

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and address):
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 ATTORNEY FOR (Name): [REDACTED]

FOR COURT USE ONLY

ENDORSED FILED
SAN MATEO COUNTY

OCT 30 2013

Clerk of the Superior Court
 By **MARIA J. PEÑA**
 DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo County
 STREET ADDRESS: 400 County Center
 MAILING ADDRESS: 400 County Center
 CITY AND ZIP CODE: Redwood City, CA 94063
 BRANCH NAME: Southern

GUARDIANSHIP CONSERVATORSHIP OF THE PERSON ESTATE
 OF (Name) [REDACTED]
 MINOR (PROPOSED) CONSERVATEE

NOTICE OF HEARING - GUARDIANSHIP OR CONSERVATORSHIP

CASE NUMBER:
 [REDACTED]

This notice is required by law.
 This notice does not require you to appear in court, but you may attend the hearing if you wish.


1. NOTICE is given that (name): [REDACTED]
 (representative capacity, if any):
 has filed (specify):
 PETITION FOR APPROVAL AND FACTUAL FINDINGS TO PERMIT MINOR'S
 APPLICATION FOR SPECIAL IMMIGRANT JUVENILE STATUS
2. You may refer to documents on file in this proceeding for more information. (Some documents filed with the court are confidential. Under some circumstances you or your attorney may be able to see or receive copies of confidential documents if you file papers in the proceeding or apply to the court.)
3. The petition includes an application for the independent exercise of powers by a guardian or conservator under
 Probate Code section 2108 Probate Code section 2590.
 Powers requested are specified below specified in Attachment 3.

4. A HEARING on the matter will be held as follows:

a. Date: **DEC 16 2013** Time: **9am** Dept.: **28** Room:

b. Address of court same as noted above is (specify):

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for Request for Accommodations by Persons with Disabilities and Order (form MC-410). (Civil Code section 54.8.)



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7 Attorney for Petitioner
8 [REDACTED]

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SAN MATEO COUNTY

OCT 30 2013

Clerk of the Superior Court
By MARIA J. PEÑA
DEPUTY CLERK

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN MATEO

11 PROBATE DIVISION

12 In the matter of:

13) Case No.: [REDACTED]

14) PETITION FOR APPROVAL AND
15) FACTUAL FINDINGS TO PERMIT
16) MINOR'S APPLICATION FOR SPECIAL
17) IMMIGRANT JUVENILE STATUS

18) [Filed with Memorandum of Points and
19) Authorities in Support of Petition]

DEC 16 2013

Date:

Time: *9am*

Dept.: *28*

20 a Minor

21 Pursuant to California Probate Code § 2359, [REDACTED] requests the
22 Court's approval of her proposal to submit an application to U.S. Citizenship &
23 Immigration Services ("CIS") for Special Immigrant Juvenile Status ("SIJS") under
24 Section 101(a)(27)(J) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(27)(J)
25 for her grandson, [REDACTED], a minor. Petitioner alleges as
26 follows:

- 27 1. [REDACTED] is the proposed guardian of the person of [REDACTED], a minor.
- 28 2. [REDACTED] resides with his proposed guardian in Redwood City, California.

1 3. [REDACTED] was born on [REDACTED] in El Salvador. A true and correct copy of
2 [REDACTED]'s birth certificate, with a certified English translation, is attached to the
3 guardianship petition. His parents are [REDACTED] and [REDACTED].

4 4. [REDACTED] was raised by his aunt in El Salvador. He never had a relationship with his
5 father. His father never acknowledged him as his son. [REDACTED]'s mother abandoned him
6 when he was 5 years old. He has had no contact with her since this time.

7 5. [REDACTED] could not afford to continue to go to school in El Salvador and he felt
8 threatened by gangs in his neighborhood. [REDACTED] came to the United States to live with
9 his grandmother, the proposed guardian [REDACTED].

10 6. [REDACTED] is doing well living with his grandmother. He is attending school. He
11 hopes to graduate high school and pursue higher education.

12 7. [REDACTED] wants to stay in the United States because he feels safer here. He wants to
13 have a career, which he does not believe he can do in El Salvador.

14 8. Petitioner is informed and believes that [REDACTED] is presently an undocumented
15 child. He meets the eligibility requirements for SIJS under the Immigration and
16 Nationality Act and applicable regulations. Petitioner believes that it is in [REDACTED]'s best
17 interests to petition CIS for SIJS.

