ATTENTION

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

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

Thank you for your patience.

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

1A Dennis I Watson (Estate) **Case No. 0444557**

Atty Jaech, Jeffrey (for Petitioner Mary S. Watson)

Atty Nahigian, Eliot (for Respondent Cynthia D. Watson)

Notice of Motion and Motion for Order to Correct Clerical Error in Judgment and Amend Judgment Nunc Pro Tunc and Alternatively to Modify Void Judgment

DOD: 7/13/1991		
Cont. from 062314, 071014 081114, 101514		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✓	**Notice of Hrg**	
✓	**Aff.Mail**	W/
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

MARY S. WATSON is petitioner.

Petitioner states she completed the probate of the decedent in pro per, enlisting the assistance of a paralegal to prepare the petition for final distribution.

An error occurred in the language of the testamentary trust. The paralegal failed to include language in the testamentary trust that identified the decedent's children.

Decedent died survived by his wife, **Mary S. Watson**, his child, **Cynthia D. Knot**t, who is the issue of a prior marriage, and his two stepchildren, **Martin R. Claborn** and **Kimberly Claborn Miller** (who was referred to in the Will as Kimberly D. Garrett), who are the children of Mary S. Watson.

Article Second of Decedent's Will identifies his children to include his natural born child and his stepchildren.

Decedent's Will gives all of his personal property to his wife and Decedent's other assets consisting primarily of Decedent's ½ community property interest in certain farmland in trust for the benefit of his wife during her lifetime, and upon the death of Petitioner, to be divided into "as many equal shares as there are children of min then living and children of mine then deceased leaving issue."

Please see additional page

NEEDS/PROBLEMS/COMMENTS:

Continued from 10/15/14.

1. Order does not comply with Local Rule 7.6.1B – No riders or exhibits may be attached to any order, except as may be otherwise provided on Judicial Council forms. Need new order.

Reviewed by: KT
Reviewed on: 11/21/14
Updates:
Recommendation:
File 1A - Watson

Given the language in Article Two of the Will which provides that stepchildren are to be treated as children, upon the death of Petitioner, the Will provides that the assets in the testamentary trust are to be distributed in equal shares to **Cynthia D. Knott, Martin R. Claborn** and **Kimberly Claborn Miller.**

On April 11, 2014 Petitioner met with an estate planning attorney and was advised that the language of the order provided that **Cynthia D. Knott** was the sole remainderman beneficiary of the trust due to the omission of the language that the term "child" or "children" also refer to the Decedent's stepchildren. Petitioner took prompt action to cause this petition to be filed.

The error in the language of the judgment is readily apparent from the judgment roll consisting of the original will, the petition for probate, the order for probate and the judgment of final distribution which clearly does not conform to Decedent's wishes as expressed in the Will.

Alternatively, the Judgment of Final Distribution to Testamentary Trust is a void judgment and is subject to modification because the omission in the language of the judgment resulted in the court exceeding its authority, however unintentionally by rendering a judgment for distribution which was contrary to the intent of the Decedent as expressed in his Will.

Granting modification of the judgment nunc pro tunc is appropriate because Petitioner is still alive and the interests of any remainderman of the testamentary trust have not yet ripened into current interests.

Wherefore Petitioner prays for an order that the following language erroneously and mistakenly omitted for the judgment shall be added to the end of the judgment to conform to the Decedent's intent as expressed in his will: "The terms 'Decedent's child', 'Decedent's children', 'child of Decedent' and 'children of Decedent' as used in this Judgment of Final Distribution and Final Distribution to Testamentary Trust and in the testamentary trust set forth herein shall include Decedent's child Cynthia D. Knott, and step-children Martin R. Claborn and Kimberly Claborn Miller."

Points and Authorities attached to the Petition.

Response of Cynthia D. Watson to Petition for Order to Correct Clerical Error filed on 6/19/14.
Respondent alleges the omission was not clerical and the Judgment is not void. The petition is not timely because the time to challenge a Judgment on direct appeal has passed. Respondent further alleges that the Petitioner does not have standing to prosecute this petition. The petition and each and every claim therein fails to state facts sufficient to constitute a cause of action or basis for relief. Petitioner is estopped by her own conduct from obtaining any relief under her Petition. Petitioner's acts, conduct and/or omissions were the proximate cause of Petitioner's alleged damages.

Respondent prays as follows:

1. Petitioner take nothing by way of the Petition;
2. That the Petition be dismissed with prejudice;
3. For costs of suit.

Please see additional page

Points and Authorities in Support of Opposition to Petition to Correct Clerical Error filed on 6/19/14.

Petitioner's Reply to Verified Response of Respondent Cynthia D. Watson filed on 6/20/14. Petitioner alleges Respondent has failed to file her opposition on a timely basis and the result is that she has waived any opportunity to oppose the Motion and has consented to the entry of the order requested in the motion. This is a motion to correct a clerical error in a judgment. The requirement for filing of papers opposing a motion are set forth in CCP 1005(b) which provides that all papers opposing a motion shall be filed with the court and a copy served on each party at least nine court days before the hearing. Respondent did not comply with this requirement. In fact, Respondent did not come close to complying with this requirement. It appears that Respondent's opposition was filed either Wednesday, June 18, 2014 or on Thursday June 19, 2014. Petitioner's attorney received a faxed copy of the response at 4:48 p.m. on Wednesday. In order for this response to be timely, it should have been filed at least by Tuesday, June 10, 2014, more than a week before it was filed. Opposing Counsel's late filing is prejudicial to Petitioner and other interested parties.

Petitioner further alleges that the cases cited by Respondent do not apply to an action to correct a clerical error pursuant to CCP §473(d). Respondent has misstated and misapplied the law. The case cited makes a clear distinction between the correction of a clerical error and the correction of a judicial error. The Court may correct by a nunc pro tunc order an inadvertent or clerical error. The distinction between a clerical error and a judicial error does not depend so much on the person making as it does on whether it was the deliberate result of judicial reasoning and determination. A clerical error in the judgment includes inadvertent errors made by the court which cannot be reasonably attributed to the exercise of judicial consideration or discretion. Clerical error is to be distinguished from judicial error which cannot be corrected by amendment.

Petitioner should be permitted to modify the order for Final Distribution to conform to the will because the order incorporates the terms of the will by reference.

Respondent's argument that the existence of Article Thirteenth B in the Will indicates that there is a different interpretation of the Decedent's intent is without merit.

In summary, it is clear from the evidence presented as well as the record in the court file that there was an error in the order which has an inadvertent mistake, not the result of judicial deliberation, but the result of an oversight. The law gives the court broad power to determine that an error was clerical rather than judicial, and therefore, this court has the opportunity to correct its error.

Petitioner has estimated that the property in trust has a value of approximately $1,750,000.00. Obviously Decedent's daughter, Respondent, would like to receive those assets. However, her father clearly and expressed his intent that these assets be divided three ways among his daughter and step-children. Under the current order the assets will go entirely to Decedent's daughter completely in contravention of Decedent's intent as expressed in his Will. The Court has an opportunity and authority to prevent a great injustice.

Please see additional page

Petitioner's Supplemental Reply to Verified Response filed on 7/2/14 states the court may upon motion of the injured party correct clerical errors to cause a decree of distribution to conform to decedent's Will. Petitioner should be permitted to modify the Order for Final Distribution to conform to the Will because the order incorporates the terms of the Will by reference. (Cases cited in support of argument)

Respondent's Additional Memorandum of Points and Authorities in Opposition to Petition filed on 7/1/14. Respondent states in this case, the decedent's Will provides in Article SECOND "that the terms, "my child" and "my children" as used in this Will shall include my child and stepchildren . . ." and also includes Article THIRTEENTH B., which provides in part as follows: ""Issue" of a person means of such person's lawful descendants of every degree . . . However, nothing in this Will shall include foster children or step-children in the term "issue" "lineal descendant," or "ancestor.""

Neither Article SECOND nor Article THIRTEENTH B., are included in the Petition for Distribution or in the Judgment of Final Distribution. The two articles conflict and provide different definitions for "child" and "children."

Petitioner contends that the provisions of Article SECOND of the Will are incorporated into the Judgment. This is not the case. As Petitioner points out, the trust is to be held, administered and distributed only "in accordance with the provisions of Paragraphs SIXTH, SEVENTH, and EIGHTH of Decedent's Will." There is no mention in the Judgment of Article SECOND. (Cases cited in support of argument)

Petitioner's Reply to Respondent's Additional Memorandum of Points and Authorities in Opposition filed on 7/8/14 states Article Second and Article Thirteenth B do not conflict. Article Second and Article Thirteenth B are mutually exclusive. Article Second defines the terms "my child" and "my children". The parenthesis surrounding the terms in each of these sections make it clear that the respective definitions apply when the specific terms are used. Both terms "children" and "issue" are used in different places in the will. The terms are neither conflated nor used interchangeably as Respondent suggests. When the terms "child" or "children" are used, step-children are included in the definition. When the term "issue" is used, step-children are excluded. There is no judicial interpretation necessary here, nor is there any evidence whatsoever that the court was required to make, nor made, judicial interpretations regarding this issue. There is no evidence that there was a judicial interpretation made, but there is ample evidence presented that there was a clerical error.

In addition, the judgment makes sufficient reference to the will to incorporate the terms of the will into the order. The language in the order states, in "accordance with the provisions of Paragraphs SIXTH, SEVENTH, and EIGHTH of Decedent's Will. . . " In the will, the terms of Article Second are incorporated into the rest of the will, including, Articles, Sixth, Seventh and Eighth. The reference to Decedent's Will in the order would have no meaning if Articles Sixth, Seventh and Eighth are to be construed differently in the Judgment than in the will.

Please see additional page

Respondent's Supplemental Memorandum of Points and Authorities in Opposition filed on 11/13/14.
Objector alleges Petitioner's motion is an improper attack on a final judgment. Petitioner seeks to materially alter the Judgment even though the Judgment is *exactly* what Petitioner asked the Court to enter more than twenty years ago.

Law and argument included in the pleading.

Simply put, the distribution expressly and unambiguously requested in the prayer of the Petition for Final Distribution was the exact distribution that was granted and entered by the Court in its Judgment. Now, more than twenty years later, Petitioner has discovered her error and files the instant Motion asking this Court to issue an order nunc pro tunc in contravention of the well established and binding authorizes cited. Petitioner has not submitted any evidence that there was an error in recording the Judgment. Indeed, the undisputed facts show that the Judgment entered in 1991 was precisely what Petitioner asked the Court to enter. The principle of finality of judgments prevails over changing a judgment to what "ought to have" provided. The instant motion should be denied.

1B Dennis I Watson (Estate) **Case No. 0444557**

Atty Nahigian, Eliot S. (for Respondent Cynthia D. Watson)

Atty Jaech, Jeffrey A. (for Petitioner Mary S. Watson)

Status Conference

DOD: 7/13/1991	**MARY S. WATSON** filed a Petition to Correct Clerical Error in the Judgment for Final Distribution. **Petitioner prayed** for an order that the language erroneously and mistakenly omitted for the judgment be added to the end of the judgment to conform to the Decedent's intent as expressed in his will: "The terms 'Decedent's child', 'Decedent's children', 'child of Decedent' and 'children of Decedent' as used in this Judgment of Final Distribution and Final Distribution to Testamentary Trust and in the testamentary trust set forth herein shall include Decedent's child Cynthia D. Knott, and step-children Martin R. Claborn and Kimberly Claborn Miller." **CYNTHIA D. WATSON** responded alleging the omission was not clerical and the Judgment was not void. In addition, the respondent alleged the petition is not timely because the time to challenge a Judgment on direct appeal had passed. Finally Respondent alleged that the Petitioner did not have standing to prosecute this petition. **Please see additional page**	**NEEDS/PROBLEMS/COMMENTS:** **Continued from 10/15/14.**
		Reviewed by: KT
		Reviewed on: 11/21/14
		Updates:
		Recommendation:
		File 1B - Watson

Cont. from 101514		
	Aff.Sub.Wit.	
	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

1B Dennis I Watson (Estate) Case No. 0444557

Status Report of Mary S. Watson filed on 10/9/14 states the motion is ready for ruling by the court. The issue for the court is simply whether omitting the definition of the testator's children from the Judgment of Final Distribution was a clerical error or a judicial error. If it was a clerical error, as the Moving Party contends, then the court may now correct the clerical error under CCP§473(d).

