

January 12, 2026 Truckee Probate Tentative Rulings

1. PR0000914 In the Matter of James William Ness

Appearances are required to discuss discovery.

Petitioner James William Ness filed a Petition to Invalidate Trust Based on Undue Influence; And For Damages For Elder Abuse; And For Petition To Reclaim Property on October 21, 2025 and an Errata attachment of Exhibit 1 to the Verified Petition on October 22, 2025. The Petition seeks a determination from the Court that certain properties in the Trust be reclaimed by Petitioner. Respondents have not objected to the Petition.

At the pleading stage of the proceedings, where issues of credibility or conflicting evidence have not yet arisen, a trial court's interpretation of a will or trust instrument presents a question of law. *Burch v. George* (1994) 7 Cal.4th 246, 254 (“The interpretation of a will or trust instrument presents a question of law unless interpretation turns on the credibility of extrinsic evidence or a conflict therein.”) A “no contest clause in a will or trust instrument creates a condition upon gifts and dispositions provided therein. [Citation.] In essence, a no contest clause conditions a beneficiary’s right to take the share provided to that beneficiary under such an instrument upon the beneficiary’s agreement to acquiesce to the terms of the instrument. [Citation.]” *Ibid.* (citations omitted). No contest clauses are strictly construed to avoid forfeiture, but “a court ‘must not rewrite the [testator’s] will in such a way as to immunize legal proceedings plainly intended to frustrate [the testator’s] unequivocally expressed intent from the reach of the no-contest clause.’” *Id.* at 254-255 (citation omitted).

At bar, there is insufficient evidence to determine decedent Trustee James Ness’ “lack of mental facilities” and whether any “undue influence” was used by Respondents through their “close relationship with Decedent” to “convince him to include “The Ness Properties” in the Trust. Petition, ¶ 8. The “No-Contest Clause” in the Trust states:

Any beneficiary of this Trust shall be treated as if that beneficiary had predeceased both Settlers without leaving any surviving descendants if that beneficiary, alone or with any other person, contests the validity of all or any portion this document or does any of the following without probable cause:

- Contests the validity of all or any portion of this document, all or any portion of the Wills or codicils of the Settlers, any beneficiary designations made by one or both Settlers, any exercises of any Power of Appointment given to either Settlor under this document (collectively, "Estate Planning Documents"), or any amendments to Estate Planning Documents;
- Contests the validity of all or any portion of any Estate Planning Document due to a lack of due execution or by alleging that any Estate Planning Document has been revoked;

- Seeks a judicial determination that any Estate Planning Documents are invalid or the product of fraud, forgery, undue influence, menace, duress, or a lack of capacity;
- Seeks a judicial determination to change the characterization of any Trust Property;
- Files a suit against one or both Settlers, any Trustee, or any trust, related to any creditor claim in the probate estate of either Settlor after that creditor claim has been presented and rejected;
- Takes any other action to divest or divert any interest created by or controlled by this document or any Estate Planning Document, whether vested or contingent, present or future.

The Trustee is authorized and empowered to defend any violation of this Section or other contest or attack on this Trust, at the expense of the Trust. If any portion of this Section is deemed unenforceable under applicable law, for any reason, then the Trustee is authorized to enforce this Section to the maximum extent permitted by applicable law.

If any purported beneficiary contests the validity of all or any portion of this document or does any of the acts listed above without probable cause, then any benefits provided to such purported beneficiary shall be voided and any property that would otherwise pass to such purported beneficiary will instead be distributed with the Residue pursuant to Article 4. If such purported beneficiary is member of any class to which distributions may be made pursuant to Article 4 or any other Article of this document, such purported beneficiary and the heirs and descendants of such purported beneficiary will cease to be included as a member of any such class.

Exhibit 1, Clause H, pg. 19.

Because there is no evidence showing undue influence or lack of capacity, the Court is thus unable to determine whether Petitioner has sufficient probable cause to bring the Petition, such that the No Contest clause is inapplicable.

2. PR0000571 In the Matter of James Kraemer

No appearances are required. The Petition for final distribution on waiver of accounting and for payment of administrator fees, attorney fees, and costs advanced by attorney, is granted as prayed.