Ntc	072511	

NEEDS/PROBLEMS/COMMENTS, continued:

3. Local Rule 7.17(B) specifies certain costs which are considered by the Court to be part of doing business and not reimbursable costs. Paragraph 19 of the *Petition* contains itemization of costs, including **\$79.90** for "courier service fees" which under the rule are non-reimbursable costs and should be deducted from the amount to be paid for costs. Proposed order should reflect the correct amount of allowable costs.
4. Paragraph 18(b) of proposed order includes a Scottrade Account valued at **\$1,045.38**, which does not appear to have been originally inventoried as part of the estate. Need clarification.
5. Proposed order does not specify the vehicle (pick-up truck) as part of the distribution, nor the amount cash remaining to be distributed to the estate heir after payment of the **\$19,202.80** in fees and costs, pursuant to Local Rule 7.6.1 (A) and (C). Need revised proposed order.

Atty Donaldson, Larry A., sole practitioner (for Petitioner Kenneth Roberts, Conservator)

Amended First and Final Accounting

Age: 20 years	KENNETH ROBERTS , paternal grandfather and Conservator of the Estate appointed on 8/6/2012 without the requirement of bond or a blocked account, is Petitioner.		NEEDS/PROBLEMS/ COMMENTS:
			Continued from 10/22/2013. Minute Order states the Court notes for the minute order that Larry Donaldson is not present and an amended first and final accounting has been filed and is set for 12/3/2013. Subsequent to the matter being called, Larry Donaldson appears and is advised that the next hearing on this matter is scheduled for 12/3/2013.
Cont. from 071613, 100113	Order Appointing Probate Conservator filed 8/6/2012 finds Conservatee JESSICA ROBERTS voluntarily requested appointment of Kenneth Roberts as Conservator of her Estate because the Conservatee and her sister, JENNIFER ROBERTS (Case #12CEPR00751, <i>Jennifer Roberts Special Needs Trust</i>) are each named 50% beneficiaries of the proceeds of a military life insurance policy on her deceased father, MICHAEL WAYNE ROBERTS (DOD 2/24/2012, Case #12CEPR00290), in the total amount of \$400,000.00 , with Conservatee's share consisting of \$200,000.00 .		
Aff.Sub.Wit			1. Need proposed order.
✓ Verified			
✓ Inventory			Amended First and Final Accounting filed 10/21/2013 contains <i>Summary of Account</i> for the period of the account of 8/17/2012 through 10/21/2013, showing \$0.00 property on hand at the beginning and end of the account period, and stating:
PTC			
Not.Cred.			<ul style="list-style-type: none"> This conservatorship was obtained only for the purpose of the Conservatee receiving her one half of her father's \$400,000.00 military life insurance payment in the amount of \$200,000.00; Conservatee was a competent 18-year-old at the time of obtaining the conservatorship and is still a competent adult; In spite of the fact [sic] that the military representatives refused to authorize the distribution of the insurance proceeds to the Conservatee since she was not yet 21 years old, Conservator obtained the conservatorship and sent it to the military; On 11/15/2012, the proceeds of the military life insurance were sent directly to Jessica Roberts, Conservatee, not to him as Conservator (<i>copy of the voucher is attached with Summary of Account</i>); It appears that the conservatorship was not necessary in the first place; There have been no funeral expenses or other expenses paid from the Conservatee's estate; There have been no [monies] or other property received by the Conservator at all; All filing fees and other fees associated with this conservatorship have been paid by Conservator; Conservator waives any fees for services he performed as Conservator; Attorney Larry Donaldson waives all attorney fees and costs associated with his representation of the Conservatee.
✓ Notice of Hrg			
✓ Aff.Mail	W	/	
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/S			
Objections			
Video Receipt			
CI Report			
9202			
Order	X		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
			Reviewed by: LEG
			Reviewed on: 11/25/13
			Updates:
			Recommendation:
			File 3 – Roberts

(1) Petition for Settlement of First and Final Account and Report and (2) for Final Distribution and (3) for Allowance of Compensation for Ordinary Services

DOD: 04/04/13	STEVEN SHAHBAZIAN , Executor, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	Account period: 04/04/13 – 10/15/13	
Cont. from	Accounting - \$812,894.61	
<input type="checkbox"/> Aff.Sub.Wit.	Beginning POH - \$808,765.05	
<input checked="" type="checkbox"/> Verified	Ending POH - \$763,995.85	
<input checked="" type="checkbox"/> Inventory	Executor - \$19,257.89	
<input checked="" type="checkbox"/> PTC	(statutory)	
<input checked="" type="checkbox"/> Not.Cred.	Closing - \$2,000.00	
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail	Distribution, pursuant to Decedent's Will, is to:	
<input type="checkbox"/> Aff.Pub.	Fresno Bully Rescue - ½ interest in decedent's ½ interest in real property in Madera County	
<input type="checkbox"/> Sp.Ntc.	Animal Rescue of Fresno (ARF) - ½ interest in decedent's ½ interest in real property in Madera County	
<input type="checkbox"/> Pers.Serv.	Kevin Emerzian - \$28,868.98 cash, plus ½ interest in real property in Fresno County	
<input type="checkbox"/> Conf. Screen	Karla Corcoran - \$28,868.98 cash, plus ½ interest in real property in Fresno County	
<input type="checkbox"/> Letters 05/21/13		
<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		
		Reviewed by: JF
		Reviewed on: 11/22/13
		Updates:
		Recommendation: SUBMITTED
		File 5 – Emerzian

Verified Petition for Removal of Trustee, Accounting, Surcharge, and Approval of Attorney Fees

DOD: 03/13/11	JAMIE STARR HAMILTON , beneficiary, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		<u>CONTINUED FROM 10/22/13</u>
		Minute order from 10/22/13 states: Ms. James is appearing via CourtCall. Mr. Motsenbocker is appearing as counsel for Wade Hamilton. Ms. Nuttall requests a continuance. Matter is continued to 12/03/13. The Court directs that the accounting be set for 12/03/13 upon filing.
Cont. from 071813, 091713, 102213	Petitioner states:	Note: As of 11/22/13, an Accounting has not been filed.
<input type="checkbox"/> Aff.Sub.Wit.	1. She is an heir of James O. Hamilton ("Decedent") and a beneficiary of the JAMES O. HAMILTON LIVING TRUST (the "Trust"). Gary C. Hamilton ("Respondent") is the trustee of the Trust.	Note: Status Report filed 10-18-13 by Attorney Natalie Nuttall states that when Respondent brought her what he believed to be the accounting on 9-19-13, she discovered that it was not an accounting, but rather was the Trust's 2012 income tax return. Ms. Nuttall immediately notified opposing counsel of this mistake and contacted the accountant Bill Fanucchi to prepare the accounting. Because of the recent 10-15-13 tax filing deadline, the accounting is not completed, but is expected by the end of the month.
<input checked="" type="checkbox"/> Verified	2. Decedent created the Trust on 04/16/03 and amended the Trust on 12/20/07. The Trust named Gary C. Hamilton as the successor trustee upon the death of James O. Hamilton.	
<input type="checkbox"/> Inventory	3. The dispositive terms of the Trust set out in Article Five of the Trust as amended on 12/20/07 state in relevant part: "Upon the death of the settlor, \$1.00 shall be paid to Gary K (sic) Hamilton and \$1.00 shall be paid to Terry Lee Hamilton as they are already provided for elsewhere. The balance of the trust assets shall be divided into four (4) shares and allocated as follows: 25% to Wade Hamilton, 25% to Jamie Star Hamilton Thomas, 25% to Cynthia Ann Thomas, and 22% to Allen Richard Thomas. Each share of these beneficiaries shall remain in this trust until the particular beneficiary attains the age of 60 at which time the trustee shall distribute the share in 200 monthly installments. The monthly payments shall be \$1,000 per month unless the trustee must adjust the amounts depending on the trust assets. It is anticipated that by the time the first beneficiary attains the age of 60, all assets of this trust will be liquid. <i>If the trust does not contain assets that are liquid, the trustee shall use his or her best efforts to liquidate those assets (emphasis added).</i> "	1. Need Order.
<input type="checkbox"/> PTC		Reviewed by: JF
<input type="checkbox"/> Not.Cred.		Reviewed on: 11/22/13
<input checked="" type="checkbox"/> Notice of Hrg		Updates:
<input checked="" type="checkbox"/> Aff.Mail w/		Recommendation:
<input type="checkbox"/> Aff.Pub.		File 6 – Hamilton
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input checked="" 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		
	Continued on Page 2	