On the other hand, if the court determines the error was judicial, and cannot be corrected under CCP§473(d), then we are left with an ambiguity in the Judgment as to the definition of "children" under the circumstances. Moving Party contemplates if this occurs, her daughter would petition the court to resolve the ambiguity. In that case, discovery to search for additional extrinsic evidence would be proper, even though the will itself seemingly conclusively resolves the ambiguity.

Respondent argues that Moving Party is not an "injured party," even though she was the decedent's personal representative and was duty-bound to execute the decedent's estate plan as stated in his will. This standing issue can be mooted by either the court correcting the error on its own as permitted under CCP §473(d), or by Moving Party's daughter joining the motion, which she is willing to do.

Accordingly, Moving Party requests that the court rule on the pending motion as soon as possible.

Status Report of Respondent Cynthia D. Watson filed 10/9/14 states while the Petitioner contends that there is a clerical error in the Judgment, Respondent maintains that the error is a judicial error, which cannot be corrected by a nunc pro tunc order. The Judgment is unambiguous. The claimed error is not a clerical error. Judith A. Ward, the paralegal who assisted Mary Watson in Mary Watson's pro per probate of the Will, states in her declaration filed with the court on August 7, 2014, that she "neglected to include in the petition of the proposed judgment the recitation . . ."

Although Judith A. Ward, by her own admission, may have been negligent, the real error in this case were the result of the Decedent and Mary Watson's neglect by not timely consulting with an attorney prior to the execution of a 24-page death bed trust will; not timely seeking legal advice from an attorney on how to provide for a blended family; by using a will that created a testamentary trust (requiring probate of the Will – which was done pro per) rather than using a revocable living trust (each spouse could have had his or her own living trust to deal with the disposition of his or her own property or share of the community property). The Decedent and Mary did change the title of joint tenancy property to community property thereby achieving the favorable income tax benefit of a step-up in basis of both halves of the depreciable farm property on Decedent's death.

Most applicable case authority is the *Estate of Eckstrom* (1960) 54 C.2d. 540, 7 Cal.Rptr. 124. In Eckstrom the Supreme Court held that clerical errors do not include those errors made by the court because of its failure to correctly interpret the law or apply the facts. It is only when the form of the judgment fails to coincide with the substance thereof, as intended at the time of the rendition of the judgment, that it can be reached by a corrected nunc pro tunc order.

No settlement offers have been commenced as of the date of the signing of this Status Report. Respondent believes that it is in the best interest of Petitioner, Petitioner's children, and Respondent that the parties engage in settlement discussions.

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

2 Daniel Casey Swarm (Estate) Case No. 05CEPR00181

Atty **Brock, Kenneth (for Administrator Renee Mason)**

Probate Status Hearing Re: Failure to File the Inventory and Appraisal and for Failure to File a First Account or Petition for Final Distribution

DOD: 9/18/2004		
Cont. from 021414, 053014, 080414, 090314		
	Aff.Sub.Wit.	
	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

RENEE MASON, mother, was appointed as Administrator with full IAEA authority and without bond on 7/26/2005.

Letters issued 7/26/2005.

Inventory and appraisal was due December 2005.

First account or petition for final distribution was due August 2006.

Creditor's Claim in the amount of $799.97 filed on 3/26/2005 by Bank of America.

Notice of Status Hearing was mailed to attorney Kenneth Brock and Administrator Renee Mason on 11/21/14.

Minute order dated 2/14/14 indicates Administrator Renee Mason was present in court and was provided a copy of the examiner notes.

Minute Order dated 5/30/14 states Attorney Douglas Hurt will be representing Ms. Mason.

Minute Order dated 8/4/14 states Attorney Browlskey is appearing by Court Call.

NEEDS/PROBLEMS/COMMENTS:

Continued from 9/3/14.

1. **Need inventory and appraisal, and first account or petition for final distribution, or current written status report** pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.

2. Need substitution of attorney.

Reviewed by: KT
Reviewed on: 11/21/14
Updates:
Recommendation:
File 2 – Swarm

4A Manuel Choperena Jr. (Estate) Case No. 06CEPR00048

Atty Keene, Thomas J. (of Dos Palos, CA, for Anita Choperena – Administrator – Petitioner)

First Account and Report of Administrator and Petition for Its Settlement Thereof

DOD: 11-27-05		
Cont. from 040714, 050514, 110514		
	Aff.Sub.Wit.	
✔	**Verified**	
✔	**Inventory**	
✔	**PTC**	
✔	**Not.Cred.**	
✔	**Notice of Hrg**	
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✔	**Letters**	2-24-06
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✔	**9202**	
✔	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
N/A	**FTB Notice**	

ANITA CHOPERENA, Mother and Administrator with Limited IAEA with bond of $150,000.00.

First Account period: 11-27-05 through 12-31-13

Accounting: $ 2,274,542.15
Beginning POH: $ 872,833.56
Ending POH: $ 795,647.66
(Ending POH consists of $4,852.34 cash plus real property, personal property, and various motor vehicles and equipment)

Administrator requests payment of $150,000.00 on her Creditor's Claim filed 6-20-06. (See Page C.)

Receipt for Costs filed 3-4-14 indicates that Anita Choperena has paid herself $34,363.62 for costs advanced detailed in Attachment A including farm land loan interest payments, former attorney retainer fee, irrigation expenses, etc.

Petitioner states several loans were made to the estate by the Administrator totaling $345,505.00, of which $332,500.00 has been paid, and $13,005.00 remains owing per Exhibit B.

Petitioner requests this Court order:

1. **That the First Account and Report of Administrator be settled, allowed, and approved as filed;**
2. **All reported acts and proceedings of Petitioner as Administrator be confirmed and approved;**
3. **Petitioner be authorized and directed to Pay herself the total sum of $150,000.00 plus accrued interest on the Creditor's Claim filed 6-20-06; and**
4. **For such further orders as the Court considers proper.**

NEEDS/PROBLEMS/ COMMENTS:

Page A: First Account and Report of Administrator

Page B: Petition for Order to Continue to Operate Decedent's Business and to Borrow Funds under Probate Code §§ 9760 and 9800

Page C: Allowance or Rejection of Creditor's Claim

Minute Order 11-5-14: The Court orders that Petitioner is not allowed to sell the property without Court approval. Mr. Keene is to file a verified declaration regarding the farm income by November 26.

Note: As of 11-20-14, nothing further has been filed.

SEE ADDITIONAL PAGES

Reviewed by: skc
Reviewed on: 11-20-14
Updates:
Recommendation:
File 4A – Choperena

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

NEEDS/PROBLEMS/COMMENTS (CONTINUED):

The following issues remain noted:

1. **Petitioner was appointed as Administrator with Limited authority under IAEA over eight (8) years ago on 2-24-06.** There was no mention in the original petition for probate of the real property in Merced County or the decedent's apparent farming business. The only assets originally alleged were income of $38,000 annually (source not indicated) and proceeds from the foreclosure of certain residential real property in Fresno. Bond appears to have been based on this estimate.

   At no time did the Administrator petition the Court for authorization to continue operation of the Decedent's business under Probate Code §9760 or to borrow, loan, etc., under Probate Code §9800.

   Need clarification as to how these acts and transactions of the Administrator were to the advantage of the estate in the best interest of the minor heirs.

   Note: There is no schedule showing net income/loss pursuant to Probate Code §1062(c); however, the estate/business appears to be operating at a loss, as the overall Disbursements exceeded Receipts, including loans, by approx. $77,185.90, although according to the Reappraisal, the value of the real property itself has increased some. However, Examiner also notes that there is a negative balance of cash noted in the Ending POH of –$4,852.34.

   Update: Petitioner has now filed a Petition for Order to Continue to Operate Decedent's Business and to Borrow Funds under Probate Code Sections 9760 and 9800. See Page B.

2. **The Administrator had a duty to apply for increased bond upon knowledge of the bond's insufficiency pursuant to Cal. Rules of Court 7.204.**

   It appears from this accounting that the annual income of the estate (business?) was approx. $132,000.00, not including the loans from the Administrator. Therefore, together with the cash and personal property assets as inventoried, bond should have been increased to at least $224,833.56 as early as the Administrator was aware. *At this time, based on the approx. annual income plus the POH, bond should be increased to at least $152,647.66*.

   Update: Order to Increase Bond to $150,000.00 was signed ex parte on 4-9-14. Additional bond was filed 5-6-14.

SEE ADDITIONAL PAGES

NEEDS/PROBLEMS/COMMENTS (CONTINUED):

3. **Petitioner requests approval of payment of her Creditor's Claim filed 6-26-06 for $150,000.00 plus accrued interest based on "Deed of Trust, Recorded on October 4, 1999."** However, there is no explanation regarding this transaction, including whether any payment schedule existed or payments were made prior to the decedent's death in 2005. Also, it appears interest has now been accruing for many years. Is there a reason the Administrator did not request allowance via proper channel previously (i.e., Allowance or Rejection form)? What is the current balance owing, and how was letting the interest accrue in the best interest of the estate and minor heirs?

   ***Update*: Petitioner has now submitted the Allowance or Rejection of Creditor's Claim Form DE-174 to the Court for consideration. Pursuant to Order dated 4-11-14, the matter will be set for hearing and considered along with this petition. See Page C.**

4. Petitioner indicates that the Administrator has advanced costs to the estate totaling $34,363.62. It appears that most of the "costs" listed appear to be business expenses, such as payment of wages and for machines, etc. Need clarification as to how these items are categorized as "costs" whereas it is known that the Administrator was also making "loans" to the estate for business purposes.

   ***Update*: See below re Declaration filed 4-9-14.**

5. Petitioner's "costs" also includes payment of her former attorney Brian T. Austin's retainer in the amount of $1,500.00. Please note that compensation has not been authorized to the attorney, nor is such authorization requested at this time.

   ***Update*: Declaration states the attorney was paid $1,500.00 for costs incurred, rather than as a "retainer" or as an attorney's fee. Petitioner is informed and believes that there is a balance owing the estate for the unused portion of these funds of $652.00.**

6. This petition is filed as a "First Account;" however, it is far overdue and also does not indicate when the estate will be in a condition to close or request estimated additional time for administration.

   Need verified declaration as to the condition of the estate, the reasons why the estate cannot be distributed and closed, and an estimate of the time needed to close the estate pursuant to Probate Code §12201.

   ***Update*: See below re Declaration filed 4-9-14 and Declaration filed 10-28-14.**

Based on the above issues, the Court may strike any language confirming and approving the acts and transactions during the account period.

SEE ADDITIONAL PAGES

Declaration filed 4-9-14 states:

The principal asset of the estate is agricultural real property which is planted in almond trees. Since becoming Administrator, Petitioner has continued the decedent's business of growing and selling almonds. Initially, the debts of the estate exceeded the value of the assets, including the $150,000.00 debt owed to Petitioner since before her son's death, and including the paper loss (mentioned above) in the amount of $4,852.35. However, the last payment for the 2013 crop has come in that more than makes up for that amount.

Petitioner states there is also a lien against the amount payable for attorney's fees of $2,073.28, but it is Petitioner's understanding that this does not reduce the value of the estate but is an issue to be worked out between Petitioner's current attorney and former attorney.

