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KING COUNTY
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CASE #: 22-4-08326-1 KNT

Hearing Date: May 22, 2023
Honorable Wyman Yip
Without Oral Argument

**SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING**

In re the Matter of

Case No. 22-4-08326-1 KNT

THE SHARON M. HAROLD
IRREVOCABLE TRUST DATED
NOVEMBER 12, 2004,

MOTION TO STAY PROCEEDING

a Trust.

I. RELIEF REQUESTED

Grantor Sharon M. Harold ("Grantor"), an 84-year old vulnerable adult per RCW 74.34.020 (21)(a)(f), and Residual Beneficiaries Charles A. Harold, Jr., John J. Harold, Angel Harold, Amy Jane Small, and Josette Harold Ramirez (hereinafter collectively referred to as "Respondents") of the Sharon M. Harold Irrevocable Trust dated November 12, 2004 ("Trust") respectfully request the entry of an Order staying this matter for a maximum of 90 days. The following facts will demonstrate the building of pressure and stress over the last year caused and are causing physical and emotional distress to Grantor, resulting in her personal physician to request a reprieve.

II. STATEMENT OF FACTS

A. The TEDRA Proceeding.

Petitioner David A. Paice ("Paice"), Acting Trustee of the Trust, failed to provide an accounting of the Trust for 12 years, between 2010 and 2022. When Respondents asked Paice for an accounting in April/May of 2022, instead of providing it or resigning,

1 Paice retained Lane Powell in June of 2022 as his counsel. Under duress and threat of
2 spending Grantor's Trust money on a legal action, when Respondents refused to sign
3 a release of liability for Paice, his wife and daughter, Paice and his attorneys filed a
4 Petition for Approval of Interim Account, Discharge of Successor Trustee, and Appoint
5 Successor Trustee on December 5, 2022. (Dkt. #1.) This caused great concern and
6 stress to Grantor, especially since she was put in the unenviable position to litigate
7 with family members whom she loves.

8 **B. The Illegal Use of Grantor's Trust Fund by Paice.**

9 Using the certification of his accounting as cover, Paice has been paying for his
10 defense of the numerous breaches of his fiduciary duties with Grantor's Trust money.
11 Respondents contend that this is an illegal use of her funds. When this dispute began
12 Grantor had over \$700,000 in her Trust. In the last report received by Respondents
13 from Paice's counsel, Paice had taken approximately \$141,000 of Grantor's Trust
14 funds to pay for his attorney fees. Grantor's Trust fund, as far as she can tell, has less
15 than \$500,000 now. This illegal use of Grantor's Trust funds causes her substantial
16 distress because she believes there will not be sufficient funds for her personal and
17 medical expenses in the future, which is the sole purpose of the Trust as stated in the
18 Trust instrument:

19 *ARTICLE IV A. PRIMARY PURPOSE - The primary purpose' of*
20 *the Trust shall be to provide for the Grantor, and the rights and*
21 *interests of remaindermen are subordinate and incidental to*
22 *that purpose. To that end all the provisions governing the Trust*
23 *shall be construed liberally in the interest of and for the benefit*
24 *of the Grantor.*

25 In an attempt to stop Paice's illegal use of Grantor's Trust fund, a protection
26 order was sought discussed *infra*.

27 ///

28 ///

1 **C. The Denial by Paice to Authorize Trust Funds for Grantor's Retaining**
2 **Counsel.**

3 Before and after the filing of the TEDRA petition, Grantor requested funds from
4 her Trust on several occasions so she could hire her own lawyer. Paice has never
5 given Grantor the Trust funds she asked for as evidenced by the fact that she appears
6 before this Court now, in pro se. It is quite clear why Paice made that decision: he put
7 his finger on the scale giving himself a clear advantage over Grantor in this
8 proceeding. It was an egregious decision, which caused intense consternation to
9 Grantor, resulting in intense anger and frustration because of the sheer unfairness of
10 the situation, adding to her stress levels. To add insult to injury, Paice filed a motion
11 for a guardian ad litem which offered to pay for the appointed attorney from Grantor's
12 Trust fund. (Dkt. #51) This motion upset Grantor since this counsel would be paid from
13 her Trust but not selected by her.