4. Decedent died more than 2 years ago and Respondent has failed to liquidate the assets, make a single distribution to Petitioner or provide an accounting of the trust assets.
5. At the time of Decedent's death, Petitioner was over the age of 60 (DOB: 07/10/46) and entitled to immediate distributions. Despite several requests, no accounting or distributions have been made. Petitioner believes that there was a fair amount of cash in the Trust at the time of Decedent's death and income has been received since Decedent's death.
6. In addition to the failure to account and properly distribute trust assets, Respondent has failed to liquidate trust assets.
7. The most obvious breach of trust that requires immediate removal and surcharge, is the self-dealing and conflict of interest Respondent has with regard to money owed the Trust. A big reason Respondent has not liquidated the assets of the Trust is that several of the assets are promissory notes secured by deeds of trust on properties owned by Respondent. Respondent owes the Trust in excess of \$400,000 for two separate promissory notes secured by deeds of trust on properties owned by Respondent.
8. Petitioner is informed and believes that Respondent is not and has not made payments to the Trust for the promissory notes.
9. Respondent has also failed to act impartially in violation of Probate Code § 16003. Wade Hamilton, who has just attained the age of distribution has been receiving monies from Respondent. Petitioner is informed and believes that Wade Hamilton has received monies from the Trust even before reaching the age of distribution for so called "management" of the Trust. Respondent is clearly favoring Wade Hamilton over the other beneficiaries and improperly delegating trustee duties.
10. Respondent has failed in every duty required by him and has acted in a self-serving manner since the death of the Decedent. These conflicts and breaches of trust require his immediate removal as trustee.
11. The Trust states that Wade Hamilton is next in line to serve as successor trustee and if he is unwilling or unable to serve that Petitioner would serve. Based on the collusion between Respondent and Wade Hamilton, Wade Hamilton should be barred from serving as trustee. Petitioner would decline to act in favor of a disinterested third party trustee and believes that a third party trustee is the only appropriate remedy to impartially and properly administer the Trust.
12. Respondent has failed to provide an annual accounting as required by Probate Code § 16062. The Trust does not waive the requirement of an accounting. Petitioner requests the Court order Respondent to file an accounting detailing his actions as trustee within 30 days.
13. Respondent is chargeable and responsible for the breaches, self-dealing, mismanagement and misconduct as trustee of the Trust and subject to surcharges. Respondent has breached his fiduciary duties in every way and therefore Petitioner requests the Court surcharge Respondent for his abuse of office, self-dealing, and failure to use ordinary care and diligence in managing the Trust estate in an amount no less than \$50,000.
14. Petitioner believes that compensation in the amount of \$3,000 is reasonable for her attorney's fees for this Petition plus filing fee in the amount of \$435.

Petitioner requests that:

1. Respondent be removed as Trustee of the Trust and appoint an independent 3rd party as successor Trustee;
2. The Court order Respondent to file an accounting with the Court within 30 days detailing his actions as Trustee;
3. The Court surcharge Respondent in an amount deemed reasonable by this Court for his breaches of Trust
4. The Court authorize and direct the Trustee to pay Petitioner's attorney's fees and costs.

Continued on Page 3

Response of Gary Hamilton filed 07/12/13 admits and denies certain allegations in the Petition and states:

1. Respondent has only acted in good faith with respect to the Trust and his duties as Trustee. Respondent provided his version of an accounting in October 2012 with a document titled "Assets" that was sent via certified mail to each Trust beneficiary. In this document Respondent listed what he believes are the Trust assets. Respondent has not been contacted by any beneficiary about the accounting document. Currently Respondent is preparing a subsequent accounting which he will file with the Court and distribute to the beneficiaries. Respondent has been unable to make a distribution to Petitioner because there is not enough cash in the Trust to make beneficiary distributions. Currently there is \$1,500.00 cash in the Trust. While Respondent has not liquidated any trust assets, this is not due to lack of effort on his part, as he has used his best efforts to liquidate Trust assets. Respondent has been attempting to sell certain Trust real property – 638.88 acres of farmland in Choctaw County, Oklahoma (the "Oklahoma Property") in order to make the distributions to the beneficiaries. This farmland is an original asset of the Trust and was appraised at \$863,000 in May 2012. Respondent believes he has an Oklahoma buyer for the Oklahoma Property and is hopeful that the sale will take place within 45 to 60 days. Once this property is sold, Respondent will be able to make distributions to the beneficiaries.
2. Respondent purchased real property from Decedent and a \$100,000.00 promissory note was executed. The real property is located in Tollhouse (the "Tollhouse Property") and is subject to a Deed of Trust dated 03/29/07. Pursuant to the terms of the Promissory Note, Respondent would pay Decedent \$500.00 per month. Respondent is current with the payments and he has not missed one payment on the note. The other alleged Promissory Note was secured by a Deed of Trust dated 02/05/07 for approximately 20 acres of real property in Fresno (the "Fresno Property"). The Fresno Property is currently an asset of the Trust. Originally Respondent purchased the Fresno Property from Decedent but because Respondent was unable to make payments on the property, Respondent transferred the property back into the Trust. Respondent is currently seeking to sell the Fresno Property. Therefore Petitioner's allegation that Respondent owes the Trust in excess of \$400,000.00 is false. Respondent is making the mandatory payments on the Tollhouse Property and he has deeded the Fresno Property back to the Trust. Petitioner's allegations that Respondent's self-dealing and conflict of interest with money owed to the Trust are baseless.
3. Respondent admits the Joel Wade Hamilton is a Trust beneficiary, however, the money that Wade has received was primarily money Wade lent to Respondent to initially fund the Trust. Respondent denies any assertion that he has favored Wade over the other beneficiaries.
4. Respondent denies that he has failed in fulfilling his fiduciary duties as Trustee of the Trust and denies he has acted in a self-serving manner, he further denies that any of his actions with respect to the Trust warrant his removal as Trustee.
5. Neither Respondent nor Wade should be barred from serving as Trustee of the Trust. If anything, respondent and Wade have acted in only the best interest of the Trust, the Trust assets, and the beneficiaries. Respondent has been making true efforts to liquidate the Trust properties.
6. Respondent denies that he should be charged for Petitioner's attorney's fees and costs.