Regarding the $150,000.00 promissory note owed to Petitioner: It bears an interest rate at 7% per annum. Petitioner has not been paying herself on this loan nor has she been paid any principal. The other loans she made to the estate for the farming operation have been interest-free even though this particular loan does bear interest. A copy of the note and deed of trust is attached to the Allowance or Rejection of Creditor's Claim filed herewith. (See Page C.)

Petitioner states the estate cannot be closed at this time because there is not enough cash in the estate to pay costs necessary to keep the almond trees productive and pay costs of administering the estate, including attorney's fees. Petitioner has listed the property for sale based upon the value determined in the Reappraisal for Sale; however, the value has been discounted by 20% based on this year's water shortage. Because of this discount, Petitioner is reluctant to let the property go for too small of an amount simply because prices are currently depressed. Petitioner would like to hold the asking price a little while longer to obtain the best price the market has to offer.

It is Petitioner's belief that it is in the best interest of the estate and in the best interest of her grandchildren, who are the heirs, that the court allow Petitioner to continue to operate the almond business with the assets of the estate until the property is sold.

Petitioner states she has, during the course of the administration, loaned money to the estate for the farming operation in order to fund cash flow. As Administrator, Petitioner would like the authority to loan and borrow funds if necessary, to continue to operate the business. It is anticipated that she would be the lender and the term of the loan would be until either the property is sold or the crop is harvested and sold, whichever comes first, as has been the case with all the loans made to the estate. The loan(s) would not have interest.

Declaration filed 10-28-14 states: The principal asset of this estate is real property planted with almond trees. Petitioner listed the property for sale on 4-7-14 at $1,500,000.00. When there had been no active interest by anyone, she cancelled the listing. Since the original listing wouldn't expire until 10-31-14, she was afraid that if she actively marketed the property or listed it with anyone else, the first listing agent would still get a portion of the sale price. On or about 10-16-14, she called her attorney, who, after listening to her predicament, advised her to list the property with another realtor right away. On 10-16-14, she listed the property for $2,400,000.00. However, the attorney told her that the price should have been the reappraisal price of $1,095,000.00. At present, almost all costs for the 2014 crop have been paid using the first one half of the payment made when the almonds were purchased. The remaining outstanding bills are listed in Exhibit E. The second half of the proceeds from the sale of the 2014 crop is due mid-January in the amount of $103,334.01. This will leave a balance which should be adequate to pay the cost of closing the estate; however, it may not be enough to also pay off the $150,000.00 that Petitioner made to her son before his death.

Petitioner states if the real property is distributed in kind, the period immediately after mid-January would be the best time of the year for the almond production. However, Petitioner believes it is in the best interest of the estate to sell the property rather than distribute in kind to her grandchildren.

Therefore, Petitioner would like the Court to give her more time to sell the property.

4B **Manuel Choperena Jr. (Estate)** **Case No. 06CEPR00048**

Atty **Keene, Thomas J. (for Anita Choperena – Administrator – Petitioner)**

Petition for Order to Continue to Operate Decedent's Business and to Borrow Funds under Probate Code Sections 9760 and 9800

DOD: 11-27-05		
Cont. from 050514		
	Aff.Sub.Wit.	
✔	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✔	**Notice of Hrg**	
✔	**Aff.Mail**	w
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	2-24-06
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✔	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

ANITA CHOPERENA, Administrator with Limited IAEA with bond of $106,000.00, is Petitioner.

Petitioner requests an order authorizing her to continue to operate the decedent's business of growing almonds and selling them. The Administrator has been operating the business with some success over seven years. The estate is not in a condition to close because it does not have enough cash to pay the costs of administration. Therefore, the real property must be sold. If left unattended until it is sold, the almond trees may die from lack of water or become stressed and unproductive.

It is therefore in the best interest of the estate and the heirs that the Administrator be allowed to continue to operate the business while she goes through the process of selling the real property.

In order to fund the cash flow of the almond growing business, the Administrator has been making interest-free loans to the estate. It is anticipated that this practice will need to continue tin order to continue with the business. §9800(a)(3) provides that if the court determines that it would be advantageous to the estate it may make an order allowing the personal representative to borrow against the estate for purposes of preserving the property of the estate. The Administrator believes that such borrowing is necessary in order to keep the almond trees on the property alive and productive.

Wherefore, the Administrator asks for an order allowing her to continue to operate the decedent's almond growing business and allowing her to borrow money in order to carry on the business.

NEEDS/PROBLEMS/ COMMENTS:

<u>Minute Order 11-5-14</u>: The Court orders that Petitioner is not allowed to sell the property without Court approval. Mr. Keene is to file a verified declaration regarding the farm income by November 26.

<u>Note</u>: As of 11-20-14, nothing further has been filed.

Reviewed by: skc
Reviewed on: 11-20-14
Updates:
Recommendation:
File 4B – Choperena

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

4C **Manuel Choperena Jr. (Estate)** **Case No. 06CEPR00048**

Atty **Keene, Thomas J. (for Anita Choperena – Administrator – Petitioner)**

Allowance or Rejection of Creditor's Claim

DOD: 11-27-05		
Cont. from 050514, 110514		
	Aff.Sub.Wit.	
✔	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✔	Notice of Hrg	
✔	Aff.Mail	w
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	2-24-06
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✔	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

ANITA CHOPERENA was appointed as Administrator on 2-21-06 with Limited IAEA and bond of $106,000.00.

On 6-26-06, Ms. Choperena filed a Creditor's Claim against the estate in the amount of $150,000.00 with reference to a deed of trust recorded 10-4-99 (not attached).

On 12-20-13, the Court reviewed the estate and, noting that there had been no activity since 2007, set the matter for status hearing. In response, the Administrator filed her First Account (Page 2A) in which she requested payment of her claim.

The Administrator has now submitted for the Court's consideration the Allowance or Rejection of Creditor's Claim form DE-174 with copies of the Deed of Trust with Assignment of Rents as Additional Security recorded 10-4-99 and the Promissory Note dated 9-3-99.

The Deed of Trust and Promissory Note indicate that in 1999, prior to the decedent's death, Ms. Choperena loaned the decedent $150,000.00 at 7% per annum, payable in annual installments of "$10,000.00 or more, plus interest." The loan was secured by the decedent's agricultural real property in Merced County.

Ms. Choperena states in her Declaration filed 4-9-14 that she has not been paying herself any interest on this loan nor has she been paid any of the principal.

Therefore, the Administrator requests that the Court allow her creditor's claim.

NEEDS/PROBLEMS/COMMENTS:

<u>Minute Order 11-5-14</u>: The Court orders that Petitioner is not allowed to sell the property without Court approval. Mr. Keene is to file a verified declaration regarding the farm income by November 26.

<u>Note</u>: As of 11-20-14, nothing further has been filed.

Reviewed by: skc

Reviewed on: 11-20-14

Updates:

Recommendation:

File 4B – Choperena

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

5 **Cheryl A. Smart (Estate)** **Case No. 12CEPR00468**

Atty **Wall, Jeffrey L (for Former Administrator Kirk Hagopian)**
Atty **Morris, Michael J (for Objectors Brandenburger & Davis)**

Amended Second Amended First and Final Account and Report of Administrator and Petition for Its Settlement and Approval

DOD: 12/7/11		
Cont. from 061614, 072914		
	Aff.Sub.Wit.	
✓	**Verified**	
✓	**Inventory**	
✓	**PTC**	
✓	**Not.Cred.**	
	Notice of Hrg	X
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✓	**Letters**	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

KIRK HAGOPIAN, former Administrator, is petitioner.

Kirk Hagopian resigned as Administrator and **Gloria Hagopian** was appointed Successor Administrator on 5/27/14. All funds except $5,000.00 were ordered into a blocked account (receipt filed on 7/11/14)

Account period: 8/12/12 – 5/5/14

Accounting - **$229,763.00**
Beginning POH- **$213,413.08**
Ending POH - **$166,207.96**

Petitioner states that certain cash assets at the time of decedent's death were wrongfully taken by Gaylene Bolanos and her confederates. Petitioner is represented by Fresno attorney Leigh Burnside in a pending action against Gaylene Bolanos and others to recover the wrongfully taken property. Inventory and appraisal, partial no. 1 shows a bank account totaling $10,268.71 at the time of decedent's death. Petitioner believes that Gaylene Bolanos misappropriated all of the money in the account, because the account was empty when Petitioner presented Letters to the bank after the opening of the estate. Petitioner believes there were other accounts taken by Gaylene Bolanos, but Petitioner did not inventory them because he lacks records that would show the balances.

Please see additional page

NEEDS/PROBLEMS/COMMENTS:

1. Need Notice of Hearing.
2. Need proof of service of the Notice of Hearing on all interested parties.
3. Need proof of service with a copy of the Petition on Michael Morris pursuant to the Request for Special Notice filed on 9/10/12.
4. Need Order

Please see additional page.

Reviewed by: KT
Reviewed on: 11/21/14
Updates:
Recommendation:
File 4 - Smart

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

Petitioner states prior to mid-January 2013 the estate had no cash for payment of decedent's funeral expenses, the expenses to maintain decedent's real property prior to sale, and the retainer requested by the attorney Petitioner hired to take action against Gaylene Bolanos and her confederates. Petitioner borrowed $10,900.00 from a friend named Rich Curll, to pay those expenses.

Petitioner prays for an Order:

1. The first and final account and report of Petitioner as Administrator be settled, allowed and approved as filed;
2. All acts and proceedings of Petitioner during his tenure as Administrator of the Decedent's estate be confirmed and approved;
3. Such further order as the Court considers proper.

NEEDS/PROBLEMS/COMMENTS (Cont.):

5. Petition states Attorney Leigh Burnside filed an action against Gaylene Bolanos and others to recover the wrongfully taken property. Petition states Ms. Burnside has requested entry of the defendants' default and is in the process gathering the bank record and other information necessary to submit the prove up for requesting entry of judgment. Note: Examiner was not able to find any action against Ms. Bolonos in Fresno County. Court will require the case number of the action filed against Ms. Bolonos to recover assets.

6. Petition states 9,500.00 was paid to attorney Jeff Hammerschmidt as a retainer for his services to file an action against Gaylene Bolanos and her confederates. Court may require more information as to the litigation and the status of the retainer paid to attorney Hammerschmidt. Note: If Mr. Hammerschmidt did not do any work as alleged, then the retainer should be returned. Mr. Hagopian should have received a billing statement from Mr. Hammerschmidt regarding the retainer. The Court will require a copy of the billing statement showing what portion of the retainer was used and what it was used for.

Please see additional page

Note: Objections filed by Brandenburger & Davis, an heir search company and assignee a portion of the individual interest of several of the intestate heirs of the Decedent, was filed on 6/12/14 (in relation to the previously filed accounting. Many of the issues raised are relevant to this amended accounting). Objector states they represent the interests of intestate heirs on the decedent's paternal side. Decedent's father had four sibling, all of whom are deceased. The persons listed in the objections are issue of those siblings and they are 1st cousins or, in some cases 1 cousins once removed of the decedent. Brandenburger and Davis will file a Petition to Determine Heirship in this matter, if necessary. The persons listed in Petitioner's petition are from the decedent's maternal side. Objector believes that all of the siblings of the decedent's mother, Dolores Milano, died without issue and so the closest maternal heirs of the decedent are second cousins or more remote heirs.