14 **D. The Petition for a Protection Order.**

15 On March 3, 2023, Respondent Charles A. Harold, Jr. ("Charles") filed a petition
16 for a protection order against Paice. (Declaration of Charles A. Harold, Jr., ¶ 2.) As
17 explained above, the purpose of seeking this protection order was to stop Paice from
18 his illegal use of Grantor's trust fund.

19 On March 20, 2023, a Temporary Restraining Order was granted, resulting in,
20 among other things, the freezing of Grantor's personal accounts, Paice's personal
21 account held at BECU, and the investment account held at LPL Financial, which is the
22 account used by Paice to pay Lane Powell. (*Id.*) A further hearing was scheduled for
23 April 20, 2023.

24 At the April 20, 2023 hearing, the request to extend the protection order for a
25 year was denied. There was a disagreement between the parties with respect to the
26 proposed order, so a presentation of the denial order was requested. (Declaration of
27 Charles Harold, ¶ 3.) The presentation went forward without Charles or Grantor
28 despite notifying Paice's counsel and the Court of their unavailability due to Grantor's

1 health issues (*id.*), one of them being a medical emergency wherein she suffered a
2 near heart attack before the hearing. Another inequitable result adding to the sheer
3 frustration and stress to Grantor.

4 **E. Threats Made by Grantor's Daughter and Granddaughter Discussed**
5 **During the Prosecution of the Protection Order**

6 During the prosecution of the protection order, threats made against Grantor by
7 family members, namely Grantor's daughter and Paice's mother-in-law, Jenifer
8 Sawyer, and Grantor's granddaughter and Paice's wife, Briana Paice were
9 discussed.

10 The incident involving Jenifer was discussed previously in the Joint Verified
11 Objection (Dkt. #28) but was revisited since new specific information was learned
12 about the incident. (*Id.*, ¶ 4.) A witness called the Reedsport Police Department and on
13 the recording of that call, the witness said Grantor and Jenifer were arguing at
14 Grantor's home when Jenifer stated, "I hate you. I'm going to kill you" to which Grantor
15 replied, "You want me dead?" (*Id.*; *Harold v. Paice*, Case No. 23-2-03980-7, Dkt. #29.)
16 Respondents learned that during this same visit, Jenifer was photographing and
17 removing personal documents belonging to Grantor involving the Trust. (Charles
18 Declaration ¶ 5; Ex. A thereto.)

19 The incident with Briana was discovered during the preparation for the
20 protection order. Briana told her aunt, who she used to live with, "I will tie up every
21 penny of that trust and no one will get anything." (*Id.*, ¶ 6; Ex. B thereto.) Unfortunately
22 for Grantor, Briana's wish is coming true.

23 These incidents are very painful for Grantor and cause extreme emotional
24 distress.

25 **F. Grantor is Listed as "Deceased" on This Court's Docket.**

26 In April 2023, it was discovered that Grantor has been listed as "Deceased" on
27 this Court's docket since 02-03-2023. (*Id.*, ¶ 7.) This caused extreme emotional
28 distress to Grantor because she believes this was not a clerical error. This has been

1 reported to Paice, his attorney, and the clerks of both the TEDRA and Protection
2 Courts, with requests to correct this record. Yet, as of the writing of this motion, she is
3 still listed as “Deceased.” (*Id.*, ¶ 7.)

4 **G. The Renewed Motion to Continue Trial.**

5 The original trial date on the TEDRA proceeding was set for May 1, 2023.
6 Paice’s counsel filed a motion to continue trial (Dkt. #47), which Respondents opposed
7 (Dkt. #58) and was ultimately denied.

8 On April 7, 2023, Paice’s counsel renewed the motion to continue trial, which
9 was unopposed and therefore granted. (Dkt. # 72.)

10 Per RCW 11.96A.260, the purpose of TEDRA is to “encourage the prompt and
11 early resolution of disputes” Both of Paice’s motions to delay the trial was
12 counterintuitive to the intent of TEDRA.

13 The new trial date is set for November 13, 2023. If Paice and his counsel were
14 willing to extend the trial date for six months, then it follows that they should not be
15 opposed to a stay for less than 90 days. Since the requested stay would immensely
16 benefit Grantor’s health and wellbeing, it also follows that Paice should not object to
17 the requested stay because if he does object, then his objections are contrary to his
18 fiduciary duty to “*provide for the Grantor ... in the interest of and for the benefit of the*
19 *Grantor*” as stated in the Trust instrument.