Respondent prays for an Order denying the Petition.

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

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

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

		<p>VIRGINIA CHENIER, LESLIE BARTIMOR, LORI JOHNSON and LYNN FEATHERSTON, beneficiaries, are petitioners.</p> <p>Petitioners states Grantors and original Co-Trustees, Charlotte V. Bartimore and Leonard D. Bartimore, executed the Trust on 10/28/2008. Grantor Charlotte V. Bartimore died on 2/1/2011 and Grantor Leonard D. Bartimore died on 9/5/2009.</p> <p>Charlotte V. Bartimore signed the First Amended and Restated Trust Agreement on 8/31/2010.</p> <p>John M. Welsh is the current Trustee of the Trust.</p> <p>Pursuant to Paragraph 3.3.2(b), page 3 of the Trust, the trust was to divide the trust into two equal shares. 50% of the estate was to be allocated to the issue of Charlotte and the remaining 50% was to be allocated to the issue of Leonard.</p> <p>Each of the Petitioners are the issue of Settlor Charlotte V. Bartimore, and they are each entitled to an equal share with John Welsh.</p> <p>On 5/26/2011 Petitioner Lynn Featherston sent a letter requesting that John M. Welsh provide and accounting as required by Probate Code § 16063.</p> <p style="text-align: center;">Please see additional page</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Continued from 11/12/13.</p>
Cont. from 080113, 082813, 100313, 102413, 111213			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail W/		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
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		<p>Reviewed by: KT</p> <p>Reviewed on: 11/22/2013</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 7A – Bartimore</p>	

7A (Additional page 1 of 3) In Re: The Bartimore Family Trust Case No. 13CEPR00534

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

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

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

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

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

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

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

A Constructive Trust should also be imposed on Bank of America Account no. 23416-31370 and Wells Fargo Bank Account no. 10110221047174 that have been used by John Welsh in the handling of the Trust Estate. Petitioners believe John Welsh has used those accounts for his personal benefit sufficient to support a constructive trust being imposed on them for the benefit of Petitioners.

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

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

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

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

Please see additional page

Dept. 303, 9:00 a.m. Tuesday, December 3, 2013

Wherefore, Petitioners pray for an Order of this Court:

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

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

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

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

Please see additional page

Successor Trustee's Opposition to Petitioner's Amended Petition to Compel Accounting, Suspend and Remove John M. Welsh as Trustee and Answer to Allegations of Constructive Trust filed by Trustee, John Welsh on 8/26/2013 (Cont.): John Welsh, Trustee, objects to Petitioner's request to remove him, based on the terms of the Trust, which states any successor Trustee "must be a trust company or bank qualified to do a trust business." No such designation has occurred. If the Court should consider Petitioner's request, which John Welsh, Trustee, does not consent, then the Court only has the power to appoint a trust company or bank qualified to do a trust business. The Court has no authority pursuant to the terms of the trust, to appoint the Alternate Successor Trustee, Dale M. Welsh.

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

Wherefore, John M. Welsh, Successor Trustee prays:

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

		JOHN WELSH , Trustee, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Need Order
		Account period: 2/1/11 – 7/13/13	
		Accounting - \$359,826.23	
		Beginning POH - \$355,755.94	
		Ending POH - \$ 83,405.49	
Cont. from 102413, 111213		Trustee - \$17,286.06 (petition states trustee has already paid himself \$115,500.00)	
<input type="checkbox"/>	Aff.Sub.Wit.	Petitioner states he has performed all duties of the Trust to date. The Successor Trustee is delinquent on the accounting, however, the Successor Trustee has been attempting to negotiate with the debtor on a note secured by Deed of Trust on real property located at 15940 Mariner Drive in Huntington Beach. Petitioner prays for an Order: 1. That the First and Final Account and Report of Trustee be allowed and approved as filed. Please see additional page	
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<input type="checkbox"/>	FTB Notice		
			Reviewed by: KT
			Reviewed on: 11/22/13
			Updates:
			Recommendation:
			File 7B – Bartimore

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

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

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

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

Please see additional page

Objections Continued:

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

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

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

Please see additional page

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

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

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

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

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

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

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

Please see additional page

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

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

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

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

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

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

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

Status Hearing

	VIRGINIA CHENIER, LESLIE BARTIMOR, LORI JOHNSON and LYNN FEATHERSTON , beneficiaries, filed a Petition to Compel Accounting; Suspend and Remove John M. Welsh as Trustee of the Bartimore Family Trust; Compel Distribution; Conversion; Constructive Trust; Breach of Fiduciary Duty; and Return of Property to Trust.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Need current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.</p>
Cont. from	JOHN WELSH filed a First and Formal Account and Report of Status of the Bartimore Family Trust.	
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail	VIRGINIA CHENIER, LESLIE BARTIMOR, LORI JOHNSON and LYNN FEATHERSTON filed objections to JOHN WELSH'S First and Formal Account and Report.	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen	A Settlement Conference was held on 11/12/13. Minute Order from the Settlement Conference states the Court notes for the minute order that Mr. Forry has the authority to engage in settlement discussions for Virginia Chenier. Parties engage in settlement discussions with the Court. A proposal is reached by the parties. Offer to remain open for seven days from today's date that being 11/19/13. The Court set this status hearing at that time.	
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 11/22/13
		Updates:
		Recommendation:
		File 7C – Bartimore

DOD: 04/19/2013		<p>DARLA SUE PARTIDA, friend, is petitioner.</p> <p>40 days since DOD</p> <p>Proceedings have commenced in El Paso County, Colorado.</p> <p>I&A - \$65,000.00</p> <p>Will dated: 04/11/2013</p> <p>Petitioner requests Court determination that decedent's 100% interest in real property located at 37515 Squaw Valley Road, Squaw Valley, Ca. pass to Darla Sue Partida pursuant to decedent's will.</p>	NEEDS/PROBLEMS/COMMENTS:
Cont. from 091913, 102213			
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		Reviewed by: LV	
		Reviewed on: 11/21/2013	
		Updates:	
		Recommendation: Submitted	
		File 8 - McIver	

Petition for to Determine the Validity of the Trust Modifying the Trust, Removing Trustees, Appointing Trustees Instructing the Trustee, Compelling Redress of Breach of Trust, and Preliminary Injunction Prohibition Further Distributions to Mick Loeffler