Objector objects to the Petition on the following grounds:

a. The accounting shows $9,500 to attorney Hammerschmidt, but there is no details of why Mr. Hammerschmidt was retained or what services he rendered.
b. In a separate filing in this matter on 10/9/13 to compel delivery of the estate under Probate Code §850, the Petitioner asserts that he inquired about the decedent's assets between January and April 2012 and by April became suspicious of the respondents named in the §850 petition. He alleges that no less than $150,000 of the estates assets were wrongfully taken. Petition further states that $10,268.71 which was shown on the opening inventory, partial no. 1 was not in the bank account when the Petitioner presented his Letters of Administration to the bank after the estate was opened. No explanation is offered as to how the respondents in the §850 petition were able to access an account in the name of the decedent or what action was taken, if any, he took to learn from the bank how the funds were released to anyone other than the Petitioner.
c. The fact that Petitioner may have been duped by people he liked does not relieve him of his fiduciary duties to the estate and its beneficiaries. The Petitioner should provide greater detail of his activities as Administrator.
d. No bond was required of the Petitioner because he filed waivers of bond by the seven individuals whom he represented where the issue of the decedent's grandparents and the only persons entitled to inherit the estate. Objector believes that the persons who waived the bond are the issue of the great-grandparents of the decedent and, therefore, not the 1st cousins as represented by the Petitioner. Petitioner has not shown that he made any attempt to determine if there were closer heirs before obtaining waivers of bond.

Wherefore Objector prays that:

1. The Petition be denied.
2. That the Petitioner's actions as Administrator not be confirmed or approved;
3. That the Petitioner be ordered to provide a more complete and correct accounting of his actions as Administrator;
4. That the Court reserve jurisdiction to determine if the Petitioner should be surcharged for his actions as Administrator.

6 Everlener Raymond (Det Succ) Case No. 12CEPR01120

Atty Krbechek, Randolf (for Petitioners)

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

DOD: 7/26/2000			**MARY MCGEE, RITA JONES, EARL LOCKHART, JR., EVERLENER SMITH, JACKIE LOCKHART, ARTHUR LOCKHART, DAVID LOCKHART, RICKY LOCKHART, JAMES LOCKHART,** grandchildren, are petitioners.	**NEEDS/PROBLEMS/COMMENTS:**
				Continued from 8/28/14. As of 11/21/14 the following issues remain:
Cont. from 010714, 082814				1. A Petition to Determine Succession to Real Property was previously filed for this decedent (that petition was denied on 1/31/13). In the previously filed petition the petitioners were requesting a 50% interest pass to petitioners. (This decedent had a 25% interest in the real property and her sister had another 25% interest. The petition alleged that decedent's sister's 25% interest belonged to this decedent because the sister had died and decedent was her sole heir). The Inventory and Appraisal in the first filed petition listed the value of the property (50%) at $110,000.00. This petition includes a copy of the same inventory and appraisal valued (25%) at $110,000. How can the 50% interest alleged in the first filed petition and 25% interest as alleged in this petition both be valued at $110,000? **– Declaration of Attorney states** the property is appraised at 100% therefore a 25% interest would be $27,500.00. This petition only concerns a 25% interest in the estate. **Examiner note:** Pursuant to Probate Code 13152(b) and Probate Code §8802 the property listed shall state the fair market value of the property at the time of the decedent's death. **Therefore need amended inventory and appraisal showing the value of decedent's interest in the property as of her date of death.**
	Aff.Sub.Wit.		40 days since DOD.	
✓	**Verified**		No other proceedings.	
	Inventory		Decedent died intestate.	
	PTC		I & A - **$110,000.00**	
	Not.Cred.		**Petitioners request** court confirmation that Decedent's 25% interest in real property located at 962 75th Ave Oakland, CA pass to 1/9 to each of them pursuant to intestate succession.	
✓	**Notice of Hrg**			
✓	**Aff.Mail**	w/		
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	**Order**			
	Aff. Posting			**Reviewed by: LV/KT**
	Status Rpt			**Reviewed on: 11/21/14**
	UCCJEA			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 6 – Raymond**

2. Decedent was also survived by a 10th grandchild, Opal White. Opal White died on 5/25/05 (after this decedent) therefore her estate is entitled to a 1/10 share of this estate. Petition states her son, Danny Brown has filed an Affidavit Re: Real Property of Small Value to pass Opal's interest in the real property to him. However, Opal's interest must first pass to her. In addition, someone (a special administrator?) will need to sign this petition on her behalf. Note: A special administrator cannot be appointed in this estate for Opal. A special administrator will need to be appointed in a new case for Opal's estate. – Petitioner contends that the issue of the 2.5% interest passing to the heirs of Opal White is not before the Court. Danny Brown has filed an Affidavit Re: Real Property of Small Value to claim the final 2.5% interest from the estate of Opal White. Danny Brown is not a petitioner herein, and seeks no relief in this petition. – **Examiner note:** The problem is that before the property can pass to Danny Brown the property must first pass to Opal White's estate. Therefore a Special Administrator would need to be appointed (in a separate proceeding) to be able to sign this Petition to Determine Succession on Opal's behalf in order to pass Opal's interest in this estate to her estate. After the property is in Opal's estate then Danny Brown can file the Affidavit Re: Real Property of Small Value.

Declaration of Randolf Krbechek filed on 8/27/14 states he cannot attend the hearing on 8/28/14 because he is required to be in Redwood City for closing arguments. Mr. Krbechek requests a continuance of 90 days to address the examiner notes.

7 Patricia Lujan (Estate) **Case No. 13CEPR00596**

Atty Fanucchi, Edward L. (for Administrator Isabel Diaz-Casillas)

(1) Amended First and Final Account and Report of Personal Representative, (2)Petition for Settlement, for (3) Allowance of Attorneys' Fees for Ordinary Services, (4) Waiver of Commission, Costs, Reserve, and for (5) Final Distribution to Oral Trust

DOD: 1-17-13		
	Aff.Sub.Wit.	
✓	Verified	
✓	Inventory	
✓	PTC	
✓	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	w/o
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✓	Letters	8-6-13
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
✓	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
✓	FTB Notice	

ISABEL DIAZ-CASILLAS, Sister and Administrator with Full IAEA without bond, is Petitioner.

Account period: 1-18-13 through 6-30-14

Accounting: $155,082.17
Beginning POH: $155,082.17
Ending POH: $119,894.35 (cash)

Administrator (Statutory): Waived

Attorney (Statutory): $5,652.47

Closing: $5,000.00

Petitioner states the decedent's house was in default prior to her death and foreclosed shortly thereafter; therefore, it was not included as an asset as of the date of death on the I&A.

Petitioner states that pursuant to the wishes of the decedent prior to her death, it was her intention that the estate be held in trust by Petitioner for the benefit of her two children and that funds be disbursed in the discretion of the trustee for the benefit of each child in an amount in the discretion of the trustee for the general welfare of said children and for payment of any debts owed by the decedent as a result of her death. The funds referenced above are to be deposited in the trust account of Quinlan, Kershaw & Fanucchi, LLP, and funds are to be disbursed upon the authority of the trustee.

Distribution pursuant to "Agreement Re Verbal Testamentary Trust" is to:

Isabel Diaz-Casillas, as Testamentary Trustee for Amando Montero: $53,252.56

Isabel Diaz-Casillas, as Testamentary Trustee for Jessica Montero Hinojosa: $53,252.56

NEEDS/PROBLEMS/COMMENTS:

SEE PAGE 2

Reviewed by: skc
Reviewed on: 11-20-14
Updates:
Recommendation:
File 7 - Lujan

NEEDS/PROBLEMS/COMMENTS:

1. As previously noted for the original petition, there is no such thing as a verbal testamentary trust. A testamentary trust is a trust created by a will. See §17300. The decedent died intestate and her heirs are her two children, who are both adults. Further, the "Agreement" is signed only by Petitioner, and although it states the decedent verbally stated certain wishes, it does not provide details that would be relevant to an establishment of an oral trust under §15207, and this petition has not been brought under that section. Need authority for distribution in trust rather than outright to the heirs.

2. Various "advances" were made to the decedent's two children by Petitioner as "trustee" without Court authorization in violation of §11620. Jessica Hinojosa received $10,559.74 and Armando Montero received $10,000.00, plus $2,116.68 for funeral expenses (not itemized) and $2,000.00 was paid to McCormick Barstow on his behalf. The Court may strike any language approving the acts and transactions of the personal representative.

3. Consistent with the Court's recent practice, if Court determines an informal accounting of the closing reserve is warranted, Court will set a Status Hearing as follows:

   - Wednesday, June 3, 2015 at 9:00 a.m. in Dept. 303 for an Informal Accounting of the $5,000.00 Closing Reserve.

   Pursuant Local Rule 7.5, if the document noted above is filed 10 days prior to the date listed, the hearing will be taken off calendar and no appearance will be required. Filing of the informal accounting of closing reserve will not generate a new hearing date.

4. Need order. Local Rule 7.1.1.F.

8A **Myrtle Lyster (CONS/PE)** **Case No. 13CEPR00746**

Atty **Kruthers, Heather H. (for Public Guardian)**

(1) First and Final Account and Report of Conservator; (2) Petition for Allowance of Compensation to Conservator and his Attorney; (3) and Distribution

DOD: 5-15-14		
Cont from 102114		
	Aff.Sub.Wit.	
✔	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
✔	**Notice of Hrg**	
✔	**Aff.Mail**	w
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
N/A	**CI Report**	
N/A	**2620(c)**	
✔	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

PUBLIC GUARDIAN, Conservator, is Petitioner.

Account period: 10-9-13 through 5-15-14
Accounting: $115,581.70
Beginning POH: $ 3,495.00
Ending POH: $ 82,823.72

Account period: 5-16-14 through 7-11-14
Accounting: $82,827.23
Beginning POH: $82,823.72
Ending POH: $77,547.23 (cash)

Conservator: $1,687.44 (for 11.64 Deputy hours @ $96/hr plus 7.50 Staff hours @ $76/hr, per declaration, including estimated time for management of finances, preparation of income tax returns, preparing statement of services, and making final distribution, pursuant to attached declaration)

Attorney: $2,000.00 (less than allowed under Local Rule 7.16.B.1, since the Public Guardian did not have to file the paperwork to establish the conservatorship.)

Bond fee: $145.44

Costs: $539.00 ($104.00 for certified Letters plus $435.00 filing fee for this petition)

Petitioner states the Conservatee died testate on 5-15-14. Her will was deposited by the Public Guardian on 8-14-14 (Exhibit E) and heirs are listed in the petition. However, the Conservatee received Medi-Cal benefits before she died and Notice of the Conservatee's death was sent to Medi-Cal on 5-16-14. They sent a claim for $191,000.00.

After payment of the allowed commissions, fees and costs totaling $4,371.88, Petitioner requests distribution of the remaining estate of $73,175.35 to Medi-Cal.

NEEDS/PROBLEMS/COMMENTS:

<u>Minute Order 10-21-14</u>: Counsel advises the Court that a petition for attorney's fees was filed by Attorney Edward L. Fanucchi.

<u>Note</u>: Petition for Payment of Attorney's Fees for Court Appointed Counsel filed 10-17-14 by Edward L. Fanucchi is Page B.

<u>Note</u>: If the proposed distribution is affected by Mr. Fanucchi's petition, further notice to Medi-Cal may be required, and a revised proposed order may be necessary.

Reviewed by: skc

Reviewed on: 10-16-14

Updates:

Recommendation:

File 8A – Lyster

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

8B **Myrtle Lyster (CONS/PE)** **Case No. 13CEPR00746**

Atty **Fanucchi, Edward L. (Court-appointed attorney for Conservatee)**

Petition for Payment of Attorneys' Fees for Court Appointed Counsel [§1470]

	Aff.Sub.Wit.	
✔	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	x
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✔	**Order**	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

EDWARD L. FANUCCHI is Petitioner.

Petitioner was court appointed to represent the Conservatee on 8-29-13.

Raymond Lyster filed a petition for conservatorship on 8-21-13. The Fresno County Public Guardian was appointed as Conservator on 9-26-13.

Petitioner requests fees in connection with the representation of the Conservatee for the petition for conservatorship.