20 **H. Grantor Sharon M. Harold Is an Active Participant in Her Defense in**
21 **the TEDRA Matter and the Protection Order Case.**

22 Since the inception of this proceeding, Grantor has been actively involved in her
23 defense, providing evidence, valuable records, timelines, witness statements,
24 monitoring the matter, and actively participating in the handling of this case. (*Id.*, ¶ 8.)
25 She has attended every hearing except the last protection hearing. (*Id.*) She has
26 contributed ideas on how to handle the issues that have arisen during the prosecution
27 of the TEDRA matter and the protection order. These matters are her cases and
28 involve her trust; she directs the management of these proceedings. Grantor has a

1 right to actively control, participate in and contribute to her defense in these matters
2 unencumbered by health care issues generated by the wanton and willful disregard for
3 her wellbeing by Paice and his counsel. The Court also should know that
4 Respondents, Grantor's children, serve at the direction of and for the benefit of
5 Grantor. (*Id.*)

6 **I. The Cumulative Effect on Grantor.**

7 All parties have been made aware of Grantor's complicated medical history.
8 Paice, his wife and his mother-in-law have a long history of personal knowledge about
9 Grantor's health. She has suffered three strokes, has been diagnosed with TIAs and
10 fibromyalgia, among other conditions. In addition, Grantor is a known fall risk due to
11 fibromyalgia and has fallen and suffered severe injuries in the past year. The physical
12 and emotional strain to Grantor which has been mounting over the past year due to
13 these proceedings has resulted in multiple visits to her physician as well as several
14 emergency room visits.

15 On April 18, 2023, she went to the emergency room because her head "felt full."
16 (*Id.*, ¶ 9.) Since she continued to not feel well, she followed up with her physician,
17 Robert Jacques, M.D. on April 27, 2023. Her symptoms and medical history prompted
18 Dr. Jacques to write a letter requesting a reprieve from this stressful litigation for a
19 maximum of 90 days in order for low level medical intervention to occur. (*Id.*, ¶ 10; Ex.
20 C.) The purpose of the reprieve is to try to stabilize Grantor and possibly prevent an
21 extreme event.

22 On May 4, 2023, Grantor was taken to the emergency room due to her
23 experiencing breathing problems. She was monitored in the emergency room for over
24 three hours, her cardiac enzyme levels were constantly checked, and her diagnosis
25 was a near heart attack. This was a frightening event for all concerned, but especially
26 Grantor.

27 The cumulative effect on Grantor is clear. Paice's wanton and reckless
28 behavior, contrary to his duties as acting trustee, the illegitimate litigation he initiated

1 and the past year of Paice spending Grantor's trust funds marked for her end of life
2 healthcare, have pushed Grantor close to the breaking point. Disputes with family
3 members she believed she could trust and being threatened by her daughter and
4 granddaughter is taking a physical and emotional toll on Grantor. Her medical records
5 prove this, and her personal physician agrees. The 90-day reprieve is reasonable and
6 would help Grantor tremendously in preventing a potentially more negative and
7 serious medical outcome.

8 **III. ISSUE PRESENTED**

9 Should the Court enter an Order staying this proceeding for a maximum of 90
10 days? **Yes.**

11 **IV. CONCLUSION**

12 Respondents contend that Grantor has a right to actively control, participate in
13 and contribute to her defense in this matter while in optimal physical and mental
14 health. It would not be fair or just for this proceeding to continue without her. If Grantor
15 knows that the matter is proceeding without her, she will still want to be kept apprised
16 or, even worse, be preoccupied with the case, imagining scenarios or results, leading
17 to additional stress.

18 This Court has the authority to stay this proceeding, good cause exists for
19 staying this proceeding and doing so will not impact Paice's position. For the foregoing
20 reasons, Respondents respectfully submit that this Court should grant this motion and
21 stay the proceeding for a maximum of 90 days in order for Grantor to receive low
22 medical intervention as prescribed by her personal physician.

23 **V. PROPOSED ORDER**

24 A proposed order accompanies this motion.

25 DATED: May 9, 2023

s/Charles A. Harold, Jr. _____

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1 DATED: May 9, 2023

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6 DATED: May 9, 2023

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11 DATED: May 9, 2023

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17 DATED: May 9, 2023

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We certify that this memorandum contains 2,268
words, in compliance with the Local Civil Rules.