		DIANE HUERTA and LINDA PLITT, daughters, are Petitioners.	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED TO 01/14/14</u> Per Stipulation of the Parties</p> <p>Note: The temporary conservatorship expired on 08/29/13 and was not extended, therefore Petitioners are no longer temporary conservators of the Person. Bruce Bickel is the current acting temporary conservator of the estate for both Dr. and Mrs. Loeffler.</p> <p>The Petitions for general conservatorship have been set for trial at 9:00 am on 02/24/14 in Dept. 502 before Judge Black. The conservatorship matters are schedule for a settlement conference with Judge Oliver in Dept. 303 on 11/07/13 at 1:30pm.</p> <p>1. The Petition does not state the names of the persons entitled to notice of as required Pursuant to Probate Code § 17201. Note: Fred and Kathleen Loeffler were personally served with the Notice of Hearing and a copy of the Petition and several other people were served by mail. The Examiner is unable to determine whether everyone entitled to notice has received notice due to that information not being stated in the petition.</p> <p>2. Need Order.</p>
		Petitioners state:	
Cont. from 102213		1. Dr. Fred Otto Loeffler and Kathleen Loeffler are the Trustor's of THE LOEFFLER FAMILY TRUST.	
<input type="checkbox"/>	Aff.Sub.Wit.	2. Petitioners were appointed as temporary conservators of the Person of their parents, Dr. Fred Otto Loeffler and Kathleen Loeffler.	
<input type="checkbox"/>	Verified	3. Bruce Bickel is the currently acting temporary conservator of the estates of both Dr. Fred Otto Loeffler and Kathleen Loeffler.	
<input type="checkbox"/>	Inventory	4. The principal place of administration of the Trust is Fresno County.	
<input type="checkbox"/>	PTC	5. Petitioners allege that Dr. and Mrs. Loeffler (hereinafter "the Loefflers") lack capacity to resist undue influence and to protect their assets for their own benefit. This case and the conservatorship cases are inextricably linked and Petitioners request that the Court take Judicial Notice of the Conservatorship proceedings and all of the filings in those matters.	
<input type="checkbox"/>	Not.Cred.	6. The Loefflers have 4 children, Petitioners, Diane Huerta and Linda Plitt and Samuel Loeffler (hereinafter "Sam") and Michael Loeffler (hereinafter "Mick"). Linda and Diane are also successor trustee and beneficiaries under all of the various trusts which have been created by the Trustors over the years and therefore having standing to bring this action before the Court.	
<input checked="" type="checkbox"/>	Notice of Hrg	7. Petitioners believe that many trusts have been made and revised by the Loefflers.	
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<input type="checkbox"/>	FTB Notice		
Continued on Page 2			
		Reviewed by: JF	
		Reviewed on: 11/22/13	
		Updates:	
		Recommendation:	
		File 9 – Loeffler	

8. The first Declaration of Trust was dated 08/01/72 and amended on 05/12/82 and again on 05/21/91. The trust was then restated on 02/04/01. In the restated trust, the successor disability trustees were the spouse, then Diane, then Sam and the successor death trustee were the spouse, then Sam. The 2001 trust was amended in 2003 to replace Sam with Mick as successor disability and death trustee.
9. On 12/21/06, the trust was entirely restated once again. In this restatement, under the disability provisions of the trust, a co-trustee position was established with the non-incapacitated spouse serving with a co-trustee during any period of incapacity by one of the trustors. The succession of those to serve as both successor disability and successor death trustees was Diane, then Mick, then Linda, then Sam. If the remaining spouse was unable to service, the co-trustee would serve alone.
10. Subsequently, another attorney was contacted and yet another trust was created by attorney Kevin Gunner. Mediation was held and pursuant to a mediated agreement, all trustees stepped town and Bruce Bickel, a professional fiduciary, was appointed as trustee of yet another revised trust. The trust created by Kevin Gunner was titled "The Second Amendment and Full Restatement of the Loeffler Family Trust dated 08/01/72" was signed October 18, 2011.
11. Finally, yet another trust amendment entitled "The First Amendment to the Second Amendment and Full Restatement of the Loeffler Family Trust" was signed on 03/01/12.
12. On 05/15/12, Bruce Bickel stepped down as trustee of the trust at the request of Mrs. Loeffler who admitted to him that she did not want him to step down but was asking him step down at her son, Mick's insistence.

Background Leading to Current Claims for Relief:

1. On or about March 2008, Mick was evicted from the home he shared with his girlfriend and moved into the Loeffler's home purportedly to stay for a short time until he could procure employment allowing him to move out of the Loeffler's home.
2. In approximately July 2011, Dr. Loeffler fell and required in-home care. Mick reduced the caregiver hours to the point of being useless and insisted Dr. Loeffler rely solely on Mick, further isolating the couple. With Dr. Loeffler unable to assist himself, much less others, this left Mrs. Loeffler to rely solely on Mick. When asked if they could help, the other three children were told she "didn't think it was a good idea". Towards the end of July 2011, Dr. Loeffler was moved to a skilled nursing home by Diane Huerta to protect him from Mick's unpredictable verbal tirades and to provide the necessary care that was not being provided at home.
3. In approximately October 2011, Mick had all of the locks changed on their parents' home and refused to give any copies of the keys to any of the other children. Prior to this time, all of the children had been free to come and go in their parents' home.
4. From this point on, Dr. and Mrs. Loeffler were in an atmosphere which best could be described as a siege. When the other children were admitted to the home, they witnessed significant verbal abuse, hording, and evidence of substantial use of pain killers by Mick Loeffler. Dr. and Mrs. Loeffler were subjected to ongoing rants replete with obscenities, were taken from professional to professional in an attempt to persuade Dr. and Mrs. Loeffler to change their estate plan, ultimately giving Mick Loeffler complete control over their funds, healthcare and changing the Testator's ultimate gifting plan during life and after death.
5. Knowing Mick had a history of violent behavior and a previous domestic abuse restraining order had been filed against him, the other children were concerned any action to protect their parents might result in harm to their parents or themselves. Hence, they chose to mediate what had, at this point, become seen to be a crisis. This resulted in the drafting of yet another trust.

Continued on Page 3

6. In February 2012, Mrs. Loeffler chose to move out of the home to an independent living apartment adjoining Dr. Loeffler's skilled nursing placement.
7. This did not end Mick's ongoing attempts to control his parents. Mick attempted to convince the facility he was the only one to make decisions for Dr. and Mrs. Loeffler's healthcare decisions, when in fact, Diane, held the power of attorney for healthcare.
8. Mick also went from attorney to attorney attempting to get the healthcare power of attorney, durable power of attorney, and the trust changed to put him in control of each instrument.
9. In the meantime, Mick was living rent free in the Loeffler's home and convinced Mrs. Loeffler she could only rely on him (Mick) for food, transportation, advice, safety, etc. and that all of the other family members, friends, advisors, etc. were not to be trusted.
10. Although mediation was attempted and although there appeared to be an agreement, the last amendment represents evidence that the mediation has failed and of further undue influence exerted on the Loefflers.

First Claim for Relief – Determining the Validity of the Trust or Modifying the Trust

1. Petitioners request the Court find that with the establishment of the conservatorships of the Loefflers, any Durable Power of Attorney which may exist is now void and there is to be no amendment or modification of the trust without prior court approval.
2. In the alternative, Petitioners request to modify Article II(B)(2) of the Trust to state, upon the finding that the Trustor lacks capacity, Article II(B)(2) is void. Petitioner submit that it is reasonably necessary for the protection of the interests of the trustee or beneficiary to insure no additional revisions are made to this trust and the trust assets are protected removing the possibility the trust might be revised to allow gifting of trust assets prior to the death of both Trustors. As indicated in this Petition, there have been an extraordinary number of changes to this trust and it is reasonable to believe that at least the last two revisions were more likely than not made as a result of the exertion of undue influence on the Trustors by Mick Loeffler.