Petitioner asks that he be paid from the conservatorship estate a total of $1,955.00, including $1,520.00 in fees and $435.00 for filing costs.

Itemization includes 7.6 attorney hours @ $200/hr and includes review of file and reports, conference and correspondence with petitioner's attorney, and court appearance.

NEEDS/PROBLEMS/COMMENTS:

1. **The Court may require Notice of Hearing at least 15 days prior to the hearing to:**
   - Public Guardian
   - Medi-Cal

Reviewed by: skc

Reviewed on: 11-20-14

Updates: 11-21-14

Recommendation:

File 8B - Lyster

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

10 George Robert Peterson (Estate) **Case No. 14CEPR00385**

Atty Petty, Jonathon L. (for Kristen Peterson – Executor)

Order to Show Cause Re: Failure to Appear and Failure to File the Inventory and Appraisal

			KRISTEN PETERSON, daughter, was appointed Executor with limited IAEA authority without bond, on 06/12/2014. Letters issued on 06/25/2014. Minute Order of 06/12/2014 set Status Hearing for the filing of the Inventory and Appraisal on 11/12/2014. **Minute Order 11/12/2014: The Court issues an Order to Show Cause to Jonathon Petty and Kristen Peterson as to why sanctions should not be imposed for failure to appear and failure to file the Inventory and Appraisal. Mr. Petty and Ms. Peterson are ordered to be personally present on 12/3/14. Set on 120314 9:00 303 for OSC.** **A copy of the minute order was mailed to Mr. Petty on 11/12/14.**	**NEEDS/PROBLEMS/COMMENTS:** **<u>Note</u>: On 11-20-14, Attorney Jonathon L. Petty filed a Final Inventory and Appraisal; however, it is signed only by the attorney, and the signature is not dated. *Please note that an attorney cannot verify a report for a fiduciary. Probate Code §1023.*** **Mr. Petty also filed a declaration that states he was unaware that the I&A had not already been filed. Mr. Petty requests that the Court show lenience on the attorney and the executor for the attorney's failure to appear and failure to timely file the I&A. Please see declaration for details. Mr. Petty asks that the Court forgive this error and find that sanctions should not be imposed. Mr. Petty also requests that if the Court chooses to impose sanctions, that they be for him only and not for his client, Ms. Peteron, as she relied on Mr. Petty's representation.** **Mr. Petty also requests that the Court not require Ms. Peterson to attend the hearing on 12-3-14, as she resides in Rhode Island, and this would cause an incredible hardship.** **If the Court finds this declaration and accompanying I&A sufficient, Mr. Petty asks that the Court find this 12-3-14 hearing unnecessary.**
	Aff.Sub.Wit.			
	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order			
	Aff. Posting			**Reviewed by:** skc
	Status Rpt			**Reviewed on:** 11/20/14
	UCCJEA			**Updates:** 11/21/14
	Citation			**Recommendation:**
	FTB Notice			**File 10 - Peterson**

11 Mochizuki Family Trust dtd. 7/22/2000 (Trust) Case No. 14CEPR00411

Atty Matlak, Steven M. (for Trustee Robert M. Mochizuki – Petitioner)
Atty Hudak, Mark D. (of Burlingame, for Beneficiary Chris Mochizuki – Respondent)

Petition for Instructions

Cont'd from 062514, 092314, 102814

	Aff.Sub.Wit.	
✔	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✔	Notice of Hrg	
✔	Aff.Mail	w
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
✔	Response	
	Video Receipt	
	CI Report	
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

ROBERT M. MOCHIZUKI, Trustee, is Petitioner.

Petitioner states Settlors Robert Mochizuiki, aka Shigeki Robert Mochizuki, and Masako Mochizuki, both deceased, created the trust. The trust contemplated division into as many as three subtrusts upon the death of the first settlor; however, for purposes of this petition, the term Trust shall include the Mochizuki Family Trust and all subtrusts created thereunder. Petitioner and his three siblings are the beneficiaries of the Trust.

The assets of the Trust include real property consisting of approx. 8 acres located at 718, 748 and 810 S. Minnewawa in Fresno (containing an orchard and various structures) and approx. $1,400,000 in liquid assets. The property has been used for agricultural applications since the mid 1940s. A Phase I environmental site investigation recommended further investigation for the potential presence of contaminants. A Phase II limited site investigation was conducted and for the areas tested, certain chemicals were discovered in elevated levels beyond that provided for by the California EPA's California Human Health Screening Levels. In addition, asbestos was discovered in some of the structures.

A disagreement has arisen among Trust beneficiaries as to the optimal route in dealing with the environmental issues. Remediating known environmental issues will cost the Trust a significant amount of money, and there is a risk that the cleanup process will uncover new and more significant concerns. Petitioner believes remediating the environmental issues will likely enable the Trust to net a significantly higher amount than if he were to simply list the property for sale without conducting any cleanup. More importantly, remediating the damage now provides greater clarity as to the exposure the Trust faces.

SEE ADDITIONAL PAGES

NEEDS/PROBLEMS/COMMENTS:

Minute Order 6-25-14: The Court sets a $150,000.00 limitation on expenditures for environmental remediation. Counsel is directed to prepare an order.

Minute Order 9-23-14: Continued to 10-28-14.

Minute Order 10-28-14: Mr. Matlak requests continuance. Continued to 12-3-14.

Reviewed by: skc
Reviewed on: 11-20-14
Updates:
Recommendation:
File 11 - Mochizuki

Petitioner states even if the property is sold "as is" this would not stop governmental authorities from coming back after the Trust, the trustee, and beneficiaries who receive distributions. Various federal and California statutes saddle prior landowners with liability for environmental issues even after a property is sold, even if disclosed to buyers. To address this, Petitioner could, in theory, obtain indemnity from a buyer, but this would likely significantly depress the sales prior and would only be as good as the worth of the indemnifying party.

A disagreement has also arisen among beneficiaries regarding making a preliminary distribution of the Trust estate while Petitioner deals with the environmental issues. A Trust beneficiary has asked for a large preliminary distribution. However, Petitioner is concerned that the environmental liability could exceed the entire trust estate. While initial cleanup costs are well below the size of the trust estate, there is some likelihood that the estimates are too low and that when work starts, worse problems will be uncovered.

Petitioner has consulted with two appraisers and an independent commercial real estate broker and there is consensus that the property would likely be used as a multi-family development. Petitioner notes that the homes are vacant and as such are a liability. Petitioner has already obtained bids for asbestos remediation, cleanup of contaminated ground, and removal of the structures. If the Court grants the relief requested, Petitioner will obtain updated final bids and begin asbestos remediation. Once cleanup is complete, the trust could offer a potential buyer assurance that all issues are remediated.

Petitioner prays for an order instructing Petitioner:

a. **Whether Petitioner as trustee is acting in the best interests of the Trust beneficiaries by proceeding with his plan to remediate the environmental issues and remove the structures at the property before listing it for sale; and**

b. **Whether Petitioner as trustee is justified in withholding any preliminary distribution at this time until the extent of the cost to remediate the environmental damage is finally determined; and**

c. **For any other relief the Court deems just and proper.**

Beneficiary Chris Mochizuki filed a Response on 6-5-14.

SEE ADDITIONAL PAGES

Chris Mochizuki states the property is no longer operated as an orchard and there are several abandoned buildings on the property. It is suitable for residential uses, but would have to be incorporated into the city, rezoned, and subdivided. Based on appraisals obtained by the trustee, the property is valued at approx. $430,000. The trust has no liabilities or debts apart from the claimed risk associated with the remediation of hazardous substances on the property.

The Trustee is required to wrap up the affairs of the trust and distribute the net assets to the beneficiaries within a reasonable time. The Trustee has the power to comply with environmental laws and to "abate, clean up, or otherwise remedy" any violation of environmental laws. To date, Petitioner has only made small advances to Larry for help with his living expenses. He has refused to make any other distributions from the substantial cash reserves, supposedly because of the risk of runaway remediation costs for the property. However, he has taken no steps to begin remediation or to sell it "as is." Consequently, the beneficiaries are receiving nothing.

Petitioner expresses fear that the cost of remediating hazardous substances on the property justifies his delay in distributing cash to beneficiaries. However, he has not been entirely candid with the Court. The bids show costs of approx. $50,000 for the entire remediation, which is less than 3% of trust assets. Even if he decided to reserve more, there would be plenty of liquid assets to make a sizeable interim distribution to beneficiaries.

Petitioner claims it is necessary to reserve the entire $1,400,000 in case the remediation costs spiral out of control, but provides no objective basis for this fear. Moreover, if there is really a danger that costs could approach that amount, why begin the process at all to remediate a property that is worth, at best, $600,000? If the risk of uncontrolled remediation costs is genuine, the trust would be better served by selling the real property "as is" for a reduced price and indemnity from a buyer, then distributing cash assets.

Administration of the Trust has been paralyzed by Petitioner's inability to decide whether remediation should or should not proceed. The Court should instruct him to either remediate the property or sell it "as is." In the meantime, Petitioner should be instructed to make a substantial interim distribution so that the beneficiaries can receive some of the benefits intended by their parents.

Respondent provides discussion regarding the environmental concerns on the property. See Response for details.

Respondent concludes that even if the costs double or triple, they would represent only a small fraction of the Trust's assets. It is difficult to understand Petitioner's concerns about uncontrolled costs, his reluctance to market the property "as is," and why he has allowed this minor problem to stall administration of the trust for the past year. The Court should require Petitioner to make a decision whether to remediate or sell "as is" and then act on it in a timely manner. The Court should require quarterly reports so that this process can be monitored by beneficiaries. In the meantime, Respondent respectfully requests that the Court order Petitioner to make a preliminary distribution to the beneficiaries of not less than $1,000,000.

SEE ADDITIONAL PAGES

Respondent Chris Mochizuki filed Further Response on 9-18-14 that states the current status is unknown. The trustee has not provided any information on the status of the remediation effort. They do not know how much of the work was completed, what remains, whether any unexpected contamination was encountered, the costs to date, or the costs to complete. There have not been any discussions of interim distributions. The trustee's continuing failure to provide information to the beneficiaries is unexplained and should not continue.

Respondent requests a Court order as follows:

1. That the trustee provide a full report to the Court and all beneficiaries regarding the work performed to date and the cost thereof within 10 days;
2. That the trustee provide a further report to the Court and all beneficiaries within 10 days regarding the remaining work to be performed, the estimated cost of the work, and the completion date, supported by documentation from contractors retained to perform the work;
3. That the trustee make an interim distribution of $1,000,000 to the beneficiaries in accordance with their interests under the trust within 10 days; and
4. That the hearing on this matter be continued for 30 days to determine the status on the remediation and whether the property can now be listed for sale.

Status Report filed by Attorney Steven Matlak (not verified by trustee) provides status of the various projects and states work is still in progress and an additional 45 days is needed in order to complete the initial phase of the remediation work. See report for details re asbestos demolition, etc. Mr. Matlak states the trustee believes the work can be completed by November 1, 2014 and requests the Court continue this matter for an additional 45 days.

On 10-24-14, Respondent Chris Mochizuki filed Further Response wherein the above request is reiterated. Respondent states the Court and beneficiaries have been patient with this process, but there is no longer justification to continue withholding over $1 million in cash in a trust that has no liabilities. The Trustee's continuing failure to provide information to the beneficiaries is unacceptable and should not continue. If the trustee refuses to keep the beneficiaries informed and refuses to administer the trust for their benefit, he should resign or be replaced.

An unverified status report was filed 10-27-14 by Attorney Matlak.

SEE ADDITIONAL PAGES

Status Report (not verified) filed 10-27-14 by Attorney Steven Matlak states since the last hearing, the structures at the subject property have all been demolished and removed, and the contemplated soil removal has been completed. Further testing by Derek Wong of Innovative & Creative Environmental Solutions (ICES) found contamination was still present, and further excavation is recommended. The trustee has engaged Jeff Kroker of Kroker, Inc., to continue deeper removal of the soil, at which time ICES will conduct further testing.