18 9. Petitioner is informed and believes that under the Immigration and Nationality
19 Act, [REDACTED] cannot file his petition with CIS until the Court, as the Court having
20 jurisdiction over [REDACTED] and his proposed guardianship, makes the following factual
21 findings establishing his eligibility to submit the petition:

22 a. [REDACTED] is dependent upon the juvenile court or has been legally committed
23 to, or placed under the custody of, an agency or department of a State, or
24 an individual or entity appointed by a State or juvenile court, within the
25 meaning of Section 101(a)(27)(J) of the Immigration and Nationality Act,
26 8 U.S.C. § 1101(a)(27)(J).

27 b. [REDACTED]'s reunification with one or both parents is not viable due to abuse,
28 neglect, abandonment or similar basis found under State law within the
meaning of 8 U.S.C. § 1101(a)(27)(J); and

1 c. It is not in [REDACTED] "best interest" to be returned to his or his parents'
2 previous country of nationality or country of last habitual residence within
3 the meaning of 8 U.S.C. § 1101(a)(27)(J) and 8 C.F.R. § 204.11(d)(2)(iii).
4

5 WHEREFORE, Petitioner prays that:

6 1. This Court approves [REDACTED] proposal to file an application to CIS to grant him
7 SIJS under the applicable provisions of the Immigration and Nationality Act and
8 applicable regulations;

9 2. This Court issue the factual findings necessary to enable [REDACTED] petition for
10 SIJS, that:

11 a. [REDACTED] is dependent upon the juvenile court or has been legally committed
12 to, or placed under the custody of, an agency or department of a State, or
13 an individual or entity appointed by a State or juvenile court, within the
14 meaning of Section 101(a)(27)(J) of the Immigration and Nationality Act,
15 8 U.S.C. § 1101(a)(27)(J).

16 b. [REDACTED] reunification with one or both parents is not viable due to abuse,
17 neglect, abandonment or similar basis found under State law within the
18 meaning of 8 U.S.C. § 1101(a)(27)(J); and

19 c. It is not in [REDACTED] "best interest" to be returned to his or his parents'
20 previous country of nationality or country of last habitual residence within
21 the meaning of 8 U.S.C. § 1101(a)(27)(J) and 8 C.F.R. § 204.11(d)(2)(iii).

22 3. That this Court grant such other orders as are necessary and proper.

23 Dated this 23rd day of October, 2013, at East Palo Alto, California.

24 By: 

25 HELEN BEASLEY
26 Attorney for Petitioner
27 Maria Angelica Flores
28


VERIFICATION

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I am the petitioner in this action. I have read the foregoing petition and it is true to the best of my own knowledge, except as to those matters stated on information or belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: 10/23/13
East Palo Alto, California



Maria Angelica Flores

Under the statute, a Special Immigrant Juvenile is an unmarried person under the age of twenty-one who is in the United States, who has been declared dependent on a juvenile court located in the United States or whom a juvenile court has legally committed to, or placed in the custody of, an agency or department of a State or of an individual or entity appointed by a State or juvenile court, and whose reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis found in state law. 8 U.S.C. § 1101(a)(27)(J).

For ██████████ to be eligible to apply to USCIS for SIJS, a juvenile or state court must first make several findings of fact. The required findings are as follows:

1. The child is dependent upon the juvenile court or has been legally committed to, or placed in the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court, within the meaning of 8 U.S.C. § 1101(a)(27)(J);
2. The child's reunification with one or both parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law, within the meaning of 8 U.S.C. § 1101(a)(27)(J);
3. It is not in the "best interest" of the child to be returned to his or his parents' previous country of nationality or country of last habitual residence, within the meaning of 8 U.S.C. § 1101(a)(27)(J).

The juvenile or state court, rather than the immigration authorities, is charged with making these findings because of its expertise and experience in juvenile matters. However, these factual findings, standing alone, will not entitle ██████████ to Special Immigrant Juvenile Status or to lawful permanent residency in the United States. Rather, they will serve as a *prerequisite* to the filing of a petition for such immigration relief with USCIS. See 8 C.F.R. § 204.11(d). Without the requested court order, ██████████ cannot petition USCIS for SIJS. *Id.* He must submit the order to USCIS as part of his

1 petition for SIJS. USCIS retains complete discretionary authority to approve or deny [REDACTED]
2 petition for SIJS and application for permanent residency. [REDACTED] respectfully requests that the Court
3 issue an order making the appropriate findings of fact to enable him to petition for SIJS and apply for
4 lawful permanent residency.

