TENTATIVE RULINGS

DEPT. CM7

TENTATIVE RULING

Date: 11/04/2026

Case #	Case Name	Tentative
01544423	Olayo - Conservatorship	**TENTATIVE RULING** **Case:** Olayo - Conservatorship 01544423 **Calendar No:** 2 **Date:** 11/04/26 **MOTION TO DISQUALIFY ATTORNEY OF RECORD (ROA 65)** Proposed Conservatee Ramon Alberto Olayo moves to disqualify attorney Darrell Brooke and The Brooke Law Firm as counsel for Petitioner Maria Umphress, the Proposed Conservator. "A trial court's authority to disqualify an attorney derives from the power inherent in every court '[t]o control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter pertaining thereto.'" (*People ex rel. Dept. of Corporations v. SpeeDee Oil Change Systems, Inc.* (1999) 20 Cal.4th 1135, 1145, citation omitted.) "Ultimately, disqualification motions involve a conflict between the clients' right to counsel of their choice and the need to maintain ethical standards of professional responsibility. [Citation.] The paramount concern must be to preserve public trust in the scrupulous administration of justice and the integrity of the bar. The important right to counsel of one's choice must yield to ethical considerations that affect the fundamental principles of our judicial process. [Citations.]" (*SpeeDee*, 20 Cal.4th at 1145-1146.) A "standing" requirement is implicit in disqualification motions. (*Coldren v. Hart, King & Coldren, Inc.* (2015) 239 Cal.App.4th 237, 247.) Generally, before disqualification of an attorney is proper, the complaining party must have or must have had an attorney-client relationship with that attorney. The burden is on the party seeking disqualification to establish the attorney-client relationship. (*Id.*)

		California Rules of Professional Conduct, rule 1.18, reads in relevant part as follows: (a) A person who, directly or through an authorized representative, **consults a lawyer for the purpose** of retaining the lawyer **or securing legal** service or **advice from the lawyer in the lawyer's professional capacity**, is a prospective client. (b) **Even when no lawyer-client relationship ensues**, a lawyer who has communicated with a prospective client shall not use or reveal information protected by Business and Professions Code section 6068, subdivision (e) and rule 1.6 that the lawyer learned as a result of the consultation, except as rule 1.9 would permit with respect to information of a former client. (c) A lawyer subject to paragraph (b) **shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received from the prospective client information protected by Business and Professions Code section 6068, subdivision (e) and rule 1.6 that is material to the matter**, except as provided in paragraph (d). If a lawyer is prohibited from representation under this paragraph, no lawyer in a firm* with which that lawyer is associated may knowingly* undertake or continue representation in such a matter, except as provided in paragraph (d). (Emphasis added.) Here, it is undisputed that the Proposed Conservatee twice met with Mr. Brooke. Mr. Brooke states that he first met with the Proposed Conservatee on 12/7/25; that the Proposed Conservatee conveyed his fears and trepidation about Janet Fox and Lacey Fox; and that Mr. Brooke told the Proposed Conservatee that he would look into a possible professional fiduciary to serve as Conservator.

		Mr. Brooke states that he met with the Proposed Conservatee a second time on 1/24/26; that he met privately with the Proposed Conservatee about the need for conservatorship and the appointment of Petitioner as conservator; and that Proposed Conservatee signed the papers nominating Petitioner as conservator. The declaration of Arline Brooke further details that Mr. Brooke met privately with the Proposed Conservatee to discuss issues of a "sensitive nature"; that Mr. Brooke carefully explained the purpose and effect of a conservatorship to the Proposed Conservatee and advised him of what it would entail; that the Proposed Conservatee asked Mr. Brooke questions regarding the conservatorship which Mr. Brooke answered; and that the Proposed Conservatee expressed various personal concerns to Mr. Brooke. Based on the foregoing, it is clear that the Proposed Conservatee consulted with Mr. Brooke in Mr. Brooke's professional capacity for the purpose of securing legal advice. Thus, the Proposed Conservatee is a "prospective client" as defined by California Rules of Court, rule 1.18(a). It is of no consequence that Mr. Brooke explained that he would only be attorney of record for the Proposed Conservator, nor is it relevant whether the Proposed Conservatee formally retained Mr. Brooke as counsel. CRPC, rule 1.18, makes it clear that the duties of confidentiality and loyalty attach upon consultation to obtain legal advice, not solely upon formal engagement. The fact that Mr. Brooke listened to the Proposed Conservatee's concerns, advised him, answered his questions, and obtained his signature on legal documents, while ultimately planning to represent someone else makes the conflict in this particular case more acute, not less. Even if the Proposed Conservatee were not a "prospective client," the fact that confidential information was disclosed to Mr. Brooke is sufficient for disqualification. Case law recognizes that third parties outside of the attorney-client relationship may have standing to move to disqualify counsel, where the moving party is owed a duty of confidentiality or loyalty by the attorney he or she seeks to disqualify. (*See Lynn v. George* (2017) 15 Cal.App.5th 630, 636-637 [“Standing may arise from an attorney-client relationship between the moving party and targeted counsel or from a duty of confidentiality owed by the attorney to the moving party despite the absence of an attorney-client relationship.”];*Great Lakes Construction, Inc. v. Burman* (2010) 186 Cal.App.4th 1347, 1356; *DCH Health Services Corp. v. Waite* (2002) 95 Cal.App.4th 829,