The report states vandals stole wire from the temporary power pole and well, causing a delay to the project, as power is required by Mr. Kroker. A covered fence is being installed around the pump and power pole at an additional cost of $1,500.00 to prevent this in the future.

The trustee timely completed all work anticipated in the last status report. Because digging at a deeper level is now recommended by ICES, the potential liability faced by the trust still remains unknown. If the contamination has reached the groundwater, for example, the cost could still significantly increase.

Because the extent of the damage is still unknown, Petitioner respectfully requests the Court continue this matter for an additional 30 days for further status and to provide time for additional clean-up work. The ultimate goal is a report from ICES that will be filed with the county that documents the completion of the remediation work that was identified in the environmental site investigation.

If the cleanup work is complete before the next hearing, and no further contamination is found, the trustee is prepared to release a substantial preliminary distribution of the bulk of the trust's assets, less a reserve of $250,000.00 to cover future legal fees, trustee fees, property tax, insurance and maintenance fees, and any costs associated with sale. The property will be listed for sale as soon as the cleanup work is completed and Petitioner has been in contact with Bobby Fena of Colliers International. Petitioner provides a discussion of additional issues that may arise at sale with reference to the proposed reserve amount.

12 Larry Waltrip (CONS/PE) **Case No. 14CEPR00449**

Atty Rindlisbacher, Curtis D. (Court appointed for Conservatee)

(1) Petition for Order for Attorney Fees and for (2) Order Terminating Appointment of Counsel

	Aff.Sub.Wit.	
	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

CURTIS D. RINDLISBACHER, is Petitioner.

Petitioner was court appointed to represent the Conservatee on 5-27-14 in connection with the petitions for conservatorship of the person and estate.

On 8-7-14, Debbie Waltrip, Spouse was appointed Conservator of the Person and Estate.

Petitioner asks that he be paid from the conservatorship estate for 15.20 attorney hours @ $325/hr and 1 paralegal hour @ $110/hr for a total of $4,835.00, plus the $435.00 filing fee for this petition.

No itemization is provided.

Petitioner states he is informed and believes that the conservatorship estate is approximately $47,088.00.

Petitioner believes further representation of Mr. Waltrip is unnecessary and requests an order terminating his appointment and requiring that no further services be performed.

NEEDS/PROBLEMS/COMMENTS:

1. Need itemization.

<u>Note</u>: Conservatorship of the person and estate was granted to Debbie Waltrip, Spouse, on 8-7-14, without bond, but with certain funds to be placed into a blocked account. However, it does not appear that status hearings were set for the filing of the receipt for blocked account, the filing of the Inventory and Appraisal, or the filing of the first account. As of 11-20-14, nothing further has been filed by the Conservator, who is represented by Attorney Gary Bagdasarian.

Reviewed by: skc

Reviewed on: 11-20-14

Updates:

Recommendation:

File 12 - Waltrip

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

13 Oralia Serrato (Estate) Case No. 14CEPR00755

Atty **Criego, Franz (for Abigail Serrato – Petitioner – Daughter)**

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

DOD: 06/15/2014			**ABIGAIL SERRATO,** daughter, is petitioner.
			Full IAEA – o.k.
Cont. from 092514 , 100914			Will dated: 11/09/2013 Codicil: 11/09/2013
	Aff.Sub.Wit.	s/p	
✓	**Verified**		Residence: Fresno Publication: The Fresno Bee
	Inventory		
	PTC		**Estimated value of the Estate**:
	Not.Cred.		Personal property - $19,000.00
	Notice of Hrg	x	Real property - $60,000.00 **Total - $79,000.00**
	Aff.Mail	x	
✓	**Aff.Pub.**		Probate Referee: Rick Smith
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	**Letters**		
✓	**Duties/Supp**		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	**Order**		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

NEEDS/PROBLEMS/COMMENTS:

1. The initial petition filed 08/18/2014 contained several deficiencies. Attorney Criego filed an unverified declaration addressing some of the deficiencies on 09/25/2014, the morning of the hearing, however there were still other items of the Examiner notes that were not cured.
   - The matter was continued to 10/09/2014.
   - A Supplemental Petition was filed on 10/09/2014 prior to the commencement of the Court hearing.
   - Matter was continued to 12/03/2014.
   - The Supplemental Petition still does not cure all the deficiencies. Need an Amended Petition which incorporates all that petitioner is requesting.

2. Need Notice of Petition to Administer Estate.

3. Need proof of service of the Notice of Petition to Administer Estate on pursuant to Probate Code §8110 on the following:
   - Genaro V. Serrato
   - David Serrato
   - Javier Serrato

4. Proposed Order appoints Abigail Vasquez Serrato as both Executor and Administrator. Need new order.

Reviewed by: LV

Reviewed on: 11/20/2014

Updates:

Recommendation:

File 13 - Serrato

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

14 Maria Cruz Mejia (Estate) **Case No. 14CEPR00876**

Atty Bagdasarian, Gary G. (for Petitioner Jesus M. Mejia)

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

DOD: 6/12/1994			**JESUS M. MEJIA**, son, is petitioner and requests appointment as Administrator without bond. Limited IAEA - o.k. Decedent died intestate. Residence: Fresno Publication: Fresno Business Journal **<u>Estimated value of the estate:</u>** Real property - $80,000.00 **Probate Referee: Steven Diebert.**	**NEEDS/PROBLEMS/COMMENTS:** **<u>Note:</u>** If the petition is granted, status hearings will be set as follows: • **Wednesday, May 6, 2015** at 9:00 a.m. in Department 303, for the filing of the inventory and appraisal. • **Wednesday, March 30, 2016** at 9:00 a.m. in Department 303, for the filing of the first account or petition for final distribution. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.
Cont. from 102814				
	Aff.Sub.Wit.			
✓	**Verified**			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			
✓	**Aff.Mail**	W/		
✓	**Aff.Pub.**			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	**Letters**			
✓	**Duties/Supp**			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	**Order**			
	Aff. Posting			**Reviewed by: KT**
	Status Rpt			**Reviewed on: 11/21/14**
	UCCJEA			**Updates:**
	Citation			**Recommendation: SUBMITTED**
	FTB Notice			**File 14 – Mejia**

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

15 The Fernando Vasquez Special Needs Trust (SNT) Case No. 14CEPR00936

Atty **Winslow, William L. (of Los Angeles, CA, for Alicia Garcia Amaro – Mother – Petitioner)**

Petition for Order Establishing Court Supervision of Special Needs Trust, Fixing Trustee's Bond and Setting Schedule for Trust Accountings [§§ 3604, 3605, 17200(a), (b)(2)

	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	w
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	x
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

ALICIA GARCIA AMARO, Mother and guardian ad litem by appointment of the Workers' Compensation Appeals Board, is Petitioner.

Petitioner states The Fernando Vasquez Special Needs Trust (SNT) was established to receive the proceeds of a worker's compensation settlement by order of the Fresno County Workers' Compensation Appeals Board (WCAB) in the matter of Ignacio Vasquez Aragon (Deceased) v. Rogelio Castellanos Farm Labor Contractor and State Compensation Insurance Fund, EAMS No. ADJ377753. The Order Approving Compromise and Release approved by Judge Richard Ellis of the WCAB resolved the claim of Fernando Vasquez, son of the deceased worker, established the SNT, and appointed Bruce D. Bickel as Trustee of the SNT.

The beneficiary has significant developmental delay and is diagnosed with moderate to severe mental retardation.

The gross settlement of $303,000.00, less various fees and costs, provides for an initial funding of $235,088.79 to the SNT. Petitioner requests the Court fix the trustee's bond at $262,000.00, which includes income of approx. 1% per annum and a 10% cost of recovery.

Petitioner states the proposed SNT complies with applicable law and Cal. Rule of Court 7.903.

Petitioner prays for an order:

1. Undertaking by the court of the supervision of the Fernando Vasquez Special Needs Trust;
2. Fixing the trustee's bond in the amount of $262,000.000, which bond shall be furnished by an authorized surety company or as otherwise provided by law;
3. Ordering the trustee to file his first account no later than 8-31-15; and
4. For such other relief as is necessary and proper.

NEEDS/PROBLEMS/ COMMENTS:

SEE PAGE 2

Reviewed by: skc

Reviewed on: 11-20-14

Updates:

Recommendation:

File 15 - Vasquez

NEEDS/PROBLEMS/COMMENTS:

1. Petitioner has not been appointed as Guardian Ad Litem of the minor in this proceeding pursuant to applicable law. The Court may require appointment herein for standing to bring this petition. Please see Probate Code §§ 3602(d), 3604, and Mandatory Judicial Council Forms GC-100 and GC-101.

2. Article III, Paragraph 2 gives the trustee sole discretion over distributions. The Court may require more specific language distinguishing between discretion over basic distributions for the beneficiary's special needs from major distributions from the SNT for major purchases, and requiring Court approval for such major purchases, including how title will be held, etc. For example, purchases of vehicles, real property, or assets valued at a certain amount would require noticed petition and Court approval, and upon approval would be included thereafter as an asset of the trust for accounting purposes.

3. Article III, Paragraph 2(b) authorizes reasonable expenses for residence in a group home, board and care facility, or other living arrangement indicated by the beneficiary's disability. However, basic shelter-related expenses are not a permissible use of special needs trust funds and could result in a reduction of benefits. The Court may require this language to be stricken from the SNT.

4. Article IV, Paragraph 5 provides for accountings to be filed with the Court and sets forth who should be noticed for the accounts, including the trustee, the beneficiary, and the various agencies. The Court may require revision to include notice to interested parties pursuant to Probate Code §§ 2621 and 1460, and including Ms. Amara, mother of the beneficiary, who should also be appointed as guardian ad litem for the beneficiary in this matter, as noted in #1 above, and/or any guardian or conservator who may be appointed in the future.

5. Article VI, Paragraph 5 authorizes just and reasonable compensation to the trustee in an amount fixed and allowed by the Court, and states that subject to §2643 and Rule 7.755, the trustee may receive periodic payment of compensation on account. The Court may require clarification that the trustee may receive such periodic payment upon Court authorization.

6. Need order. The order should incorporate the terms of the SNT as modified pursuant to the above and any further order of the Court, and should include a signature line for the judge *after* the last attachment, but with some portion of the order on the page, pursuant to Local Rules 2.1.15 and 7.6.1.

Note: If granted, the Court will set status hearings as follows:

- Wednesday, January 21, 2015, for filing of bond in the amount of $262,000.00
- Monday, August 31, 2015 for the filing of the first account by the trustee (date requested in petition)

If the required items are on file prior to the status hearing dates pursuant to Local Rule 7.5, the status hearing date may be taken off calendar.

