

Superior Court of the State of California
County of Orange
TENTATIVE RULINGS FOR DEPARTMENT CM3
HON. JUDGE ERIN ROWE

Date: 04/12/2024

Court Room Rules and Notices

#	Case Name	Tentative
1	Hagopian - Trust	<p style="text-align: center;">MOTION FOR SUMMARY ADJUDICATION</p> <p>The Motion for Summary Adjudication by Petitioners Gina Bressinger, Elizabeth Morrison, Toni Beckx, and Paul Hagopian ("Petitioners") is GRANTED as to the First and Fourth causes of action in their Petition filed 8/17/24 (ROA 2).</p> <p><u>Good Cause for Delay</u></p> <p>The court finds good cause to hear this motion later than 30 days before the initial trial date. (Code Civ. Proc. § 437c, subd. (a)(3) and (f)(2).) The delay in hearing is the result of (1) a non-stipulation to the temporary judge on 3/27/24; and (3) the court's availability.</p> <p><u>First Cause of Action</u></p> <p>The first cause of action in the Petition is "For Removal of Successor Trustee Peter Hagopian, and Appointment of Successor Trustee."</p> <p>Breach of trust is grounds to remove a trustee. (Prob. Code § 15642(b)(1).) The grounds for removal of a trustee include but are not limited to a breach of trust. A violation of any duty owed by a trustee constitutes a breach of trust. (Prob. Code § 16420.) Petitioners have produced admissible evidence of several violations of duties by Respondent Peter Hagopian ("Respondent"), including the following:</p> <ul style="list-style-type: none">- The duty to administer the trust according to the trust instrument (Prob. Code § 16000): See UMF 16, 19, 20, 21, 26.- The duty to administer the trust solely in the interest of the beneficiaries (Prob. Code § 16002): See UMF, 15, 16, 18, 19, 25, 26.- The duty to deal impartially (Prob. Code § 16003): See UMF 31.- The duty not to use trust property for the trustee's own profit (Prob. Code § 16004): UMF 15, 16, 18, 26.

- The duty to make trust property productive (Prob. Code § 16007): See UMF 27-30.

- The duty to disclose information to beneficiaries (Prob. Code § 16061): See UMF 22, 23, 25.

Petitioners have met their burden of demonstrating that there are no triable issues of material fact as to the foregoing. Respondent has not opposed this motion.

Based on the foregoing, summary adjudication as to the first cause of action for removal is **granted**. Respondent Peter Hagopian is removed as trustee of the Trust, including the Survivor's Trust and the Exemption Trust.

Fourth Cause of Action

The fourth cause of action in the Petition is "For Conveyance of Real Property to Trust Pursuant to Probate Code § 850 and Double Damages under Probate Code § 859."

Any interested person may petition where the trust has a claim to real or personal property, title to or possession of which is held by another. (Prob. Code § 850(a)(3)(b).) Respondent, in his personal capacity, has title to and possession of real property located in Mission Viejo, California ("Subject Property") that belongs to the Survivor's Trust. (See UMF 47, 75-81.)

Respondent obtained the Subject Property by unduly influencing the settlor to sign the deed conveying the Subject Property to Respondent. Petitioners have established facts demonstrating each element of undue influence set forth in Welfare and Institutions Code section 15610.70(a):

- Vulnerability: See UMF 49, 50

- Apparent authority: See UMF 50, 51

- Actions or tactics: See UMF 48, 52-62, 76-82

- Inequitable result: See UMF 75, 79, 84

Petitioners have met their burden of demonstrating that there are no triable issues of material fact as to the foregoing. Respondent has not opposed this motion.

Based on the foregoing, summary adjudication as to the fourth cause of action for removal is **granted**. Respondent must convey the Subject Property back to the Trust and is liable for twice the value of the Subject Property. The amount of damages, which is neither an "element" of the cause of action nor a "material fact" for purposes of summary adjudication, will be determined at trial.

		Petitioners are ordered to give notice and to prepare a proposed order.
1	Hagopian - Trust	<p style="text-align: center;">MOTION FOR OTHER</p> <p>Respondent Peter Hagopian ("Respondent") has filed a motion for the following:</p> <ol style="list-style-type: none"> 1. Motion for dismissal of the entire case; 2. Motion for legal fees; and 3. Motion for sanctions against Good Wildman and Ms. Milliband. <p>Respondent's motion is procedurally defective. Motions must consist of "at least" the following: "(1) a notice of hearing; (2) the motion itself; and (3) a memorandum in support of the motion." (Cal. Rules of Court, Rule 3.112(a).) Motions must also set forth the grounds upon which the motion is being made. (Code of Civil Procedure § 1010.) Here, Respondent's motion consists of a list of 3 requested orders, along with a series of conclusory statements. The list is signed under penalty of perjury, but it is not a declaration stating ultimate facts. Moreover, Respondent does not state a legal basis for any of his requested relief.</p> <p>Though Petitioner's counsel made a serious effort to substantively respond to the motion, the court finds that it cannot properly evaluate whether Respondent is entitled to any requested relief based on the dearth of information provided in the motion. In short: While the court favors substance over form, there is not enough substance in this motion to overcome the significant procedural defects, and on this basis the motion is DENIED in its entirety.</p>