Second Claim for Relief – Removing Trustees

1. Article II(E) of the Trust entitled Successor Trustee, provides in relevant part: "Upon the death, resignation, removal or inability to act of Bruce D. Bickel, then in such event, Fred O. Loeffler and Kathleen Loeffler shall become Co-Trustees of said trust. Upon the death, resignation, removal or inability to act of Fred O. Loeffler or Kathleen D. Loeffler, then in such event, the remaining individual shall become sole trustee hereunder. Upon the death, resignation, removal or inability to act of Fred O. Loeffler and Kathleen D. Loeffler, then in such event, a Professional Licensed Fiduciary, to be appointed by Trustors' son, Mick G. Loeffler, shall serve in this capacity. In the event Mick G. Loeffler is unable or unwilling to appoint a professional licensed fiduciary to serve in this capacity, then in such event, the adult children of Trustors, by majority vote, shall so select a professional licensed fiduciary to serve in this capacity."
2. Petitioners request that the Court remove Fred O. Loeffler and Kathleen D. Loeffler as trustees as they are no longer able to serve in that capacity as they are now conserved under a temporary conservatorship. Petitioners believe both of them lack capacity to act in their own best interest and are subject to undue influence. **Examiners Note: The temporary conservatorship of the Person of both Fred and Kathleen expired on 08/29/13. Bruce Bickel was re-appointed as temporary conservator of the estate of both Fred and Kathleen on 09/25/13 and is the currently acting temporary conservator of the estate.**
3. Petitioners also ask that Mick Loeffler be removed from any position in which he may choose a professional fiduciary or to act as trustee or personal representative. Mick has demonstrated a history of abusing any power left in his hands and it is in the interest of Dr. and Mrs. Loeffler for their estate plan to remain unchanged and to have a professional fiduciary named without Mick's attempt to control that process to his benefit.

Continued on Page 4

Third Claim for Relief – Appointing Trustees

1. With the removal of the Loefflers as trustees, a trustee will be required and will need to be appointed in order to appoint a professional fiduciary to act as the Trustee of the Trust. Given the indications of undue influence exerted on the prior trustees, Court supervision is needed to protect the trust assets and those serving as trustees or conservators.
2. Petitioners request the Court appoint both of them in conjunction with Samuel Loeffler, Dr. and Mrs. Loeffler's remaining children, to fulfill the successor trustee provision to appoint a professional fiduciary to administer the trust as provided under Article II(E) and designate that the professional fiduciary named will also serve as conservator of the estate should one be appointed.

Fourth Claim for Relief – Instructing the Trustee and Compelling Redress of a Breach of Trust

1. Petitioners request the Court to either compel or instruct the trustee as allowed under Probate Code § 12700(b)(6) to hire a forensic accountant to audit the trust along with prior trusts and provide an accounting of the trust assets beginning January 1, 2008 to the present.
2. Petitioners assert trust funds have been diverted, gifted against the terms of the trust, and/or simply squandered. Mick Loeffler lives in the family home rent free and it is believed is paid for services either unrendered or overcharged. Petitioners believe and are prepared to show that social security checks which have previously been deposited directly into an account believed to be in the trust name are no longer being deposited to that account or any account they are aware of in the name of the Trust or the Trustors, individually.
3. Petitioners request that the court direct the trustee that upon any finding by the forensic accountant indicating funds have not been used for the benefit of the Trustors, the trustee be compelled to redress the breach, that the Court maintain jurisdiction over this case and case numbers 13CEPR00655 and 13CEPR00656, and that the Court maintain oversight of the administration of the trust.

Preliminary Injunction Prohibiting Further Disbursements to Mick Loeffler

1. Petitioners request that any person acting as trustee of the Trust or as the personal representative of Dr. and Mrs. Loeffler be enjoined from distributing any assets held in Trust to Mick Loeffler without further Court order.

Petitioners pray for an Order:

1. That the Court determine the validity of Article II(B)(2) of the Trust. Petitioners request the court find that with the establishment of the conservatorships any Durable General Power of Attorney which may exist is now void, and there is to be no amendment or modification of the trust without prior court approval, or in the alternative, that Article II(B)(2) be modified to state, upon the finding that either Trustor lacks capacity, Article II(B)(2) is void and the Trust may no longer be modified without prior court approval;
2. That the Court remove Fred O. Loeffler and Kathleen Loeffler and Mick Loeffler as Trustees of the Trust, remove Mick Loeffler from any position in which he may choose a professional fiduciary or to act as trustee or personal representative;
3. That the Court appoint Petitioners in conjunction with Samuel Loeffler to choose a professional fiduciary to act as the successor trustee of the trust as provide by the Trust;
4. That the Court designate that any trustee of the Trust which is appointed will also be named as the Conservator of the Estate if one is needed;
5. That the Court compel or instruct the trustee to hire a forensic accountant to audit the trust along with prior trusts and provide an accounting of the trust assets beginning with 01/01/08 to the present;
6. That the Court direct the trustee that upon any finding by the forensic accountant or any other party indicating funds have not been used for the benefit of the Trustors, the trustee be compelled to redress the breach;
7. That the Court maintain jurisdiction over this case and case numbers 13CEPR00655 and 13CEPR00656;
8. That the Court maintains oversight of the administration of the Trust; and
9. That the Court issue a preliminary injunction enjoining any person acting as trustee of the Trust or as the personal representative of Dr. and Mrs. Loeffler from distribution any assets held in the Trust to Mick Loeffler without further order of this Court.

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

Age: 10		<u>TEMPORARY EXPIRES 12/03/13</u>		NEEDS/PROBLEMS/COMMENTS:	
		<p>ROY OKEN and DOREEN OKEN, non-relatives, are Petitioners.</p> <p>Father: UNKNOWN Mother: MERRY BLUESTON - Parental Rights Terminated by Order of the Superior Court, County of Sonoma on 07/24/2013 in Case No. SFL-62149.</p> <p>Paternal grandparents: UNKNOWN</p> <p>Maternal grandfather: PHILLIP SLATON Maternal grandmother: JOEL SLATON – deceased</p> <p>Petitioners state: The current guardian/grandfather of the minor is seventy-eight years old and has had medical difficulties following a recent surgery. Current guardian and birth mother of the minor both nominate the Okens as guardians both temporarily and permanently so that the minor's care will be without interruption. The minor has resided with the Okens since November of 2012.</p> <p>Petitioners request that they be excused from noticing the father as he is unknown and has never been identified.</p> <p>Attached to the petition is a Court Order: Termination of Parental Rights from the Superior Court, County of Sonoma filed 07/24/2013 in Case No. SFL-61249.</p> <p>DSS Social Worker Irma Ramirez filed a report on 11/20/13.</p>		<p>1. Proof of service by mail attached to the Notice of Hearing filed 10/22/13 is deficient in numerous ways: (1) personal service is required to a parent, (2) the notice by mail was sent in "care of" another person (insufficient per CRC 7.51 (a)(2)), and (3) the proof of service does not indicate that a copy of the Guardianship Petition was served along with the Notice of Hearing as required.</p> <p>2. Need proof of service at least 15 days before the hearing of Notice of Hearing with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for:</p> <ul style="list-style-type: none"> a. Merry Bluestone (mother) – Personal service required b. Father (unknown) – Personal service required c. Paternal grandparents (unknown) – service by mail is sufficient 	
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				Reviewed by: JF	
				Reviewed on: 11/22/13	
				Updates:	
				Recommendation:	
				File 11 – Slaton	