5 6 II. STATEMENT OF FACTS

7 [REDACTED] was born on [REDACTED], in San Salvador, El Salvador. [REDACTED] mother is [REDACTED]
8 [REDACTED]

9 [REDACTED] father abandoned him before he was born. His name does not appear on [REDACTED] birth
10 certificate. However, [REDACTED] mother stated that his father was [REDACTED]. [REDACTED] has
11 never had a relationship with his father. His father has never acknowledged [REDACTED] as his son. His
12 father has never communicated with him and has never provided any financial support for him.

13 [REDACTED] has only seen his father from a distance in passing, despite his father residing nearby.

14 [REDACTED] was abandoned by his mother when he was 5 years old. His mother left El Salvador for
15 Guatemala in December 2005. He has not communicated with her since she left. She has not
16 provided any financial support for him since this time.

17 [REDACTED] was raised by his maternal aunt, [REDACTED], in El Salvador. His maternal
18 grandmother, the proposed guardian [REDACTED], maintained a strong relationship with
19 [REDACTED] by speaking to him regularly on the phone and by sending money and gifts to El Salvador for
20 him. His maternal grandmother has had occasional contact with his mother; however, his mother has
21 not attempted to communicate with him.

22 [REDACTED] came to the United States in March 2013 to reunite with his maternal grandmother and
23 to flee the gangs in his neighborhood. There was significant gang activity in his neighborhood.

[REDACTED] was afraid of gang members who congregated outside of his house and his school. [REDACTED]

1 was also no longer able to attend school in El Salvador at the beginning of 2013 because it was too
2 expensive.

3 In the United States, [REDACTED] has been able to return to school. He is in the 8th grade at [REDACTED]
4 [REDACTED]. He hopes to graduate from high school and have a career. He would like
5 to attend military college. He feels safer in the United States, and wishes to remain here with his
6 maternal grandmother.

7
8 **III. ARGUMENT**

9 a. **THIS COURT IS A "JUVENILE COURT" THAT IS AUTHORIZED TO MAKE
10 FACTUAL FINDINGS FOR SPECIAL IMMIGRANT JUVENILE STATUS.**

11 For [REDACTED] to qualify to apply for Special Immigrant Juvenile Status, factual findings must be
12 made by a state "juvenile court." 8 U.S.C. § 1101(a)(27)(J)(i); 8 C.F.R. § 204.11. Immigration
13 regulations define the term "juvenile court" as "a court located in the United States having
14 jurisdiction under state law to make judicial determinations about the custody and care of juveniles."
15 8 C.F.R. § 204.11(a). This definition is broader than the usage of the term "juvenile court" in the
16 California Welfare & Institutions Code, which refers to dependency courts as juvenile courts. *See*
17 *Cal. Wel. & Inst. Code § 300 et seq.* The Court of Appeal, Second Appellate District, concluded that
18 a superior court in a probate guardianship proceeding is a "juvenile court" for the purpose of making
19 the requisite factual findings for Special Immigrant Juvenile Status. *B. F., et al., Minors v. Superior*
20 *Court* (2012) 207 Cal.App.4th 621, 627-29. The Court of Appeal reasoned that in making a probate
21 guardianship decision, the state court is making a "judicial determination about the custody and care"
22 of the minor. Therefore, this Court clearly qualifies as a "juvenile court" for purposes of the statutory
23 definition, such that it has the authority to make factual findings to establish the minor's eligibility for
Special Immigrant Juvenile Status.

ff ff

1 **b. ██████ IS "DEPENDENT" UPON THIS COURT.**

2 For the purpose of Special Immigrant Juvenile Status, "[t]he acceptance of jurisdiction
3 over the custody of a child . . . makes the child dependent on the juvenile court." *Matter of Jose A.*
4 *Menjivar*, 29 Immig. Rptr. B2-37 (1994). In establishing a guardianship of the person, this Court is
5 accepting jurisdiction over the custody of ██████ such that he is dependent on the juvenile court for
6 the purposes of SIJS. Additionally, ██████ is a child who has been placed in the custody of an
7 individual appointed by this Court, because he has been placed in the custody of his guardian.