16 Annamarie Serna (Det Succ) **Case No. 14CEPR00960**

Atty Kennedy, Bruce Francis (for Joseph Serna – Brother – Petitioner)

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

DOD: 6-6-14			JOSEPH SERNA, Brother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
			40 days since DOD	1. Petition is incomplete at #9.a.(3) or (4). Was the decedent survived by a registered domestic partner?
			No other proceedings	
	Aff.Sub.Wit.		I&A: $66,500.00 (a one-half undivided interest in residential real property located at 3833 E. Shields in Fresno)	2. Petitioner did not include an Attachment 11, which should state the legal description of the property and the decedent's interest in the property that is requested to pass pursuant to this petition. (Note: Although a description of the property and interest is provided in the Inventory and Appraisal, Attachment 11 is required pursuant to the petition.)
✓	Verified			
✓	Inventory			
	PTC		Decedent died intestate	
	Not.Cred.			
	Notice of Hrg	x	Petitioner requests Court determination that: Petition is unclear. See #4.	3. Petitioner did not include an Attachment 14, which should state all heirs of the decedent pursuant to #10(b) and #14.
	Aff.Mail			
	Aff.Pub.			4. Pursuant to the above, it is unclear if anyone else is entitled to notice of this petition.
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			5. Petitioner states at #13 that the property interest claimed by each petitioner is an undivided one half interest. Without the list of heirs, it is unclear if Petitioner is the sole heir, claiming 100% of the decedent's one-half interest in the property, or if Petitioner and another heir are each claiming one half of the decedent's one half interest.
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	x		6. Need Order pursuant to Local Rule 7.1.1.F.
	Aff. Posting			Reviewed by: skc
	Status Rpt			Reviewed on: 11-20-14
	UCCJEA			Updates:
	Citation			Recommendation:
	FTB Notice			File 16 - Serna

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

17 Francis Leroy Buzzard (Estate) **Case No. 05CEPR01290**

Atty Kruthers, Heather (for Public Administrator)

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

Cont. from 022814, 060614		
	Aff.Sub.Wit.	
	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

DAWNA DEAVER, daughter, appointed executor with full IAEA authority without bond on 04/04/2006.

Letters issued on 04/05/2006.

Inventory and Appraisal filed on 11/27/2006 shows an estate valued at $200,000.00 consisting of real property.

First Account or Petition for Final Distribution was due 06/2007.

Notice of Status Hearing was mailed to Dawna Deaver on 11/22/2013.

NEEDS/PROBLEMS/COMMENTS:

Minute Order of 06/06/2014: Client requests 6 month continuance.

Minute Order of 02/28/2014: No appearances. The Court on its own motion removes Dawna Deaver as the executor and appoints the Public Administrator as the personal representative.

1. Need First Account or Petition for Final Distribution or current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.

Reviewed by: LV

Reviewed on: 11/20/2014

Updates:

Recommendation:

File 17 – Buzzard

18 Diana P. Pace (CONS/PE) **Case No. 14CEPR00815**

Atty Rindlisbacher, Curtis D. (for Timothy Warren Fletcher – Son – Conservator)

Status Hearing Re: Filing of the Bond

Cont from 111214		
	Aff.Sub.Wit.	
	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

TIMOTHY WARREN FLETCHER, Son, was appointed as Conservator of the Person and Estate on 10-16-14 with bond of $380,129.64.

At the hearing on 10-16-14, the Court set this status hearing for the filing of the bond.

As of 11-20-14, bond has not been filed and Letters have not issued.

NEEDS/PROBLEMS/COMMENTS:

<u>Minute Order 11-12-14</u>: Mr. Rindlisbacher will submit a revised order along with a blocking order. If the bond and blocking receipt is filed by 12/1/14, then no appearance is necessary on 12/3/14. Cont. to 12/3/14.

<u>As of 11-20-14, nothing further has been filed</u>.

1. **Need bond of $380,129.64 or verified written status report pursuant to Local Rule 7.5.**

Reviewed by: skc	
Reviewed on: 11-20-14	
Updates:	
Recommendation:	
File 18 – Pace	

19 Anthony Abraugh, Trevar Bolech, Jaiden Bolech, & Selena Bolech (GUARD/P) Case No. 08CEPR00851

Atty Abraugh, Billy R. (pro per maternal grandfather/guardian of Anthony, Trevar & Jaiden)
Atty Clark, Regina (pro per paternal step-grandmother/guardian of Selena)
Atty Bolech, Sherrie Marie (pro per Petitioner/mother)
Atty Clark, Daniel (pro per Petitioner/father of Selena)

Petition for Visitation

Anthony Age 7		
Trevar Age: 6		
Jaiden Age: 5		
Selena Age: 3		
Cont. from 110514		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
✓	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	X
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

DANIEL CLARK, father of Selena, and **SHERRIE BOLECH,** mother, are petitioners.

REGINA CLARK, paternal step-grandmother, was appointed guardian of Selena Bolech on 01/27/2014. *– present in court on 11/5/14.*

BILLY ABRAUGH, maternal grandfather, was appointed guardian of Anthony Abraugh, Trevar Bolech, and Jaiden Bolech, on 01/18/2011. *– personally served on 11/15/14.*

Father (of Anthony, Trevar, Jaiden): **JOHN BOLECH**

Paternal grandfather (of Selena): Daniel W. Clark
Paternal grandfather (of Anthony, Trevar, Jaiden): Unknown
Paternal grandmother (of Selena): Shirley Stairs
Paternal grandmother (of Anthony, Trevar, Jaiden): Isabell Flores
Maternal grandmother: Sherrie Abraugh

Petitioners state they would like to take their visits with the children to the next level. Both guardians have denied their requests. Petitioners are asking for overnight visits with their children from Friday at 6:00 p.m. to Sunday at noon. Petitioners feel mediation will not solve their problems. The petitioners state as of now they have supervised visits. Petitioners state they have their own home with rooms and beds for the children. The children need bonding time with their new baby sister.

NEEDS/PROBLEMS/COMMENTS:

A Petition to Terminate the Guardianship was filed by Daniel Clark and Sherri Bolech and is set for hearing on 12/10/14.

Reviewed by: KT
Reviewed on: 11/20/14
Updates:
Recommendation:
File 19 – Bolech & Abraugh

20 Thelma L. Day (CONS/PE) **Case No. 13CEPR00134**

Atty Day, Montie S. (Pro Per Petitioner/Conservator)

Petition for Approval of Exemption from All Accounting Requirement for Small Estate; Request for Termination of Conservatorship and Discharge of Personal Conservator (Representative) and Request for Waiver of Fees.

DOD: 7/30/14			**MONTIE DAY**, Conservator, is petitioner.
			Petitioner states between the opening of the conservatorship and the date of death of Thelma Day, the conservatorship received $1,167 per month from social security. The amount of the care facility (Clovis Quality Care) was approximately $3,200.00 per month. Accordingly the money was transferred to the Thelma Day Trust and used 100% for the care of Thelma Day. The estate at the beginning of the account period was $2,000.00 and at the end of the account period $13,562.36. Therefore the estate meets the requirements of Probate Code §2628 to be exempt for the requirements of an accounting. At the end of this period of account there are no assets, cash or otherwise held by Thelma Day or by the Conservatorship.
Cont. from 090414, 100214			
	Aff.Sub.Wit.		
✓	**Verified**		
	Inventory		
	PTC		
	Not.Cred.		
✓	**Notice of Hrg**		
✓	**Aff.Mail**	W/	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		Due to the limited resources (none remaining in the conservatorship), Petitioner requests that any court filing fees be waived and the conservatorship terminated.
	Objections		
	Video Receipt		
	CI Report		
✓	**2620(c)**		**Please see additional page**
✓	**Order**		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

NEEDS/PROBLEMS/COMMENTS:
Reviewed by: KT
Reviewed on: 11/21/14
Updates:
Recommendation:
File 20 – Day

Wherefore, Petitioner prays for an order:

1. For an order that any accounting and report be waived pursuant to Probate Code §2628;
2. For an order discharging Montie S. Day as Conservator for the Conservatorship of Thelma L. Day;
3. For a Waiver of all fees in that the conservatorship has no assets to pay such fees;
4. For such other and further orders as the Court deems proper.

21A Jasean Bess & Jashaya Sumlin (GUARD/P) Case No. 14CEPR00806

Atty Bess, Courtney Lynn (Pro Per – Maternal Aunt – Petitioner)
Atty Atty Hurlburt, Dennis (Pro Per – Father – Objector)

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

Cont from 11/5/14		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	X
	Aff.Mail	X
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	X
✓	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
	Objections	X
	Video Receipt	
✓	CI Report	
✓	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

TEMP EXPIRES 11-5-14, extended to 12-3-14

COURTNEY LYNN BESS, Maternal Aunt, is Petitioner.

Father: **NOT LISTED (DENNIS HURLBURT per Objection filed 10-1-14)**

Mother: **JEZELL BESS**
- Declaration of Due Diligence filed 9-2-14
- Notice dispensed per Minute Order 9-16-14

Paternal Grandfather: Not listed
Paternal Grandmother: Not listed

Maternal Grandfather: Jeffery Bess
Maternal Grandmother: Not listed

Petitioner states the mother is in and out of jail. Circumstances cause her to take off. Petitioner feels the minor needs a caring, loving, and nurturing home and deserves a chance at life.

Court Investigator Dina Calvillo filed a report on 10-29-14.

NEEDS/PROBLEMS/COMMENTS:

Note: This petition pertains to the minor Jasean Bess only. Page B is a petition for guardianship of the minor Jashaya Sumlin filed by Petitioner Breshia Robinson.

Minute Order 11-5-14: The Court orders that the minor is not to be left alone with the mother for any reason between now and 12-3-14.

1. **Need Notice of Hearing.**
2. **Need proof of personal service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing pursuant to Probate Code §1511 or consent and waiver of notice or declaration of due diligence on:**
   - Dennis Hurlburt (Father)
3. **Need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing pursuant to Probate Code §1511 or consent and waiver of notice or declaration of due diligence on:**
   - Jeffery Bess (Maternal Grandfather)
   - Maternal Grandmother
   - Paternal Grandfather
   - Paternal Grandmother

Reviewed by: skc
Reviewed on: 11-20-14
Updates:
Recommendation:
File 21A – Bess & Sumlin

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

21B Jasean Bess and Jashaya Sumlin (GUARD/P) Case No. 14CEPR00806

Atty Robinson, Breshia (Pro Per – Maternal Great-Aunt – Petitioner)
Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Cont from 110514		
	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	x
	Aff.Mail	x
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	x
✓	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
	Objections	
	Video Receipt	
✓	CI Report	
✓	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
✓	UCCJEA	
	Citation	
	FTB Notice	

TEMP EXPIRES 11-5-14, extended to 12-3-14

BRESHIA ROBINSON, Maternal Great-Aunt, is Petitioner.

Father: **NOT LISTED**

Mother: **JEZELL BESS**
- Declaration of Due Diligence filed 9-2-14
- Notice dispensed per Minute Order 9-16-14

Paternal Grandfather: Not listed
Paternal Grandmother: Not listed

Maternal Grandfather: Not listed
Maternal Grandmother: Yolanda Moore

Petitioner states the mother is never home and does not have a home to care for the children in. The children are not properly clothed and Jasean has asthma that isn't receiving correct medical attention. The children go weeks without seeing their mother because she is too busy prostituting herself.

Court Investigator Dina Calvillo filed a report on 10-29-14.

NEEDS/PROBLEMS/COMMENTS:

Note: This petition pertains to the minor Jashaya only. See Page A regarding the minor Jasean.

Minute Order 11-5-14: The Court orders that the minor is not to be left alone with the mother for any reason between now and 12-3-14.

1. **Need clarification: Is Jashaya's last name: "Sumlin" (with a U) or "Somlin" (with an O)?**

   Note to Judge: Petitioner's handwriting is difficult to read. It was entered into Banner as "Sumlin," but the CI Report indicates Somlin. Examiner prepared the order as "Sumlin" to match Banner. If necessary, the order can be revised. The Court may need to make a "True Name Finding."
2. **Need Notice of Hearing.**
3. **Need proof of personal service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing pursuant to Probate Code §1511 or consent and waiver of notice or declaration of due diligence on:**
   - Jashaya's father
4. **Need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing pursuant to Probate Code §1511 or consent and waiver of notice or declaration of due diligence on:**
   - Yolanda Moore (Maternal Grandmother)
   - Maternal Grandfather
   - Maternal Grandmother
   - Paternal Grandfather
   - Paternal Grandmother

Reviewed by: skc
Reviewed on: 11-20-14
Updates:
Recommendation:
File 21B – Bess & Sumlin

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

22 Brooklyn Angelique Joy Moser (GUARD/P) Case No. 14CEPR00881

Atty Moser, Candice Angelique (pro per – maternal grandmother/Petitioner)

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

Age: 5 months		
Cont. from 100714		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	x
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	x
✓	**Conf. Screen**	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
	CI Report	x
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

TEMPORARY EXPIRES 12/03/14

CANDICE ANGELIQUE MOSER, maternal grandmother, is Petitioner.

