

## TENTATIVE RULINGS

DEPT. CM7 + CM6

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## TENTATIVE RULING

**Date: 03/19/2024**

Case #	Case Name	Tentative
(01331515)	Martinez - Conservatorship	<p><b>TENTATIVE RULING</b></p> <p><b>Case:</b> (01331515) <b>Calendar No.:</b> 3</p> <hr/> <p><b>Date:</b> 03/19/2024</p> <p><b>MOTION TO QUASH SUBOENA</b></p> <p>Objector Caroline Edwards ("Objector") moves to quash four (4) deposition subpoenas that were issued to various financial institutions by Petitioners and Proposed Conservators Heidi H. Romeo and Shawn C. Martinez ("Petitioners"). The subpoenas issued to American Express and Schools First Credit Union seek documents for the time period commencing January 1, 2017. The subpoenas issued to Wells Fargo Clearing Services and Wells Fargo Advisors Financial Network seek documents from account inception. The subpoenas broadly seek virtually all documents concerning the Proposed Conservatee Ingrid H. Martinez ("Proposed Conservatee").</p>

	<p>Objector moves to quash on the grounds that the subpoenas seek documents that are irrelevant and that violate the Proposed Conservatee’s Constitutional right to privacy.</p> <p><b><u>Privacy</u></b></p> <p>It is undisputed that the Proposed Conservatee has a right to privacy in the documents sought. (See Code Civ. Proc., § 1985.3, subd. (a)(1); <i>Board of Medical Quality Assurance v. Gherardini</i> (1979) 93 Cal.App.3d 669, 678.)</p> <p>Petitioners argue that Objector does not have standing to assert the Constitutional right to privacy on behalf of the Proposed Conservatee. Under certain circumstances, a party may assert the privacy rights of third parties. (<i>County of Los Angeles v. Sup.Ct.</i> (2021) 65 Cal.App.5th 621, 635.) However, as Petitioners point out, the Proposed Conservatee is not a third party. She is a party to this action, represented by counsel Michael Hicken.</p> <p>The record before the court is that Mr. Hicken was served with a Notice to Consumer for each subpoena, as well as notice of this motion. For reasons unknown to the court, Mr. Hicken did not move to quash the subpoenas and has not filed an opposition to this motion. The court is reluctant, however, to assume Mr. Hicken’s silence equals consent, especially since the Proposed Conservatee’s interests appear to be aligned with Objector’s interest in that they have both opposed the appointment of a conservator.</p> <p>Furthermore, after the subpoenas were issued, and after this motion was filed, the court appointed attorney Samantha Jones as Guardian Ad Litem for the Proposed</p>
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		<p>Conservatee. (ROA 97.) From the record before the court, it does not appear that the GAL has received notice of this motion or an opportunity to respond.</p> <p><b><u>Relevance</u></b></p> <p>In the notice of motion and in her meet and confer efforts, Objector objected to the subpoenas on the grounds of relevance. In their Opposition to this motion, Petitioners argue that the information is relevant to the financial elder abuse allegations they have made against Objector. However, there is no petition for financial elder abuse pending. Discovery is limited to information “relevant to the subject matter involved in the <i>pending</i> action.” (Code Civ. Proc. § 2017.010, emphasis added.)</p> <p>Petitioners further argue that the financial records are relevant to determining the amount of any bond. First, such argument assumes that a conservator will be appointed. Second, if a conservator is appointed, the amount of the bond will be fixed by the court pursuant to Probate Code section 8482. The court will take into account the estimated value of the Proposed Conservator’s personal property, which Petitioners have set forth in their Petition. (RJN, Ex. A, p. 3.) The subpoenaed documents are simply unnecessary to the issue of determining the amount of bond.</p> <p>Finally, Petitioners argue that the subpoenaed documents are relevant to the issue of whether the present estate planning documents (e.g., the POA that Objector has over the Proposed Conservatee) are a reasonable and less restrictive alternative to a conservatorship. However, the court has tasked the GAL, not</p>
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		<p>Petitioners, with the determination of the Proposed Conservatee's financial situation as it relates to her alleged need for a conservator. (ROA 97.)</p> <p><b><u>Tentative</u></b></p> <p>Based on the foregoing, the court <b>grants</b> the motion to quash on the basis that the subpoenaed documents are not relevant to the issues pending before this court.</p>
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