

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

Department 1, Honorable Le Jacqueline Duong, Presiding

191 North First Street, San Jose, CA 95113
Telephone 408-882-2110

**ADVANCE CASE STATUS REPORT (“ACSR”)
(Local Probate Rule 1)**

GENERAL PROBATE CALENDAR – Department 1

DATE: Friday, September 20, 2024 TIME: 9:00am

*****NOTICE*****

**APPEARANCES MAY BE IN PERSON OR REMOTE THROUGH
MICROSOFT TEAMS**

**To find the appropriate remote appearance links please go to:
<https://santaclara.courts.ca.gov/online-services/remote-hearings>**

“PREAPPROVED” matters are those reviewed and found satisfactory. Personal appearance by the petitioning party is not required. Pre-approved matters to which objections are made may be continued. Orders for preapproved matters will be signed upon calling of the calendar and may be picked up for filing at that time.

“PROBATE EXAMINER NOTES” - If a matter is not preapproved, then the Probate Examiner will list procedural defects. Parties may file additional documents to correct procedural deficiencies, and the Court, in its discretion, may consider such filings in making its order. The Court may order a matter off calendar, grant it subject to additional filings, or order a continuance.

TROUBLESHOOTING

If you do not see the appropriate ACSR, then it has either not been posted yet or your web browser cache (temporary internet files) is accessing a prior calendar. “REFRESH” or “QUIT” your browser and reopen it, or adjust your internet settings to see only the current version of the web page. Your browser may access old information from old cookies even after the current calendar has been posted.

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LINE #	CASE #	CASE TITLE	ACSR/Examiner notes
LINE 1	18PR184370	<i>Liberato Family Trust dated June 29, 1994 and its subtrusts</i>	Click line #1 or scroll below to line #1 for probate examiner notes.
LINE 2	24PR197067	<i>ByPass Trust of George A. Sousa and Jean E. Souza</i>	No examiner deficiencies noted. Parties to appear for Court's ruling.
LINE 3	24PR197811	<i>Amanda Kate Fuehrer Special Needs Trust dated 6/21/2006</i>	Click line #3 or scroll below to line #3 for probate examiner notes.
LINE 4	24PR197067	<i>ByPass Trust of George A. Sousa and Jean E. Souza</i>	Click line #4 or scroll below to line #4 for probate examiner notes
LINE 5	24PR197332	<i>Estate of Asha Sharma</i>	Parties to appear.
LINE 6	24PR197797	<i>Trust of Lourdes Desvarro</i>	Click line #6 or scroll below to line #6 for probate examiner notes.
LINE 7	24PR197804	<i>Wilfred S. Chun Trust</i>	Parties to appear.
LINE 8	24PR197805	<i>Robert A. Packenham Revocable Trust</i>	PREAPPROVED
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LINE 27			
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18PR184370, Liberato Family Trust dated June 29, 1994 and its subtrusts

All previously-noted deficiencies appear to be outstanding.

Previously-Noted Procedural Deficiencies:

1. Survivor's Trust

- a. Total value of beginning Assets on hand** does not match the end assets on hand from the amended second account. Discrepancy of \$130,000. PrC section 1061(a)(1).
- b. Schedule A- Assets on Hand at Beginning of Account-** carry value of the R/P (Warbler property) was changed from \$1,350,000 to \$1,480,000. PrC section 1061(a)(1) and 1062(f). The carry value usually is the value when the Trustee acquires the asset, i.e., when she began serving as Trustee of the trust. Only the market value changes but not the carry value. What is the authority for changing the value? Note: TTE acted as sole TTE of the both trusts on 10/24/16. (If carry value is corrected, the total value of beginning assets on hand will change).
- c. Schedule A- Assets on hand** – inclusion of Mynd Operating Account for Warbler Property- this asset was not listed as trust asset at end of the second account. Petition does not provide any explanation or authority to include this asset in beginning asset on hand. Fiduciary Accounting Handbook (2017) sections, 5.8, 6.46.
- d. Receipts Schedule** re “Darwin Property Income” (\$10,461.29)- this real property is not an asset of the Survivor's Trust, why is income from this asset being reported in the survivor's trust?
- e. No Declaration in support of fees paid to:** 1) Johnston, Kinney & Zulaica (\$19,500) and 2) O'Neill & Rueppel, LLP (\$9,500). Probate Local Rule F.
- f. Schedule F- Assets on Hand at close of accounting-** carry value of the real property should be corrected. PrC section 1061(a)(1). (if corrected, the value of total assets on hand will change).