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

DOD: 04/13/2011		<p>JAY R. LOUIE and ARNOLD Y. LOUIE, children/named co-executors without bond, are petitioners.</p> <p>Full IAEA – o.k.</p> <p>Will dated: 12/27/2000</p> <p>Residence: Fresno Publication: The Business Journal</p> <p>Estimated value of the Estate: Personal property - \$550,000.00</p> <p>Probate Referee: Steven Diebert</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: If the petition is granted status hearings will be set as follows:</p> <ul style="list-style-type: none"> • Friday, 05/02/2014 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal and • Friday, 02/06/2015 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution. <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p> <p>Reviewed by: LV Reviewed on: 11/25/2013 Updates: Recommendation: Submitted File 12 – Louie</p>
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Atty De Ramirez, Blanca (pro per – maternal grandmother/Guardian)

Atty Agundez, Angelica (pro per – paternal grandmother/Petitioner)

Petition for Visitation

Age: 7	ANGELICA AGUNDEZ, paternal grandmother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Need Notice of Hearing. 2. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Visitation for: - Blanca De Ramirez (guardian) - Edgar Agundez (father) - Karla Alvarez (mother) - Moises Agundez (paternal grandfather) - Maternal grandfather
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	BLANCA DE RAMIREZ, maternal grandmother, was appointed guardian on 01/12/12. Father: EDGAR AGUNDEZ – currently incarcerated Mother: KARLA ALVAREZ – currently incarcerated Paternal grandfather: MOISES AGUNDEZ Maternal grandfather: UNKNOWN Petitioner states that she has had a lot of trouble getting her court ordered visitation. Petitioner alleges that the guardian cancels the visits frequently without reason. The Court has previously ordered that the guardian is not to miss visits under any circumstances, but she has violated this order. Petitioner also wants permission to take Kaylie to visit her father in prison before he is transferred out of state. Petitioner requests: 1. Consent to take Kaylie to visit her dad in prison; 2. For the guardian to respect the Court's order and give Petitioner all of her visits; 3. Require the guardian to prove the validity of the reason visits are cancelled; and 4. Require the guardian to keep her phone number current with the Court and mediation center.	
		Reviewed by: JF Reviewed on: 11/22/13 Updates: Recommendation: File 13 – Alvarez

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

Age: 14		<p align="center"><u>NO TEMPORARY IN PLACE;</u> <u>No appearance at the temp hearing on 10/07/13 or continued hearing on 10/21/13</u></p> <p>CHRISTY CLARK, paternal aunt, is Petitioner.</p> <p>Father: ERIC CLINE SR. – <i>Consent & Waiver of Notice filed 09/24/13</i></p> <p>Mother: ALICIA SUMAYA</p> <p>Paternal grandfather: DANNY CLINE Paternal grandmother: JULIE TURNER – <i>Consent & Waiver of Notice filed 09/24/13</i></p> <p>Maternal grandfather: UNKNOWN Maternal grandmother: ROSIE MORALO</p> <p>Siblings: ERIC CLINE, JR., LUKE CLINE, CALVIN CLINE</p> <p>Petitioner alleges that the minor is without a home. Her mother asked petitioner to take her in and she agreed. The father is currently living in a men's group home. There is no other person in the family willing to take her in. Petitioner states that the minor is very behind in school and temporary guardianship is needed so that Petitioner can enroll the minor in school.</p> <p>Court Investigator Samantha Henson filed a report on – NEED REPORT.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need <i>Notice of Hearing</i>. 2. Need proof of service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Guardianship or Consent & Waiver of Notice or Declaration of Due Diligence</i> for: <ol style="list-style-type: none"> a. Alicia Sumaya (mother) – Personal service required b. Danny Cline (paternal grandfather) – service by mail sufficient c. Maternal grandfather (unknown) – service by mail sufficient d. Rosie Moralo (maternal grandmother) – service by mail sufficient 3. The UCCJEA is incomplete. Need minor's residence information for the past 5 years. 4. Petitioner indicates the child has Indian ancestry. Therefore, need <u>Notice of Child Custody Proceeding for Indian Child</u> (Form ICWA-030) to be completed and returned to the Probate Clerk's Office <u>as soon as possible</u>. See Probate Code §1460.2, and CA Rules of Court 7.1015. <p>The general guardianship hearing on 12/03/13 cannot go forward unless this form has been served on the child's parents; any Indian custodian; any Indian tribe that may have a connection to the child; the Bureau of Indian Affairs (BIA), and possibly the U.S. Secretary of the Interior, by certified or registered U.S. Mail, return receipt requested.</p> <p>A blank copy of the form is in the file for Petitioner, and it should be completed and returned <u>as soon as possible</u> to the Probate Clerk's Office. The Probate Clerk's Office will complete service.</p> <p>At the general hearing on 12/03/13, a continuance may be required to ensure that the appropriate parties and agencies received 60 days' notice. See Probate Code 1460.2, and CA Rules of Court 7.1015.</p>	
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		File 14 – Cline		

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

Age:		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p style="text-align: center;"><u>CONTINUED TO 01/06/14</u> Per Petitioners request</p>
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		Reviewed on: 11/25/13
		Updates:
		Recommendation:
		File 15 – Macias

Pro Per Woods, Markisha S. (Pro Per Petitioner, granddaughter)

Atty Kruthers, Heather, of County Counsel's Office (for Public Guardian, Temporary Conservator)

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

Age: 86 years	<p><u>TEMPORARY GRANTED ON COURT'S OWN MOTION TO THE PUBLIC GUARDIAN EXPIRES ON 12/3/2013</u></p> <p>MARKISHA S. WOODS, granddaughter, is Petitioner and requests appointment as Conservator of the person, with medical consent powers.</p> <p>Capacity Declaration of Jose Luis Bautista, M.D., filed 10/15/2013 supports request for medical consent powers, and supports dementia powers (<i>Petitioner has not requested dementia powers.</i>)</p> <p>Petitioner states the proposed Conservatee is diagnosed with dementia. Her grandson, Homer Shephard, had her complete a medical Power of Attorney after she was diagnosed with dementia, and Saint Agnes hospital where she is placed is honoring the document. Petitioner states Homer Shepard had been neglecting to seek medical care for the proposed Conservatee, and APS has been involved with speculations of elder abuse. Petitioner states no one is allowed to visit or check on the proposed Conservatee at the hospital without the consent, approval and password of Homer Shephard. Petitioner states she, along with several other grandchildren and the proposed Conservatee's four daughters, would like to visit with proposed Conservatee but have been unable to do so. Petitioner states the family is concerned that she will not survive and at the very least would like to have the opportunity to visit her in the hospital.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Court Investigator Julie Negrete's Report filed on 10/23/13 states Ms. Woods has been moved to Delano Subacute, and on 10/22/2013, Court Investigator sent a reciprocal request to Kern County Superior Court for the general conservatorship investigation to be completed, as the proposed Conservatee is now residing in that county. Kern County Court Investigator to provide CI Report and Advisement of Rights.</p> <ol style="list-style-type: none"> 1. Need Citation for Conservatorship pursuant to Probate Code § 1823, and proof of personal service of the Citation pursuant to Probate Code § 1824 on Lillian Marie Ellis, proposed Conservatee. 2. Need Conservatorship Video Viewing Certificate pursuant to Local Rule 7.15.9(A). 	
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<p>Reviewed by: LEG</p> <p>Reviewed on: 11/22/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 16 – Ellis</p>			

