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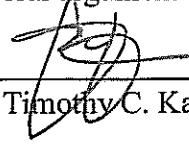
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8 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN DIEGO, PROBATE DEPARTMENT**  
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11 In re: ) Case No. 37-2008-00151642-PR-TR-CTL  
12 )  
13 Amended and Restated Kennedy Living Trust ) **EX PARTE APPLICATION FOR**  
Dated: March 22, 2002 ) **ORDER APPROVING OF**  
14 ) **SETTLEMENTS REGARDING**  
15 ) **AMENDED AND RESTATED**  
16 ) **KENNEDY LIVING TRUST DATED:**  
17 ) **MARCH 22, 2002**  
18 )  
19 Lisa Kennedy, ) The Honorable Julia C. Kelety  
20 ) Department: PC-2  
21 )  
22 Interested Party. )  
23 )  
24 ) Hearing Date:  
25 ) Time:  
26 )  
27 )  
28 )

20 Petitioner Jack F. Kennedy, III hereby applies to the Court ex parte for an order approving of two  
21 settlements that have been entered into in this matter, which have been submitted as Exhibits "1" and  
22 "2" to the proposed order submitted concurrently. If approved, the two settlements will not only resolve  
23 this dispute, but will also settle a related lawsuit and claims which have not yet been filed, and will  
24 provide a mechanism for the payment of unpaid and overdue child support and alimony for which there  
25 is presently no other means of payment.  
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1 This petition will be based upon the accompanying declaration of Timothy C. Karen, the  
2 attached memorandum of points and authorities, the pleadings and papers on file in this case, things as  
3 to which the Court may take judicial notice, and the oral argument at the hearing on the petition.

4 Dated: 7-16-09

5 By:   
Timothy C. Karen, Attorney for Petitioner

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**MEMORANDUM OF POINTS AND AUTHORITIES**

Petitioner submits the follow memorandum of points and authorities in support of the ex parte application:

**I.**  
**INTRODUCTION**

The purpose of this ex parte application is to seek an order of this Court approving two written settlements that have been entered into resolving this dispute and other related disputes among members of the Kennedy family in several different forums. The settlements are attached as Exhibits "1" and "2" to the proposed order submitted herewith.

Exhibit "1" is a settlement between the beneficiaries of the Amended and Restated Kennedy Living Trust Dated: March 22, 2002 (the "Kennedy Trust Settlement"). Exhibit "2" is a settlement between Petitioner and Interested Party Lisa Kennedy, and it pertains to unpaid alimony and child support incurred in the divorce proceedings between the two former spouses (the "Support Settlement").

The Court should issue an ex parte order approving of both settlements, because they are fair and proper, and there are no objections to them, so far as Petitioner knows, and time is of the essence, as will be explain further below.

At the time of the filing of these papers, all interested parties have signed the Kennedy Trust Settlement except for Petitioner's daughter, and it is hoped that before the hearing on this application, her signature will have been obtained. However, even if Petitioner's daughter fails to sign the settlement, Court should still approve of the settlement, because Petitioner's daughter has no grounds to object to the Kennedy Trust Settlement. As to the Support Settlement, it merely represents an agreement on dividing up the consideration that will be received by Petitioner under the Kennedy Trust

1 Settlement, and as such, there can be no legitimate objection raised by anyone to it.

2 **II.**  
3 **FACTUAL BACKGROUND**

4 The following facts are established in the accompanying declaration of Timothy C. Karen:

5 Petitioner is the son and only surviving issue of Respondent and Nancy Kennedy, deceased. In  
6 the instant proceeding, Petitioner successfully sought a safe harbor declaration under Probate Code  
7 §21320. The declaration concerned two proposed legal proceedings involving Petitioner's father<sup>1</sup>: 1)  
8 a petition challenging the validity of the fourth amendment to the Amended and Restated Kennedy  
9 Living Trust Dated March 22, 2002 (the "Kennedy Trust Challenge Case" and 2) a proposed complaint  
10 for elder abuse involving Nancy Kennedy, the deceased mother of Petitioner and the wife of Respondent  
11 (the "Elder Abuse Case"). The order of the Court granting the petition under Probate Code §21320 is  
12 presently on appeal.  
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15 Petitioner is also a party in, inter alia, two other legal proceedings: 1) a lawsuit for wrongful  
16 termination of employment against Respondent and the family Cadillac dealership, Kennedy Cadillac,  
17 Jack F. Kennedy III v. Jack F. Kennedy, et al., San Diego Superior Court Case Number  
18 37-2008-00086320-CU-WT-CTL (the "Wrongful Termination Case"), and 2) an ongoing dispute over  
19 unpaid alimony and child support in the marital dissolution proceedings involving Petitioner's former  
20 spouse, Interested Lisa Kennedy, Kennedy v. Kennedy, San Diego Superior Court Case Number  
21 DN127261 (the "Support Case").  
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23 A mediation was held between Petitioner, Respondent and the Interested Party affiliated with  
24 the University of California on January 22, 2009, and this mediation resulted in a rough verbal  
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27 <sup>1</sup> Respondent Jack F. Kennedy aka Jack F. Kennedy II, aka Jack F. Kennedy, Sr., aka John  
28 Fitzgerald Kennedy, II."