		832: ["Standing arises from a breach of the duty of confidentiality owed to the complaining party, regardless of whether a lawyer-client relationship existed."]; *Kennedy v. Eldridge* (2011) 201 Cal.App.4th 1197, 1208 [Given the close relationship between a party and opposing counsel, the trial court properly found that the attorney had obtained, or must be presumed to have obtained, confidential information that could be used against the party.]) The court need not make any finding here as to whether any undue influence was perpetuated by Mr. Brooke in obtaining the nomination. A motion for disqualification is not based on the integrity of counsel but on the need to protect the integrity of the court. For purposes of this motion for disqualification, the court only needs to find, and does find, that the Proposed Conservatee was a prospective client of Mr. Brooke and that Mr. Brooke obtained confidential information material to this case. While the court is not unsympathetic to the resulting hardship on Petitioner to find new counsel in this litigation, "the paramount concern must be to preserve public trust in the scrupulous administration of justice and the integrity of the bar. The important right to counsel of one's choice must yield to ethical considerations that affect the fundamental principles of our judicial process. [Citations.]" (*SpeeDee*, 20 Cal.4th at 1145-1146.) Based on the foregoing, the court **GRANTS** the motion to disqualify attorney Darrell Brooke and the Brooke Law Firm from representing parties adverse to the Proposed Conservatee in this conservatorship proceeding. Counsel for the Proposed Conservatee is ordered to serve notice of ruling.
01492316	Noel - Probate	**TENTATIVE RULING** **Case:** Noel - Probate 01492316 **Calendar No:** 3 **Date:** 11/04/26 **MOTION TO DEEM RFA ADMITTED (ROA 142)**

		Sean Mikel Noel, in propria persona, moves to deem admitted requests for admissions 1-22 propounded on Gayle J. Pierce, in propria persona. (ROA 142.) Code of Civil Procedure section 2033.280(c) states that the court "shall" make the order deeming the requests for admissions admitted "unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with Section 2033.220." Respondent served "provisional" responses to the requests for admission on or about 10/28/26. (ROA 190.) The motion to deem RFA admitted is **DENIED**. In Opposition to this motion, Ms. Pierce argues that she should not have to respond to discovery because she is not a party. The court's records reflect that Ms. Pierce has filed a responsive pleading to Mr. Noel's petition (ROA 128), as well as her own petition (ROA 94). Ms. Pierce is a party. Ms. Pierce **shall** serve **verified** responses to the requests for admission within 10 days of notice of this ruling, extended for method of service. An award of sanctions under this section is mandatory. (Code Civ. Proc. § 2033.280 (c).) However, Mr. Noel's request for $22,069.84 sanctions in his moving papers is absurd. Mr. Noel's amended moving papers were not timely served pursuant to Code of Civil Procedure section 1005(b) and are, therefore, disregarded by the court. The court imposes monetary sanctions against Ms. Pierce in the amount of **$60.00** payable to Mr. Noel within 30 days of notice of this ruling, extended for method of service, or by any later date as agreed upon by the parties in writing. Mr. Noel is **ordered** to serve notice of this ruling.
01446436	Basquez Gomez - Guardianship	**TENTATIVE RULING** **Case:** Basquez Gomez - Guardianship 01446436 **Calendar No:** 7 **Date:** 11/04/26

