Superior Court of the State of California
County of Orange
TENTATIVE RULINGS FOR DEPARTMENT CM05
HON. Judge Ebrahim Baytieh

Date: 10/16/2026

Court Room Rules and Notices

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#	Case Name	Tentative
1	**Minkley - Trust** **30-2022-01258737**	**MOTION TO CLARIFY** Relevant Procedural History. This proceeding arises out of the Kathleen E. Minkley Revocable Living Trust ("Trust"). In May 2022, Jacob Minkley ("Jacob"), grandson of trustor Kathleen E. Minkley ("Decedent") and a beneficiary of the Trust, filed a petition (ROA 2, hereinafter the Initial Petition) alleging breach of fiduciary duties, financial elder abuse, undue influence, etc., against the successor trustee Susan M. Naylor ("Susan"). More than one individual involved in this case share a surname. For clarity, the court is using first names without intending any disrespect. (*Morgan v. Superior Court* (2018) 23 Cal. App. 5th 1026. fn.1) On October 10, 2024, Jacob filed a Verified Petition seeking an accounting (ROA 258, hereinafter the "Accounting Petition"). On June 5, 2025, Ann Ohrnberger ("Ann") and Bruno Naylor ("Bruno"), Decedent's grandchildren and beneficiaries of the Trust, filed a Verified Petition to Enforce the No Contest Clause of the Kathleen E. Minkley Trust and Disinherit the Contestants, i.e. Jacob Minkely and his father John Minkely. (ROA 357, hereinafter the "No Contest Petition".) The No Contest Petition asserted Jacob's filing of the Initial Petition violated the Trust's no contest provisions. On October 16, 2025, Jacob filed a special motion to strike the No Contest Petition (ROA 387, herein after the "Anti-SLAPP Motion").

		On October 29, 2025, Jacob amended his Initial Petition (ROA 401, hereinafter "Amended Petition"). The Amended Petition, which supersedes the Initial Petition and is the operative pleading, included the same claims as the Initial Petition with added requests for orders cancelling a deed and deeming Susan to have predeceased the Decedent. The Anti-SLAPP Motion was heard and denied on April 3, 2026. (ROA 469.) In making its ruling, the court determined the claims in the No Contest Petition arose from protected activity, i.e. Jacob's filing of a probate petition. The court further determined that Ann and Bruno sufficiently demonstrated a probability of success on the claims. The burden of establishing such a "probability" on an anti-SLAPP motion "is not high" (*Billauer v. Escobar-Eck* (2023) 88 Cal.App.5th 953, 964) and "'requires only a minimal level of legal sufficiency and triability'" (*Maleti v. Wickers* (2022) 82 Cal.App.5th 181, 202.) Any claim with "minimal merit" is allowed to proceed. (*Weeden v. Hoffman* (2021) 70 Cal.App.5th 269, 287.) Jacob appealed the denial ("the Appeal"). Days later, Ann and Bruno filed a Notice of Stay Pending Appeal Pursuant to Code of Civil Procedure section 916(a), which asserts that "all proceedings filed under Case No. 30-2022-1258737-PR-TR-CMC are stayed, including but not limited to, discovery, trial setting, and all petitions and related matters associated with the case number, including but not limited to" the Initial Petition, the Accounting Petition, and the No Contest Petition. (ROA 498.) Citing Code of Civil Procedures section 916(a) ("Section 916"), the notice asserted that any proceedings on the petitions were stayed because they were "embraced in" or "affected by" the Appeal. (*Id.*) In addition to filing the Notice of Stay, Ann and Bruno have reportedly refused to engage in any discussion or other activity relating to the Accounting Petition or the Amended Petition. By the motion before the court this day, Jacob seeks to clarify the scope of the stay under Section 916.