8

9 **c. REUNIFICATION WITH ONE OR BOTH OF ██████ PARENTS IS NOT**
10 **VIALE DUE TO ABUSE, ABANDONMENT, OR NEGLECT, OR A SIMILAR**
11 **BASIS UNDER STATE LAW.**

12 In order to be eligible for Special Immigrant Juvenile Status ██████ must show that
13 reunification with "one or both parents" is not viable due to abuse, abandonment, or neglect, or a
14 similar basis under state law. 8 U.S.C. 1101(a)(27)(J)(i). Reunification is not viable with either of
15 ██████ parents on account of abandonment. ██████ has never had a relationship with his father.
16 His father abandoned him and his mother before ██████ was born. His father has never
17 acknowledged ██████ as his son. He failed to provide financial or emotional support for ██████
18 ██████ has never spoken to his father, and has only seen him in passing from a distance. ██████ was
19 abandoned by his mother when he was approximately 5 years old. His mother left El Salvador to live
20 in Guatemala. ██████ was left with his maternal aunt, who raised him in El Salvador. ██████
21 mother failed to communicate with him and failed to provide any financial support for him. ██████
22 has not spoken to his mother since she abandoned him. ██████ maternal grandmother, the proposed
23 guardian and petitioner in this matter, has had intermittent contact with ██████ mother. This failure

1 to communicate and provide support constitutes abandonment under California law. Reunification
2 with [REDACTED] parents is thus not viable due to abandonment.

3
4 **d. IT IS NOT IN [REDACTED] BEST INTEREST TO RETURN TO EL SALVADOR,
5 HIS COUNTRY OF ORIGIN.**

6 In order to be eligible for Special Immigrant Juvenile Status, this Court must find that it is
7 not in [REDACTED] best interest to return to his country of origin. 8 U.S.C. § 1101(a)(27)(J)(i). In order
8 for the court to make this determination, it should examine all of the circumstances affecting the
9 child's well-being and interests. *See* 8 C.F.R. § 204(c)(6). [REDACTED] present situation shows that it is
10 indeed not in his best interest to return to El Salvador, his country of origin.

11 [REDACTED] left El Salvador to reunite with his maternal grandmother and to flee gang activity
12 in his neighborhood. He felt threatened by gang members who congregated outside of his house and
13 his school. He was no longer able to attend school at the beginning of 2013 because he could not
14 afford the necessary supplies. He hoped to have a better life in the United States.

15 [REDACTED] is attending school in the United States. He hopes to graduate and pursue a career.
16 He would like to attend military college. He does not believe he would have the same opportunities
17 in El Salvador. [REDACTED] is currently living with his maternal grandmother, who has been providing
18 him with a safe and stable home. It is therefore in [REDACTED] best interest not to be returned to El
19 Salvador, his country of origin.

20 **IV. CONCLUSION**



21 For purposes of his eligibility to apply for Special Immigrant Juvenile Status with U.S.
22 Citizenship and Immigration Services, [REDACTED] falls under the provisions of the statute. He is
23 dependent on this Court. Reunification with his parents is not viable due to abandonment. It is not in

1 [REDACTED] best interest to be returned to El Salvador. This Court's declaration of these facts will
2 enable [REDACTED] to apply for lawful permanent residency in the United States, which, if granted, will
3 allow him a chance for a healthy, safe and stable life.

4 Without this Court's findings, [REDACTED] will likely not qualify for immigration relief and he
5 faces possible deportation to El Salvador. For the foregoing reasons, [REDACTED]
6 respectfully requests that this Court issue an order making the requisite findings enabling her
7 grandson [REDACTED] to petition the Immigration Services for Special Immigrant
8 Juvenile Status.