		MOTION TO BE RELIEVED AS COUNSEL (ROA 50) Attorney Danielle A. Geye seeks to be relieved as counsel for Jasmine Desiree Gomez. An attorney's right to withdraw as counsel is conditioned upon compliance with California Rules of Court, Rule 3.1362 and, where applicable, Orange County Local Rule 601.21. Counsel has not complied with either. Counsel has not filed all three forms (i.e., MC-051, MC-052, and MC-053) required by California Rules of Court, Rule 3.1362. Specifically, Counsel has only filed MC-051. All three mandatory forms must be filed and served on the client and on all persons who have appeared in this action. Counsel has also not complied with Orange County Local Rule 601.21, which provides as follows: "If an attorney wishes to withdraw from a probate proceeding as attorney of record for the estate representative or any other fiduciary, in addition to the requirements under CCP 284 and CRC 3.1362, the attorney must have a citation issued and served on such motion or petition directing the representative to appear before the court to show cause why the motion or petition should not be granted or why the representative has not taken the steps to complete his or her duties." The client is the guardian of the person of Jocelyn Diana Basquez-Gomez, and the court's records do not reflect that a citation was issued to the client. Counsel must file a Citation – Probate (DE-122/GC-322). Once the citation is signed by the court, counsel must have it served on the client in the same manner as a summons. The court's tentative ruling is to continue this motion **once** for compliance with the foregoing. [Motion Type]
01343097	Gorski - Limited Conservatorship	**TENTATIVE RULING** **Case:** Gorski - Limited Conservatorship 01343097 **Calendar No:** 9 **Date:** 11/04/26 **MOTION TO DISMISS (ROA 262)** Proposed Conservatee Ryan Gorski ("Ryan") moves to dismiss the Petition for Appointment of Temporary Conservator (ROA 91) filed on 11/12/24 by the court-

		appointed Guardian Ad Litem Fred G. Muscarella (the "GAL"). (ROA 262.) The motion is opposed by the GAL and co-Petitioner Paul Gorski ("Paul") who is Ryan's father. (ROAs 274 and 282.) Ryan's request for judicial notice (ROA 259) is **granted** as to all five items. **Request to Dismiss for Lack of Jurisdiction** Ryan first argues that the Petition should be dismissed for lack of jurisdiction because California was not his "home state" when the Petition was filed on 11/12/24. No part of the California Conservatorship Jurisdiction Act (Prob. Code §§ 1980 to 2055) provides a procedural mechanism for making a motion to dismiss a conservatorship petition for lack of jurisdiction. Probate Code section 1000, which provides that the rules of civil procedure apply where the Probate Code is silent, is also unhelpful here. The Code of Civil Procedure provides procedural mechanisms to have a case dismissed for lack of personal jurisdiction (Code Civ. Proc. § 418.10) and subject matter jurisdiction (Code Civ. Proc. § 430.10). Neither personal nor subject matter jurisdiction are at issue here. At issue here is whether the court has jurisdiction (i.e., the power to act) to appoint a conservator pursuant to Probate Code section 1993, which is the exclusive basis for determining such jurisdiction. (Prob. Code § 1992.) Subdivision (d)(2) of Probate Code section 1993 indicates that the court's jurisdiction is to be challenged by filing an objection to the petition. Even if the court were to proceed to rule on the motion to dismiss, it would be denied on its merits. "A court of this state has jurisdiction to appoint a conservator for a proposed conservatee if this state is the conservatee's home state." (Prob. Code § 1993.) "'Home state' means the state in which the proposed conservatee was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a conservatorship order, or, if none, the state in which the proposed conservatee was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition." (Prob. Code § 1991(a)(2).)

Ryan claims that on 11/12/24 he was living in a dormitory as a student at the University of Nevada, Las Vegas.

On the record presented, there is no evidence that Ryan intended to, or took any action to, permanently relocate to Nevada. Nor is there any evidence that Ryan did not maintain his residency in California or that he did not intend to return to California after completing his program.

Ryan's declaration merely states the general time period in which he lived in the school dorms as a student and the date on which he moved to South Carolina. Such evidence alone is not sufficient to prove that Ryan's physical presence in Nevada was anything other than a temporary absence from his home in California.

Since Ryan has not established that California lacks jurisdiction as Ryan's home state, the court need not consider whether California is a "significant-connection state."

Based on the foregoing, the motion to dismiss for lack of jurisdiction is **denied without prejudice** to Ryan's right to raise the issue in an objection to the Petition.