		Section 916. Subject to certain exceptions not relevant here, "the perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order, but the trial court ***may proceed upon any other matter embraced in the action and not affected by the judgment or order***." (Code of Civ. Proc., § 916(a), emphasis added.) It is well settled that the "purpose of the automatic stay provision of section 916, subdivision (a) 'is to protect the appellate court's jurisdiction by preserving the status quo until the appeal is decided. The [automatic stay] prevents the trial court from rendering an appeal futile by altering the appealed judgment or order by conducting other proceedings that may affect it.'" (*Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal.4th 180, 189.) In determining whether a proceeding is embraced in or affected by an appeal, the court is to consider "the appeal and its possible outcomes in relation to the proceeding and its possible results. '[W]hether a matter is "embraced" in or "affected" by a judgment [or order] within the meaning of [section 916] depends on whether postjudgment [or postorder] proceedings on the matter would have any effect on the "effectiveness" of the appeal.' [Citation.] 'If so, the proceedings are stayed; if not, the proceedings are permitted.' [Citation.]" (*Varian Med. Sys., Inc. v. Delfino* (2005) 35 Cal.4th 180, 189 (*Varian*).) Furthermore, "a proceeding ***affects*** the effectiveness of the appeal if the very purpose of the appeal is to avoid the need for that proceeding." (*Id.* at p. 190, emphasis added.) It is well-settled that matters embraced in or affected by an appeal include proceedings that "directly or indirectly seek to 'enforce, vacate or modify [the] appealed judgment or order;'" proceedings where "the possible outcomes on appeal and the actual or possible results of the proceeding are irreconcilable;" and proceedings where "the very purpose of the appeal is to avoid the need for that proceeding." (*Varian, supra,* 35 Cal.4th at pp. 189–190.) Therefore, proceedings on "ancillary or collateral matters which do not affect the judgment [or order] on appeal" are not subject to a stay. (*Id.* at p. 190.)

In a case where there are numerous claims and parties, "the automatic stay does not suspend trial court proceedings on the remaining components of the litigation, for example, claims against other parties[,] . . . not resolved by the judgment or order under appeal." (*Hedwall v. PCMV, LLC* (2018) 22 Cal.App.5th 564, 580, fn. 11.) Furthermore, as a "general rule, where only one of several parties appeals from a judgment, the appeal includes only that portion of the judgment adverse to the appealing party's interest." (*Estate of McDill* (1975) 14 Cal.3d 831, 840.) And in the case of an appeal from the denial of an Anti-Slapp motion, an appeal does not stay "proceedings relating to causes of action not affected by the motion." (*Varian, supra,* 35 Cal.4th at p. 195, fn. 8.)

The Motion. Jacob asserts the stay applies only to the No Contest Petition. Opposing parties assert the stay applies to every petition filed and pending in this case. Ann and Bruno argue the Amended Petition and Accounting Petition are "embraced in" or "affected by" the Appeal because the order on the Anti-SLAPP Motion "turns on an assessment of Jacob's argument and the counterargument . . . [concerning Jacob's Petition's allegations], all of which involve the allegations, theories, and substance of this proceeding." Opposing parties also assert the Appeal and the remaining petitions present a risk of inconsistent findings: "Proceeding in this matter while the related matter is stayed poses the theoretical risk of inconsistent filings and nullification of the appeal. Discovery on the Amended Petition would undoubtedly concern the execution and effect of the trust amendments, alleged undue influence, the settlor's condition and decision making, [the successor trustee's] conduct, and the facts known to Jacob when he first sought relief. It is easy to anticipate that Jacob would argue afterwards discovery has produced issues to moot the appeal, which is precisely what the statute is intended to preclude."

As set forth above, proceedings are only "embraced in" or "affected by" an appeal if they could render the appeal futile or otherwise impact the effectiveness of the appeal. Based on the totality of the record presented, the court finds that proceedings on the remaining petitions would have no impact, at all, on the

		appeal. The question on appeal is whether Ann and Bruno showed their claims had minimal merit. If they made the necessary showing, the No Contest Petition will be allowed to proceed. If they did not make the necessary showing, the No Contest Petition will be stricken. Either way, the remaining petitions (other than the No Contest Petition) will proceed. Accordingly, the court finds that there is no overlap between the discrete issue presented by the Appeal and the issues presented by the Amended Petition and the Accounting Petition. Section 916 specifically authorizes the trial court to proceed upon matters "embraced in the action and not affected by the judgment or order." The court finds that the Accounting Petition and the Amended Petition are such matters. Jacob's motion is **GRANTED** as detailed in this ruling. The court finds the stay pending appeal does not extend to proceedings involving the Accounting Petition or the Amended Petition. Jacob, as the moving party, is ordered to give notice .
		[Motion Type] .