Father: **UNKNOWN –** *Declaration of Due Diligence filed 09/29/14; Court dispensed with further notice on 10/07/14*

Mother: **SAMANTHA MOSER**

Paternal grandparents: UNKNOWN; *Petitioner states that the father is unknown and the Court dispensed with further notice to the father on 10/07/14*

Maternal grandfather: ROMAN GARCIA

Petitioner alleges that the mother is a prostitute and has a pimp that beats her. The mother placed the child in the petitioner's care temporarily however she wants to take the child back with her to spend time with her pimp.

Court Investigator Samantha Henson filed a report on – NEED REPORT.

NEEDS/PROBLEMS/COMMENTS:

1. Need *Notice of Hearing*.
2. Need proof of service of *Notice of Hearing* with a copy of the *Petition for Appointment of Guardian of the Person* at least 15 days before the hearing <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for:
   a. Samantha Moser (mother) – Personal service required
   b. Roman Garcia (maternal grandfather) – service by mail sufficient
   c. Paternal grandparents – service by mail sufficient; unless notice is dispensed
3. Need CI Report and Clearances – CI to provide.

Reviewed by: JF
Reviewed on: 11/20/14
Updates:
Recommendation:
File 22 - Moser

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

23 Mason Patrick Dahl (GUARD/P) **Case No. 14CEPR00882**

Atty Dahl, Joan Marie (pro per – maternal grandmother/Petitioner)

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

Age: 3		
Cont. from		
	Aff.Sub.Wit.	
✓	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	x
	Aff.Mail	x
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	x
✓	**Conf. Screen**	
✓	**Letters**	
✓	**Duties/Supp**	
	Objections	
	Video Receipt	
✓	**CI Report**	
	9202	
✓	**Order**	
	Aff. Posting	
	Status Rpt	
✓	**UCCJEA**	
	Citation	
	FTB Notice	

NO TEMPORARY REQUESTED

JOAN DAHL, maternal grandmother, is Petitioner.

Father: **SHAWN WHEELER**

Mother: **AMBER DAHL**

Paternal grandfather: DECEASED
Paternal grandmother: NAME NOT LISTED

Maternal grandfather: LARRY DAHL - *deceased*

Siblings: AYDN DAHL (7), CHELSEA WHEELER (14), SHAWNA WHEELER (13), LEVI WHEELER (11)

Petitioner states that the mother is on drugs. Mason was removed from his mother's care by CPS in the State of Washington and placed with his father. His father called Petitioner in August and asked her to care for Mason because he was no longer able to care for him. Petitioner states that she has been involved in Mason's life since birth.

Court Investigator Julie Negrete filed a report on 11/20/14.

NEEDS/PROBLEMS/COMMENTS:

1. Need *Notice of Hearing*.

2. Need proof of service of *Notice of Hearing* with a copy of the *Petition for Appointment of Guardian of the Person* or Consent & Waiver of Notice or Declaration of Due Diligence for:
   a. Shawn Wheeler (father) – personal service required
   b. Amber Dahl (mother) – personal service required
   c. Paternal grandmother – service by mail sufficient
   d. Chelsea Wheeler (sibling) – service by mail sufficient
   e. Shawna Wheeler (sibling) – service by mail sufficient

Reviewed by: JF	
Reviewed on: 11/21/14	
Updates:	
Recommendation:	
File 23 - Dahl	

24 Makayla Lynda Rubio (GUARD/P) **Case No. 14CEPR00892**

Atty Alcantar, Violeta (pro per – maternal grandmother/Petitioner)

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

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

TEMPORARY EXPIRES 12/03/14

VIOLETA ALCANTAR, maternal grandmother, is Petitioner.

Father: **DAVID RUBIO**

Mother: **MONICA RUBIO** – *personally served on 10/03/14*

Paternal grandfather: UNKNOWN
Paternal grandmother: LYNDA RUBIO – served by mail on 10/10/14

Maternal grandfather: FRANCISCO HERNANDEZ – *served by mail on 10/10/14*

Petitioner states that the father has a long history of incarceration and drug abuse. CPS has advised Petitioner to seek guardianship because the mother has continued to allow the father to have unsupervised contact with the minor. The Father is abusive to the mother and assaulted the mother while she was holding the minor on 09/15/14. Guardianship is necessary to keep the minor safe.

Court Investigator Dina Calvillo filed a report on 11/20/14.

NEEDS/PROBLEMS/COMMENTS:

1. Need *Notice of Hearing*.
2. Need proof of service of *Notice of Hearing* with a copy of the *Petition for Appointment of Guardian of the Person* at least 15 days before the hearing or Consent & Waiver of Notice or Declaration of Due Diligence for:
   a. David Rubio (father) – personal service required
   b. Paternal grandfather – service by mail sufficient

Reviewed by: JF
Reviewed on: 11/21/14
Updates:
Recommendation:
File 24 - Rubio

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

25 Mario Arcenis Martinez (CONS/P) **Case No. 14CEPR00978**

Atty Martinez, Maria Saravia (Pro Per – Mother – Petitioner)

Atty Martinez, Jose (Pro Per – Father – Petitioner)

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

	Aff.Sub.Wit.	
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	W
	Aff.Pub.	
	Sp.Ntc.	
✓	Pers.Serv.	W
✓	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
	Objections	
	Video Receipt	X
	CI Report	X
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
✓	Citation	
	FTB Notice	

MARIA and JOSE MARTINEZ, Parents, are Petitioners and request appointment as Co-Conservators of the Person with medical consent powers under Probate Code §2355.

Voting rights affected.

A Capacity Declaration was filed 10-23-14.

Petitioners state the proposed Conservatee is diagnosed with microcepfaly and his head/brain is significantly smaller than it should be for his age. He has the cognitive ability of a toddler. He has limited control over his body and often hits himself with his hands. He is wheelchair bound but can crawl. He can't use his arms to feed himself; others must feed him. He is nonverbal but will sometimes react to verbal and visual cues. He also suffers from other conditions. He attends Ramacher School and is a client of CVRC.

Court Investigator Samantha Henson to advise rights, file report.

NEEDS/PROBLEMS/COMMENTS:

Voting rights affected
- Need minute order

1. **Court Investigator Samantha Henson to advise rights, file report.**
2. **Need video receipt pursuant to Local Rule 7.15.8.A.**

Reviewed by: skc

Reviewed on: 11-20-14

Updates:

Recommendation:

File 25 - Matinez

26 Sylvia Valencia (Estate) **Case No. 14CEPR00857**

Atty Rodriguez, Frankie (for Primavera Damme – Daughter – Petitioner)

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

DOD: 8-1-13			**PRIMAVERA DAMME**, Daughter, is Petitioner and requests appointment as Administrator with Full IAEA with bond of $175,000.00.
Cont from 110314			Petitioner is a resident of Mesa, AZ.
	Aff.Sub.Wit.		
✔	**Verified**		Full IAEA – need publication
	Inventory		
	PTC		Decedent died intestate
	Not.Cred.		
	Notice of Hrg	x	Residence: Fresno Publication: need publication
	Aff.Mail	x	Estimated value of estate:
	Aff.Pub.	x	Personal property: $ 5,000.00 Real property: $ 170,000.00
	Sp.Ntc.		Total: $ 175,000.00
	Pers.Serv.		
	Conf. Screen		Probate Referee: Rick Smith
	Letters	x	
	Duties/Supp	x	
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order	x	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

NEEDS/PROBLEMS/COMMENTS:

<u>Continued from 11-3-14 at attorney's request. As of 11-20-14, nothing further has been filed</u>.

1. **Need Duties and Liabilities of Personal Representative (DE-147) and Confidential Supplement (DE-147S)**
2. **Need Notice of Petition to Administer Estate (DE-121)**
3. **Need proof of service of Notice of Petition to Administer Estate at least 15 days prior to the hearing pursuant to Probate Code §8110 on all parties listed at #8 of the petition:**
   - Javier F. Sanchez (son)
   - Daniel Adan Sanchez (son)
4. **Need publication pursuant to Probate Code §8120.**
5. **Need Order.**
6. **Need Letters.**

Reviewed by: skc

Reviewed on: 10-28-14

Updates:

Recommendation:

File 26 – Valencia

27 Charles Eric Woodward (F/Birth) **Case No. 14CEPR01051**

Atty Woodward, Errin E. (Pro Per – Mother – Petitioner)

Atty Woodward, Brent C. (Pro Per – Father – Petitioner)

Petition to Establish Fact, Time, and Place of Birth [Health & Safety Code §§ 103450-103490]

	Aff.Sub.Wit.	
✔	**Verified**	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	x
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

ERRIN and BRENT WOODWARD, Parents, are Petitioners.

Petitioners state there is no official record of the fact, time, and place of birth of Charles Eric Woodward and request that the Court make an order establishing the fact, time, and place of birth as follows:

Time of Birth: 8-11-09 at 11:45 p.m.
Place of Birth: Fresno County, CA

Declarations in support of petition state Charles was born at home in a planned home birth. Also present were Petitioner Brent Woodward (Father), and Anni Rodriguez, a certified midwife. When Petitioners first attempted to register the birth in 2010; however, a department representative from the Fresno County Dept. of Public Health made a mistake and the birth was not successfully registered. Another attempt was made in 2013 through the California Dept. of Public Health in Sacramento; however, the application was returned with instructions to correct technical problems. Charles is the sixth of seven children, and with raising the children and working, Petitioners have found it difficult to complete the process.

NEEDS/PROBLEMS/COMMENTS:

1. **Need Order Form VS-108, which is available from the California Office of Vital Records.**

Reviewed by: skc

Reviewed on: 11-20-14

Updates:

Recommendation:

File 27 - Woodward

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014

28 Neyaeh Gamino & Briana Gamino (GUARD/P) Case No. 14CEPR01053

Atty Gamino, Corine (pro per – maternal great-aunt/Petitioner)

Petition for Appointment of Temporary Guardian of the Person

Naveah, 3			**GENERAL HEARING: 01/22/15**	**NEEDS/PROBLEMS/COMMENTS:**
Brianna, 1			**CORINE GAMINO,** maternal great-aunt, is Petitioner. Father: **BRIAN GAMINO** Mother: **KRYSTIN GAMINO** – *Consent & Waiver of Notice filed 11/20/14* Paternal grandfather: RAYMOND GAMINO Paternal grandmother: JOSIE GAMINO Maternal grandfather: ALFRED GAMINO Maternal grandmother: JENNY FERNANDEZ-GORDON Siblings: EDWARD GAMINO **Petitioner states** that the children have been placed with her by CPS until the mother can provide a safe and stable home for the children.	1. Need *Notice of Hearing*. 2. Need proof of personal service of *Notice of Hearing* with a copy of the *Petition for Appointment of Temporary Guardian of the Person* at least 5 court days before the hearing <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: a. Brian Gamino (father)
Cont. from				
	Aff.Sub.Wit.			
✓	**Verified**			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg	x		
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.	x		
✓	**Conf. Screen**			
✓	**Letters**			
✓	**Duties/Supp**			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	**Order**			
	Aff. Posting			**Reviewed by:** JF
	Status Rpt			**Reviewed on:** 11/24/14
✓	**UCCJEA**			**Updates:**
	Citation			**Recommendation:**
	FTB Notice			**File 28 - Gamino**

Dept. 303, 9:00 a.m. Wednesday, December 3, 2014