Request to Relinquish Jurisdiction

Ryan next argues that, even if California has jurisdiction to appoint a conservator, it should decline to exercise its jurisdiction because South Carolina is a more appropriate forum.

Probate Code section 1996(a)(1) provides: "A court of this state having jurisdiction under Section 1993 to appoint a conservator may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum."

However, Probate Code section 1996(a)(2) provides: "The issue of appropriate forum may be raised **upon petition** of any interested person, the court's own motion, or the request of another court." (Emphasis added.) It does not provide that the issue may be raised by motion of an interested person.

The request to decline jurisdiction is **denied without prejudice** to Ryan's right to seek the relief requested by petition.

Request to Dismiss on the Merits

		Finally, Ryan requests that the court dismiss the Petition because a limited conservatorship is not the least restrictive means for protecting Ryan. Probate Code section 1800.3 provides: "A conservatorship of the person or of the estate shall not be granted by the court unless the court makes an express finding that the granting of the conservatorship is the least restrictive alternative needed for the protection of the conservatee." However, this is the ultimate issue to be determined in this case. It cannot be resolved by a motion to dismiss. Statutory and case law are clear that contested probate proceedings must be resolved through an evidentiary hearing and cannot be resolved through affidavits or verified pleadings. (Probate Code §§ 1022 ["An affidavit or verified petition shall be received as evidence when offered in an uncontested proceeding under this code."], and 1046 ["The court shall hear and determine any matter at issue and any response or objection presented, consider evidence presented, and make appropriate orders."]; Code Civ. Proc. § 2009; *Estate of Bennet* (2008) 163 Cal.App.4th 1303, 1308-1309; *Estate of Wallace* (1977) 74 Cal.App.3d 196, 201.) Alternatively, ultimate issues may be decided by a statutory dispositive motion that does not require resolution of factual disputes (i.e., demurrer, motion for judgment on the pleadings, and motions for summary judgment and/or adjudication). Probate Code section 1993 provides the basis for the court's jurisdiction. It does not provide a statutory basis for a speaking motion (i.e., a motion that relies on extrinsic evidence to resolve a factual dispute) to dismiss for lack of jurisdiction. "[N]onstatutory speaking motions have now been superseded by the procedure governing motions for summary judgment contained in section 437c of the Code of Civil Procedure. (*Pianka v. State of California* (1956) 46 Cal.2d 208, 211-212, fn. omitted: see *Veseley v. Sager* (1971) 5 Cal.3d 153, 167 [same]; *Lavine v. Jessup* (1958) 48 Cal.2d 611, 614 fn.2 [same] and *Saltarelli & Steponovich v. Douglas* (1995) 40 Cal.App.4th 1, 5 ["The procedure of moving to dismiss an action based on extrinsic evidence is disapproved in California and the motion is permitted only where it complies with the requirements for a motion for summary judgment"]; see also *Key v. Tyler* (2019) 34 Cal.App.5th 505, 521, recognizing that motions for summary judgment are commonplace in probate proceedings.)

		Ryan's request to dismiss this action on the merits is **denied as procedurally defective**. In summary, Ryan's motion to dismiss is **DENIED** in its entirety without prejudice to Ryan's right to seek the relief requested in a procedurally appropriate manner. Counsel for Ryan is **ordered** to serve notice of this ruling.
01503820	Conrecode - Trust	**TENTATIVE RULING** **Case:** Conrecode - Trust 01503820 **Calendar No:** 1 **Date:** 11/04/26 **DEMURRER (ROA 30)** Trustee Emmett S. Conrecode (the "Trustee") demurrers to the "Petition to Compel the Successor Trustee to File an Accounting" (ROA 8) filed by Petitioner Virginia Estate & Trust Law, as successor trustee of the Edward J. Conrecode Revocable Trust, ("Petitioner") in its entirety for lack of standing. The demurrer is **OVERRULED**. On demurrer, a complaint must be liberally construed. (Code Civ. Proc. § 452; *Stevens v. Superior Court* (1999) 75 Cal.App.4th 594, 601.) All material facts properly pleaded, and reasonable inferences, must be accepted as true. (*Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 966-967.) A pleading is adequate if it contains a reasonably precise statement of the ultimate facts, in ordinary and concise language, and with sufficient detail to acquaint a defendant with the nature, source and extent of the claim. (Code Civ. Proc. §§ 425.10(a), *Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 549-550.) The Petition seeks an order requiring Trustee to provide an accounting of the Edward J. Conrecode Trust dated 4/10/89 and amended 6/28/90 (the "Subject Trust"). Trustee argues that Petitioner lacks standing to request an accounting because Petitioner is neither a trustee nor a beneficiary of the Subject Trust.