9
10 Dated: October 28, 2013

Respectfully submitted,

11
12  
13 Helen Beasley
Attorney for Petitioner

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4 Attorney for Petitioner
5 [REDACTED]

ENDORSED FILED
SAN MATEO COUNTY

OCT 30 2013

Clerk of the Superior Court
By **MARIA J. PEÑA**
DEPUTY CLERK

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **COUNTY OF SAN MATEO**
8 **PROBATE DIVISION**

9 **123867**

10 In the matter of:

) Case No.:

) **DECLARATION OF MINOR IN**
) **SUPPORT OF REQUEST FOR ORDER**
) **ESTABLISHING MINOR'S ELIGIBILITY**
) **FOR SPECIAL IMMIGRANT JUVENILE**
) **STATUS**

11 [REDACTED],
12
13 a Minor
14

15 I, [REDACTED], declare as follows:

- 16 1. I am thirteen years old. I was born in [REDACTED] In El Salvador, I
17 grew up with my aunt, my younger sister, and my cousin.
- 18 2. My mom's name is [REDACTED]
- 19 3. My mom lived with us until I was five. She left on [REDACTED] I remember
20 that on that day I was playing with some friends. My mom was outside our house with her
21 boyfriend, who was from Guatemala, and my younger sister. I wanted to go inside the house to play
22 with my friend. The door was locked and my aunt had the keys. I told my mom that I was going to
23 go to my aunt to ask for the keys. I went to where my aunt was to get the keys. We went back to

1 the house with my aunt, and my mom wasn't outside the house anymore. She and my sister were
2 gone. At midnight, one of our neighbors arrived and said that she had my sister. My mom had left
3 my sister with my neighbor.

4 4. A few days later, my mom called and said that she was going to come back. But she
5 didn't come back.

6 5. About a week later, we were at my great-grandmother's house. My mom arrived at
7 my great-grandmother's house to ask for the keys to our house so she could get her clothes. I wasn't
8 allowed to see her. They gave her the keys, and she went to the house to get her clothes and her
9 things. After that I didn't see her again. I never had a chance to say goodbye to her. She didn't
10 leave a note or anything for me in the house. She didn't try to call me after she left.

11 6. I felt sad because my mom had gone away and she hadn't said anything to me.

12 7. I never talked to her again after that. She never sent me cards or presents for my
13 birthday or for Christmas. She didn't send any money or anything to my aunt to help care for me. I
14 think she has been living in Guatemala since she left.

15 8. My dad's name is [REDACTED]

16 9. I know who my dad is because my mom told me when she was still living with us in
17 El Salvador. But I have never met my dad or talked to him. I saw him from far away a few times
18 while I was living in El Salvador. He lived near my aunt's house. But he never tried to talk to me
19 and he never sent my aunt or my mom money to take care of me. He never acted like a father
20 towards me.

21 10. I feel bad because I didn't have a mom or a dad. It's difficult because I've never had
22 the love of my parents.

23

1 11. I came to the U.S. to have a better life here and because things weren't good with my
2 aunt in El Salvador. She didn't like me going out because there were a lot of gangs in our
3 neighborhood. She always wanted me to be inside the house. We would get into arguments and she
4 would insult me. She would say things to make me feel bad, like that I was never going to be
5 anyone and that I was nobody to her. It made me feel bad when she said these things because she
6 was the only person that I had.

7 12. I was also afraid of the gangs. My neighborhood was a red zone, which means that it
8 was very dangerous. Sometimes at night they would stand right outside my house and smoke
9 marijuana. At times they were outside my school. When they were by my school, I would walk
10 home with my friends because I felt a little bit safer with my friends.

11 13. I had to stop going to school in El Salvador after 7th grade because it was too
12 expensive. I was not able to buy the uniform and school supplies to start 8th grade.

13 14. I like living in the United States. I like being with my grandmother and my uncle, and
14 there is less danger here. I can study and have a career here. I like going to school. Math is my
15 favorite subject. I'd like to go to graduate high school and then go to a military school here in the
16 United States. I'd also like to go to college. I don't think I could do this in El Salvador. There
17 aren't many resources to do that in El Salvador.

18 15. I ask that this Court allow me to apply to remain in the United States.

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20 I declare under penalty of perjury that the foregoing was read to me in my native language, Spanish,
21 and that it is true and correct to the best of my ability.

22 Dated: 10/23/13

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I certify that I, Marco A. Medellin, am fluent in the Spanish and English languages, and that I read the foregoing to [REDACTED] in his native language, Spanish.

Executed this 23rd of October, 2013, at East Palo Alto, California.

Marco A. Medellin
Signature