

August 10, 2026 Truckee Probate Tentative Rulings

1. PR0000554 In Re Rogers, Auctaviah Marie Davis

Petitioners are directed to file an amended petition including their signatures prior to the hearing on the motion. Otherwise, the Court is inclined to grant the unopposed petition to fix the residence of the minors outside the state of California and direct the guardians to commence a guardianship in the appropriate court in Benson, Arizona.

2. PR0000750 In the Matter of Melilah A Schuch Living Trust

The motion to be relieved as attorney of record is granted. Counsel for beneficiary Mario Albert Hernandez shall file a Proposed Order on form MC-053 as required by California Rules of Court, rule 3.1362(e). Attorney Capdevielle shall be deemed relieved as attorney of record for Mario Albert Hernandez upon the filing of a proof of service of the filed order on his client.

Legal Standard

The court may order that an attorney be changed or substituted at any time before or after judgment or final determination upon request by either client or attorney and after notice from one to the other. Code of Civ. Proc., § 284(b). An attorney is permitted to withdraw where conflicts between the attorney and client make it unreasonable to continue the representation. See Cal. Rules of Prof. Conduct 3-700(C)(1). “The determination whether to grant or deny a motion to withdraw as counsel lies within the sound discretion of the trial court.” *Manfredi & Levine v. Superior Court* (1998) 66 Cal.App.4th 1128, 1133.

An application to be relieved as counsel must be made on Judicial Counsel Form MC-051 (Notice of Motion and Motion) (Cal. Rules of Court, rule 3.1362(a)), MC-052 (Declaration) (Cal. Rules of Court, rule 3.1362(c)), and MC-053 (Proposed Order) (Cal. Rules of Court, rule 3.1362(e)). Further, the requisite forms must be served on the client and all other parties who have appeared in the case. Cal. Rules of Court, rule 3.1362(d). The court may delay effective date of the order relieving counsel until proof of service of a copy of the signed order on the client has been filed with the court. (Cal. Rules of Court, rule 3.1362(e)).

Analysis

Trustee Judie D. Moreno (“Trustee” or “Moreno”) opposes the motion, arguing permitting withdrawal is unsupported by generalized claims of conflict, and will cause undue delay and prejudice to the Trustee and other beneficiaries. The Court disagrees.

“Where issues of confidentiality prevent “counsel from further disclosure and the court [accepts] the good faith of counsel's representations, the court should find the conflict sufficiently established and permit withdrawal.” [Citations.]” *Manfredi, supra*, at 1133.

At bar, counsel for Mr. Hernandez avers the grounds for withdrawal involve confidential attorney-client communications and matters protected by privilege, which details cannot be provided in public filing to avoid prejudice to the client. Capdevielle Decl., ¶ 5. Counsel also

avers he has not brought the motion for purposes of delay. Capdevielle Decl., ¶ 6. The Court finds counsel's declaration in support of his motion to sufficiently set forth information which results in a finding Mr. Capdevielle can no longer effectively represent Mr. Mario Hernandez.

Accordingly, the motion is granted. Counsel shall provide a proposed order utilizing Judicial Council form MC-053 within five (5) days.

3. PR00001042 In Re Vazquez Lizarraga, Carlo Alexandre

Appearances required. The Court wishes to inquire of counsel for the proposed conservatee as to whether there is any objection to the Petition and to clarify powers requested.