1 settlement of the instant case, the Kennedy Trust Challenge Case, the Elder Abuse Case, and the  
2 Wrongful Termination Case. After several more months of negotiations, a written agreement was  
3 finalized. A copy of the settlement agreement has been submitted herewith in connection with this  
4 application under separate cover (the "Kennedy Trust Settlement"). The Kennedy Trust Settlement  
5 agreement has been signed by all of the beneficiaries of the Kennedy Trust except for Petitioner's  
6 daughter.  
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8 After the finalization of the wording of the Kennedy Trust Settlement, but before it had been  
9 fully executed, Interested Party Lisa Kennedy filed an ex parte application in the instant case to freeze  
10 the settlement proceeds of the Kennedy Trust Settlement in order to insure that child support and  
11 alimony owed by Petitioner was paid out of the settlement. On May 26, 2009, the Court has issued a  
12 temporary order freezing the settlement and this petition has been continued for a hearing on August 5,  
13 2009 at 1:30 p.m.  
14

15 After about two months of negotiations between Petitioner's attorney and attorney Paul Daniel  
16 Marks, representing Lisa Kennedy, a written settlement in the form of a stipulation with an attached  
17 proposed order was finalized and signed pursuant to which, the proceeds of the Kennedy Trust  
18 Settlement will be allocated between Petitioner and Interested Party Lisa Kennedy (the "Support  
19 Settlement"). This stipulation has been submitted concurrently under separate cover.  
20

21 The key terms of the Kennedy Trust Settlement can be summarized as follows: The Kennedy  
22 Trust By-Pass Trust will pay Petitioner \$10,000 upon the signing of the Kennedy Trust settlement and  
23 an additional \$100,000 after this Court has approved of the Kennedy Trust settlement - these payments  
24 will be an advance to Petitioner on his inheritance under the Kennedy Trust; a boat owned by the  
25 Survivor's trust will be swapped for real property owned by the By-Pass trust, and the boat will then be  
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1 transferred to Petitioner as an advancement on his inheritance, and Petitioner will attempt to sell it; all  
2 litigation between the father and son will be terminated and all claims released as between them; the  
3 settlement will be null and void if the Court does not approve of it.

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5 The key terms of the Support Settlement can be summarized as follows: as to the consideration  
6 paid to Petitioner in the Kennedy Trust settlement, Interested Party Lisa Kennedy will receive 60%, after  
7 the payment of Petitioner's attorney's fees (a one-third contingency fee), and Petitioner will get 40%;  
8 Lisa Kennedy shall have a lien on the boat which cannot be used as a residence by Petitioner; if there  
9 is any recovery in Jack F Kennedy v. Daniel T Hatt, et al., San Diego Superior Court Case Number  
10 37-2008-00099329-CU-PN-CTL (the "malpractice case"), Interested Party Lisa Kennedy will receive  
11 60% after the payment of attorney's fees (a one-third contingency fee), and Petitioner will get 40%.  
12 Payments made to Lisa Kennedy will be first credited to unpaid child support, and after child support  
13 and interest on child support has been fully paid, will be credited on alimony and interest on alimony,  
14 until the same are paid in full, if possible. Any unpaid support or interest will remain due and payable.

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17 At time of the filing of these papers, all of the beneficiaries of the Kennedy Trust had signed the  
18 Kennedy Trust Settlement, except for Petitioner's daughter, Alexandra Mae Kennedy a.k.a. "Lexie  
19 Kennedy."

20 Lexie Kennedy was provided the settlement about two months ago, and she has stated to  
21 Petitioner's attorney that she intends to sign the settlement and has no objection to it. However, she has  
22 recently retained an attorney, Mark Dunbar ("Dunbar") and Dunbar presumably will attend the hearing  
23 on this application. Dunbar will be served with these papers and notice of the hearing on this  
24 application, as will Lexie Kennedy. Petitioner is hopeful that before the hearing, he will have obtained  
25 Lexie Kennedy's signature on the Kennedy Trust Settlement.  
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1 Petitioner, who formerly was a highly paid executive of the family Cadillac dealership, is  
2 presently financially destitute and is employed as a commission only boat salesman. Needless to say,  
3 boat sales are very slow. However, the bulk of the funding for the Kennedy Trust Settlement involves  
4 the transfer to Petitioner of a 65 foot boat, presently owned by the Survivor's Trust. It is Petitioner's  
5 plan to immediately put the boat up for sale. However, in the present economy, boat sales are very  
6 depressed and the time to sell a large boat is in the summer time. If there is a delay of a month or two  
7 in connection with the Court's approval of the settlement, it may make it impossible for Petitioner to  
8 sell the boat. Moreover, Petitioner owes Interested Party Lisa Kennedy hundreds of thousands of dollars  
9 in unpaid support, both child support and alimony. The sale of the boat will fund the bulk of the  
10 payments to be made by Petitioner of this unpaid support. Therefore, time is of the essence if the  
11 settlement is to be of benefit to Petitioner and Interested Party.  
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15 **III.**  
**THE COURT SHOULD APPROVE OF THE SETTLEMENTS**

16 The Court has the inherit power to approve of the Kennedy Trust Settlement and the Support  
17 Settlement. Both are fair, just and reasonable. It is hoped that at the time of the hearing on this  
18 application, Petitioner's daughter will have signed the Kennedy Trust Settlement, such that all  
19 beneficiaries of the Kennedy Trust will have signed. However, even if Petitioner's daughter does not  
20 sign the settlement, the Court should still approve the settlements, because she has no legitimate basis  
21 to object thereto.  
22

23 Respectfully submitted.

24 Dated: 7-16-09

25 By:   
Timothy C. Karen, Attorney for Petitioner