Pro Per Betner, Nicholas (Pro Per Petitioner, father)
 Pro Per Betner, Heidi (Pro Per Petitioner, mother)

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

Age: 6 ½ years		<p align="center">NO TEMPORARY REQUESTED</p> <p>NICOLAS BETNER and HEIDI BETNER, parents, are Petitioners and requests appointment as Co-Guardians of the Estate without bond.</p> <p>Estimated Value of the Estate:</p> <p>Personal property - \$14,500.00 Total - \$14,500.00</p> <p>Paternal grandfather: Bruce Betner; served notice by mail 11/6/2013. Paternal grandmother: Claire Betner; served notice by mail 11/6/2013.</p> <p>Maternal grandfather: Wayne Barbery; Declaration of Due Diligence filed 11/13/2013. Maternal grandmother: Nancy Bryant; served notice by mail 11/6/2013.</p> <p>Petitioners state that on 6/5/2012, CHARLES W. BETNER, grandfather of Petitioner Nicholas Betner, passed away, and during the settling of his estate the child received a gift of \$14,500.00. Petitioners state the funds are currently held as an annuity by Transamerica Life Insurance Company, and the company requires a guardianship of the estate be established before the gift may be transferred to the child (copy of Transamerica correspondence attached.) Petitioners state they have set up an account with a credit union [name omitted] for the funds. Petitioners state they dutifully accept the responsibility to ensure the gift is managed and distributed in a manner consistent with the intentions of Petitioner Nicholas Betner's grandfather.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Petitioners request bond not be required and state that they have set up a bank account at a credit union for the child's funds. However, Petitioners do not state whether the account will be blocked with no withdrawals allowed without a Court order. Local Rule 7.8.1(l) provides that absent a showing of good cause, it is the policy of the Court to block all funds in guardianship estates. Need confirmation from the Petitioners that the credit union account they have established for the minor is currently or will become a blocked account.</p> <p align="center">~Please see additional page~</p>	
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		<p>Reviewed by: LEG</p> <p>Reviewed on: 11/25/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 17 – Betner</p>		

NEEDS/PROBLEMS/COMMENTS, continued:Notes:

- Proposed *Order Appointing Guardian of Minor* has been altered at Item 9(c) to reflect that deposits of **\$14,500.00** will be placed in a blocked account at the specific credit union identified by Petitioners.
- Proposed *Order to Deposit Money into Blocked Account* has been prepared and placed in the file for the Court's signature.
- Blank copy of a *Receipt and Acknowledgment of Order for the Deposit of Money Into Blocked Account* (Judicial Council form MC-356) has been placed in the file for the Petitioners' use. Petitioners must file this receipt with the Court within 15 days of the deposit into the blocked account.
- If *Petition* is granted, the Court will set the following status hearings:
 - **Friday, January 3, 2014 at 9:00 a.m. in Dept. 303** for filing of receipt of funds in blocked account;
 - **Friday, April 4, 2014 at 9:00 a.m. in Dept. 303** for the filing of the inventory and appraisal; and
 - **Friday, February 6, 2015 at 9:00 a.m. in Dept. 303** for the filing of the first account.

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.

**(1) Report of Executor on Waiver of Account and Petition for Final Distribution and
(2) Waiver of Compensation to Executor and (3) for Allowance of Compensation
to Attorney for Ordinary Services**

DOD: 6/26/2012		KEVIN CONLEY , son and Executor, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Accounting is waived.	
		I & A — \$676,133.06	<p>Continued from 11/19/2013 [Judge Cardoza.]</p> <p>Note: <i>Petition</i> does not include specific information regarding the increment(s) or date(s) the preliminary distributions of \$86,936.00 were made by the Petitioner to himself. Petitioner's preliminary distributions appear not to have met the Probate Code § 10520(a) type of property (income received during administration), nor the 10520(c) type of property (cash to general pecuniary devisees under Decedent's Will.) In addition, Probate Code § 11623 provides a personal representative with full IAEA authority may petition the court for an order for preliminary distribution on notice. Despite the irregular preliminary distributions by Petitioner without Court authorization, it appears no loss or injury has been suffered by the estate, creditors, or any interested persons per Probate Code § 10520, based upon the assertions in the <i>Petition</i> as to creditors and upon the agreement between beneficiary Kemp Conley and the Petitioner.</p> <p align="center">~Please see additional page~</p>
		POH — [\$470,678.00] (\$20,678.99 is cash)	
Cont. from 111913		Executor waives (<i>Waiver by Executor of Compensation filed 10/15/2013.</i>)	
<input type="checkbox"/>	Aff.Sub.Wit.	Attorney — \$16,522.66 (<i>statutory</i>)	
<input checked="" type="checkbox"/>	Verified	Costs — \$900.00 (<i>accountant fees to Monica Mata, estate accountant</i>)	
<input checked="" type="checkbox"/>	Inventory	Petitioner states:	
<input checked="" type="checkbox"/>	PTC	<ul style="list-style-type: none"> Petitioner made a preliminary distribution of Decedents household furnishings, furniture, and personal effects, pursuant to an outside agreement between Petitioner and KEMP CONLEY, son and beneficiary, in which they divided the tangible personal property between them [<i>consisting of furniture; vehicles</i>]; Petitioner spent considerable time and personal expenses in refurbishing Decedent's home residence and acreage planted with pomegranates and persimmon trees, with total acreage of 11.65 acres in Sanger (Home Ranch); Petitioner and Kemp Conley, sole estate beneficiaries, agree that the Home Ranch is worth in excess of \$450,000.00 notwithstanding the Probate Referee's appraisal of \$350,000.00; they have been in the process of selling the Home Ranch property but have not consummated a sale prior to filing this Petition; In order to not further delay the closing of this estate, Petitioner and Kemp Conley have agreed to sell the Home Ranch property after final distribution of the estate; <p align="center">~Please see additional page~</p>	
<input checked="" type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters 090712		
<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		
			<p>Reviewed by: LEG</p> <p>Reviewed on: 11/21/13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 18 – Conley</p>

Petitioner states, continued:

- Petitioner has made certain preliminary distributions without prior authorization of the Court, and requests confirmation of these distributions in accordance with the agreement of the sole beneficiaries of the estate as follows: Petitioner and Kemp Conley are sole beneficiaries of the estate and have agreed that certain cash distributions could be made to Petitioner provided that Kemp Conley be credited with ½ of all such distributions on final distribution of the estate; Petitioner and Kemp Conley have agreed that the total amount of such cash distributions was **\$86,936.00**, and each has agreed that ½ or **\$43,492.00** is the sum to which Kemp Conley shall be entitled on distribution of the estate; **Petitioner requests and each of the beneficiaries agree** that on final distribution of the estate an order be issued confirming the execution by Petitioner Kevin Conley, as an individual, of a Promissory Note payable in the amount of **\$43,492.00** [*@ 6% interest*], and the Note shall be secured by a Deed of Trust on the Home Ranch [*Please refer to Amendment to Report of Executor filed 11/18/2013, containing attached Exhibit A -- copy of **executed but undated** Promissory Note, and Exhibit B -- copy of **unexecuted/incomplete** Deed of Trust*];
- On 5/12/2012, Decedent executed a promissory note to Wells Fargo Bank in the original amount of **\$134,000.00** secured by a Deed of Trust with respect to a real estate loan for the financing of a home residence located on South Avenue in Parlier (Parlier Loan) [*Note: this residence is not an estate asset*]; the loan was obtained for **DAWN KAPRIELIAN**, a friend of the Decedent, for her benefit; the Parlier Loan was obtained in Decedent's name alone as required by the lending company; Decedent then executed a Grant Deed on 5/21/2012 naming himself and Dawn Kaprelian as joint tenants with right of survivorship; upon recording of an *Affidavit of Death of Joint Tenant* following Decedent's death, title to this property is now solely in Dawn Kaprelian's name; however, the Parlier Loan remains in Decedent's name; Petitioner and Kemp Conley have agreed that Petitioner, who also resides at the said Parlier home residence, and Dawn Kaprelian, will assume and indemnify Kemp Conley and the estate for any liability and obligation arising out of the Parlier Loan; by an agreement approved by Kemp Conley, the Petitioner and Dawn Kaprelian have executed an assumption and indemnification agreement with respect to all Parlier Loan obligations. (*Please refer to Amendment to Report of Executor filed 11/18/2013, containing attached Exhibit C -- copy of **executed** Indemnification Agreement*).

Petitioner requests:

1. Administration of the estate be closed without an accounting;
2. All acts and transactions of Petitioner as Executor be ratified, approved and confirmed;
3. The final distribution requested in the *Petition* be granted and the estate distributed as set forth:
Distribution pursuant to Decedent's Will is to:
 - **KEVIN CONLEY – \$1,628.16 cash**, an undivided ½ interest in 6.58 acre parcel of real property, and an undivided ½ interest in 11.55 acre parcel of real property.
 - **KEMP CONLEY – \$1,628.16 cash**, an undivided ½ interest in 6.58 acre parcel of real property, and an undivided ½ interest in 11.55 acre parcel of real property.
4. Petitioner be authorized and directed to pay **\$16,522.66** in fees to K. Phillip Maroot as statutory compensation for services to Petitioner and to the estate;
5. Confirmation of the preliminary distributions to Kevin Conley and the corresponding execution of a promissory note payable to Kemp Conley to equalize such distributions, said promissory note to be secured by a deed of trust against the Home Ranch;
6. Confirmation of the agreement by Kevin Conley and Dawn Kaprelian to assume and indemnify the estate and Kemp Conley of any liability or obligation arising out of the "Parlier Loan;"
7. All other property of Decedent and of the estate not now known or discovered be distributed to Kevin Conley and Kemp Conley without further order of the Court.

Petition for Appointment of Temporary Guardian of the Person

Mikaylah Age: 8		<p align="center">TEMPORARY EXPIRES 12/03/2013</p> <p align="center">GENERAL HEARING 01/21/2014</p> <p>NELLIE ORTIZ, maternal grandmother, is petitioner.</p> <p>Father: GABINO A. PIZANO</p> <p>Mother: DESIREE M. ORTIZ CRUZ</p> <p>Paternal Grandfather: Gabino Pizano Sr. Paternal Grandmother: Deceased</p> <p>Maternal Grandfather: Frankie Ortiz</p> <p>Petitioner states: that on or around 11/01/2013 petitioner filed a missing persons report with the Fresno Police Department for the mother, Desiree M. Ortiz Cruz, as it is believed to be that she has been kidnapped. Mother has not been heard from since 10/24/2013. Mother had been engaging in drugs and prostitution and it is believed that the mother's pimp has kidnapped her. A person matching the description of the mother's pimp has been seen for several days hanging around the children's school. Petitioner fears for her grandchildren's safety as she does not know who this man is and his purpose for being around their school.</p> <p>Father is not an appropriate fit for Mikaylah and Aubreyella. Father is abusive and a severe alcoholic. Father has openly admitted to drinking and driving with the children in the car. Father currently has two active DUI cases in addition to two convictions in 2011 for a DUI and reckless driving which was charged as a DUI but reduced in light of the plea. Father has openly admitted to the petition that he sells methamphetamines from his home. Father has a long criminal history and at the present has several active warrants for his arrest.</p> <p align="center">Please see additional page</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of personal service five (5) court 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"> • Gabino A. Pizano (Father) • Desiree M. Ortiz Cruz (Mother) – Unless the Court Dispenses with Notice
Aubreyella Age: 6			
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	x		
Aff.Mail	n/a		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.	x		
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: LV</p> <p>Reviewed on: 11/25/2013</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 19 – Pizano</p>	

Father has repeatedly told the petitioner that he will take the children to Mexico where they will have no contact with the mother or the petitioner. Father has been driving by petitioner's residence in a white truck with the license plate covered. Father has also been seen at church events that the children and petitioner attend. Since the mother's disappearance, petitioner has been receiving several texts messages from the father calling her names.

Based on father's drug sales and alcoholism, petitioner does not feel that this an appropriate or safe environment for the children. Father lives with his sister whom is also a known habitual drug user. Upon information and belief father and his sister are the cause for mother's drug relapse and are suspected to be involved with mother's disappearance.

Neither parent can provide appropriate care, maintenance, and support for Mikaylah and Aubreyella. It is in the best interest of the children that petitioner be appointed temporary guardian. The children have lived in the petitioner's home through their lives and are very close to the petitioner. Since the mother's disappearance the children have been in petitioner's sole custody and care.

Petitioner requests to be excused from giving notice to the mother as she is a missing person. Petitioner filed a missing persons report with the Fresno Police Department and her disappearance is currently under investigation.

Attached to the petition is the missing persons report.

		<u>GENERAL HEARING 01/22/2014</u>	NEEDS/PROBLEMS/COMMENTS:
Seleste Age: 17		JESSE GUAJARDO , maternal grandfather is petitioner. Father: JUAN M. RODRIGUEZ , Deceased Mother: ANGELA M. GUAJARDO Paternal Grandfather: Mike Rodriguez Paternal Grandmother: Maria Rodriguez Maternal Grandmother: Sylvia Rodriguez Petitioner states: the mother is not fit to care for the children, she is addicted to drugs and does not care very much for them. She has been evicted twice in the past 2 years, she neglects the children and misuses their money that was left to them by their father. The mother does not provide clothing for the children. Petitioner states that he provides for the children's needs. Petitioner states that the children need guidance, support and someone who will always be there and he can provide that to them.	1. Need Notice of Hearing. 2. Need proof of personal service five (5) court 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"> • Angela M. Guajardo (Mother) • Seleste Guajardo (Minor) • Anesia Rogriguez (Minor) • Juan Rodriguez (Minor) 3. UCCJEA does not provide the children's residence for the past five years as required.
Anesia Age: 15			
Juan Age: 14			
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg		
<input type="checkbox"/>	Aff.Mail	n/a	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	x	
<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		
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<input type="checkbox"/>	Status Rpt		
<input checked="" type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: LV
			Reviewed on: 11/25/2013
			Updates:
			Recommendation:
			File 20 – Guajardo & Rodriguez