		Probate Code section 24 defines a beneficiary as "a person to whom a donative transfer of property is made **or that person's successor in interest**." (Emphasis added.) The Petition, through pleaded facts and attached exhibits, alleges the following: - that Edward J. Conrecode, Jr. ("Edward, Jr.") created the Edward J. Conrecode Revocable Trust dated 10/31/24 (the "EJC Trust") (Pet., ¶ 5); - That "any interest" Edward, Jr. had in the Subject Trust is listed as an asset in the EJC Trust (Id. at Ex. 2.); - That Edward, Jr. created a pour over will, pouring the residue of his estate into the EJC Trust (Id. at ¶ 4, Ex. 4); - that Edward, Jr. passed away on 11/8/24 (Ibid.); - that, at the time Edward Jr. passed away, he was a vested beneficiary of the Subject Trust (Id. at ¶¶ 5, 7, and 8; Ex. 4, Art. 3, § 3.03; and Ex. 5, § 3.03); - that Petitioner is the Successor Trustee of the EJC Trust (Id. at ¶ 1 and Ex. 1, Art. XIV.A); and - that no probate has been opened for Edward, Jr. (Id. at ¶ 6). The foregoing alleged facts are sufficient to establish that Petitioner, as trustee of the EJC Trust, is the successor in interest to Edward, Jr., and, therefore, a "beneficiary" of the Subject Trust. Even if Petitioner is not considered a successor in trustee unless and until the assets of the Subject Trust are distributed, Petitioner has standing as an "interested person" under Probate Code section 48. In the recent case of *Hamlin v. Jendayi* (2024) 105 Cal.App.5th 1064, the court rejected the idea that only a beneficiary or trustee of a trust can bring a petition under Probate Code section 17200. It summarized standing in probate proceedings, as follows: > We begin with the general observation that standing for purposes of the Probate Code is a fluid concept dependent on the nature of the proceeding before the trial court and the parties' relationship to the proceeding, as well as to the trust (or estate)." (*Arman v. Bank of America* (1999) 74 Cal.App.4th 697, 702–703, 88 Cal.Rptr.2d 410.) In general, " '[t]o have standing, a party must be beneficially interested in the controversy, and have "some special interest to be served or some particular right to be preserved or protected." [Citation.] This interest must be concrete and actual, and must not be conjectural or hypothetical.' " (*Limon v.*

		Circle K. Stores, Inc. (2022) 84 Cal.App.5th 671, 699, 300 Cal.Rptr.3d 572.) Interested persons have legal standing to contest the provisions of a trust. (*Schwan v. Permann* (2018) 28 Cal.App.5th 678, 698, 239 Cal.Rptr.3d 427.) The Probate Code defines " 'interested person' " broadly as including an "[a]n heir, devisee, child, spouse, creditor, beneficiary, and any other person having a property right in or claim against a trust estate or the estate of a decedent which may be affected by the proceeding" (§ 48, subd. (a)), and its meaning "may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding" (id., subd. (b)). [. . .] Consequently, the probate court "has flexibility in determining whether to permit a party to participate as an interested party" and may give standing to " 'anyone having an interest in an estate which may be affected by a probate proceeding." ' (*Estate of Sobol* (2014) 225 Cal.App.4th 771, 782, 170 Cal.Rptr.3d 569 (Sobol).) (*Id*. at p. 1074.) Here, Petitioner, as trustee of the EJC Trust, is asserting a claim against the Subject Trust for Edward, Jr.'s vested interest therein in the accompanying 850 Petition (ROA 2). The instant Petition for an accounting alleges sufficient facts to show that the EJC Trust has a beneficial interest in obtaining an accounting of the Subject Trust. The court makes no finding here as to whether or when any accounting should be ordered. The Trustee **shall** file and serve a responsive pleading to the Petition (ROA 8) within 10 days of notice of this ruling, extended for method of service. Counsel for Petitioner is **ordered** to serve notice of ruling.

		TENTATIVE RULING **Case:** **Calendar No.:** **Date:**