2. Bypass Trust

- a. Total value of beginning Assets on hand** does not match the end assets on hand from the amended second account. Discrepancy of \$122,000.02. PrC section 1061(a)(1).
- b. Schedule A- Assets on Hand at Beginning of Account-** carry value of the R/P (Darwin property) was changed from \$908,000 to \$1,030,000; carry value of the promissory note was changed from \$118,868.12 to zero. PrC section 1061(a)(1) and 1062(f).
- c. Schedule A- Assets on Hand at Beginning of Account** – addition of Mynd Operating Account for Darwin Property, and Second Loan Owed by the Survivor's

Trust to the Bypass Trust in list of beginning assets on hand. These assets were not listed in Schedule of end assets on hand in the second account. What is the authority of this sudden addition? PrC section 1061(a)(1).

- d. Beginning Assets on hand- exclusion of value of promissory note due from the Survivor's Trust of \$118,868.12 without explanation/authority. PrC section 1061(a)(1).
 - e. **No Declaration in support of fees paid to:** O'Neill & Rueppel, LLP (\$2,500).
Probate Local Rule F
3. Proof of service of notice of hearing is undated, unsigned and missing date of service.
 4. No proposed order submitted.

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24PR197067 *ByPass Trust of George A. Sousa and Jean E. Souza*

No examiner deficiencies noted. Parties to appear for Court's ruling.

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24PR197811, Amanda Kate Fuehrer Special Needs Trust dated 6/21/2006

Procedural Deficiencies

1. Petition #23 states the account period begins on 2/28/2019. Is this an error? SOA states the account begins on 2/28/2010, and accounting schedules show transactions beginning in 2010.
2. PEX requests explanation for items shown on various accounting schedules:
 - a. Schedule of “Additional Property Received” includes a number of miscellaneous line items that are not explained. For example: “From safe cash – Into Chase 9806—for Redwolf.” Or: “From safe cash – Into Chase 9806 – for Barbara Griswold.” Or: “Unknown – Automobile – proceeds to Chase 9806.” PEX requests a brief explanation of the Additional Properties Received.
 - b. Receipts Schedule includes monthly reimbursements made to the BNE for “animal care” in round amounts of \$50 or \$100. These do not match up to the expenses shown for animal care on the disbursements schedule. Was there some sort of agreement that BNE would receive a set monthly allowance for animal care expenses, to be deposited into the trust?
 - c. Receipts Schedule includes multiple pages indicating refunds for Rent. The refund amounts do not match the amounts for Rent in the Disbursements schedule. PEX would request explanation. Refunds are in amounts ranging from \$300 to \$1,510.00. Are the refunds some sort of “allowance” for rent?
3. Atty fee declaration filed 8/02/24: paragraph 3 states Mr. Keyes and his firm expended a total of 9.0 hours for a total fee of \$1,925.00. Is this an error? The next paragraph goes on to state that the firm expended a total of 20.60 hours, for a total of \$5,740.50.

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24PR197067 Bypass Trust of the George A. Souza and Jean E. Souza
Revocable Living Trust

Proposed order needs to be revised re Findings #1- what was the missing word? Re: order #1 re language "Petitioner's Petition is GRANTED in part." What part of the petition was granted? Then order goes on to say that the entire petition is granted. Then at #2 it says all remaining requests in the petition is continued. Petition needs to be clear so as to avoid any confusion. If Petitioner is unsure of what the Court order will be, it might be preferred to submit the appropriate order after the hearing.

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24PR197797, Trust of Lourdes Desvarro

Procedural Deficiencies

1. Petition includes a verification clause signed by Mr. Anthony Desvarro, but the clause states: "I, Anthony N. Desvarro, declare **under penalty** the foregoing is true and correct." (Emphasis added.) Is this sufficient? This omits the usual phrase "**under penalty of perjury.**" CCP 2015.5.
2. No proof of service filed or in e-filing queue as of 9/18/24.
3. No proposed order.

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24PR197804 Wilfred S. Chun Trust

Parties to appear.

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24PR197805 Robert A. Pakenham Revocable Trust

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