

EX PARTE DEPARTMENT
Hearing Date: March 20, 2023
Hearing Time: 10:30 AM

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

CHARLES A. HAROLD, JR., OBO VA
SHARON M. HAROLD,

Petitioner,

v.

DAVID ALLEN PAICE,

Respondent.

No. 23-2-03980-7 KNT

**OPPOSITION TO PETITION FOR
PROTECTION ORDER**

I. INTRODUCTION

The purpose of a Vulnerable Adult Protection Order is to protect a person from abandonment, abuse, financial exploitation or neglect. An *ex parte* order, without notice to the Respondent, should be entered only when there is evidence of an emergency and that notice to the Respondent will cause harm to the person who needs protection. In this case, there is no evidence of either an emergency or of any financial exploitation of a vulnerable adult by Respondent, David A. Paice.

This is a dispute between Mr. Paice, as trustee, and some the remainder beneficiaries of the Sharon M. Harold Irrevocable Trust dated November 12, 2004 (“Harold Trust” or “Trust”) about two primary issues: first, whether Mr. Paice’s accountings, which are the subject of his pending Verified Petition for Approval of Interim Account; For Discharge of Successor Trustee; and For Appointment of Successor Trustee (“Verified Petition”), are adequate; and, second, whether Mr. Paice has the right under the Harold Trust to pay for counsel from Trust assets. Those factual and

1 legal issues are to be resolved in due course before the King County Superior Court.¹ They are not
2 fodder for an emergency protection order.

3 Mr. Paice has served as trustee of the Harold Trust for over ten years without any
4 compensation because Ms. Sharon Harold, the beneficiary of the Trust, is the grandmother of Mr.
5 Paice's wife. He has NEVER taken any money from the Trust for his own benefit, and there has
6 never been any deliberate commingling of Trust funds with his own funds. Certain accidental
7 commingling, which was corrected immediately when Mr. Paice discovered his error, is disclosed
8 in the accountings. Ms. Harold and Mr. Paice enjoyed a warm and caring relationship until the fall
9 of 2022, when some of the remainder beneficiaries of the Trust, including Charles Harold, the
10 Petitioner in this case, began preying upon her vulnerabilities and trying to persuade her that *they*
11 should control her access to the Trust, rather than Mr. Paice, whom she had selected as trustee in
12 2010 at a time when she was not vulnerable to her children's undue influence and bullying.

13 The Temporary Protection Order and Hearing Notice issued *ex parte* in this proceeding on
14 March 6, 2023 ("TPO") has wrongfully prevented Mr. Paice, who has engaged in no wrongdoing
15 whatsoever, from using his personal checking account to purchase food for his family and pay
16 expenses. By freezing the Trust checking account, the TPO has prevented Ms. Harold from cashing
17 a \$20,740.50 distribution from the Trust that Mr. Paice sent to her two weeks ago. The TPO and
18 this Petition are the result of abusive litigation and untruthful statements to the Court by Mr.
19 Harold. This Petition is being used to abuse, smear, and harass Mr. Paice in order to try to gain an
20 advantage in the TEDRA Proceeding. The Court should not allow Mr. Harold to use Washington's
21 civil-protection statutes to attempt a litigation advantage over Mr. Paice (the Trustee) in the
22 TEDRA Proceeding. Using Chapter 7.105 RCW as a stand-in for scorched-earth civil-litigation
23 tactics is highly improper and constitutes a violation of RCW 4.84.185 and CR 11, both rules that
24

25 ¹ King County Superior Court, Case No. 22-4-08326-1 KNT, pending before the Honorable Wyman Yip and set for
26 trial. Currently pending before Judge Yip is Mr. Paice's Motion to Appoint a Litigation Guardian ad Litem for Ms.
27 Harold. This Petition appears to be retaliation for that Motion. The Motion to Appoint a GAL for Ms. Harold is based
on Mr. Harold's conflict of interest and undue influence on his mother and her demonstrated need for independent
representation with regard to the TEDRA Proceeding.

1 apply to pro se litigants. This Court should not allow itself to be manipulated into supporting Mr.
2 Harold's ploy to gain an advantage in the TEDRA Proceeding, particularly where this Petition
3 presents no new facts, no evidence of immediate harm or serious irreparable injury to Ms. Harold,
4 and no evidence that Mr. Paice's personal bank accounts contain any of the Harold Trust's funds.
5 The TPO should be dissolved and the Petition should be denied in its entirety.

6 **II. TABLE OF KEY PLEADINGS**

7 For the Court's convenience, and to aid the Court in understanding the history of the
8 TEDRA Proceeding, this table sets out key declarations and pleadings from the TEDRA
9 Proceeding and their abbreviated shorthand citation. All of these pleadings are attached as exhibits
10 to the Declaration of Aleksander R. Schilbach ("Third Schilbach Decl."), which is filed in support
11 of this Opposition.

12 Ex.	Title of Pleading in TEDRA Proceeding	Abbreviated Name
13 A	Verified Petition for Approval of Interim Account; For Discharge 14 of Successor Trustee; and For Appointment of Successor Trustee filed December 5, 2022 and the exhibits thereto	Verified Petition
15 B	Declaration of David A. Paice, Trustee dated December 1, 2022, 16 with exhibits	First Paice Decl.
17 C	Declaration of Aleksander R. Schilbach dated December 2, 2022, with exhibits	First Schilbach Decl.
18 D	Declaration of David A. Paice, Trustee, in Support of Motion for 19 Appointment of a Litigation Guardian Ad Litem for Sharon M. Harold dated February 28, 2023, with exhibit	Second Paice Decl.
20 E	Declaration of Aleksander R. Schilbach in Support of Motion for 21 Appointment of a Litigation Guardian Ad Litem for Sharon M. Harold dated February 28, 2023, with exhibits	Second Schilbach Decl.
22 F	Declaration in Support of Alternative Motion for Withdrawal by 23 Order for Respondent Sharon M. Harold dated February 1, 2023	First Blackwell Decl.
24 G	Supplemental Declaration of Michelle A. Blackwell in Support of 25 Alternative Motion for Withdrawal by Order for Respondent Sharon M. Harold dated February 2, 2023	Second Blackwell Decl.
26 H	Motion for Appointment of Litigation Guardian Ad Litem for 27 Sharon M. Harold filed on March 1, 2023	Motion for Appointment

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III. FACTS

A. **In December 2022, Mr. Paice, as Trustee of the Harold Trust, filed a petition to approve the Trust's accountings with the King County Superior Court.**

In early December 2022, pursuant to Washington law, Mr. Paice, as Trustee of the Harold Trust, filed a Verified Petition for Approval of Interim Account; For Discharge of Successor Trustee; and For Appointment of Successor Trustee ("Verified Petition"). Third Schilbach Decl., Ex. A. The Verified Petition sought court approval of the Trust's interim accountings, the discharge and release of the Trustee, and the appointment of a successor Trustee. *Id.* Mr. Harold and other residuary beneficiaries filed Objections to the accounting, purporting also to do so on behalf of Ms. Harold, the lifetime primary beneficiary of the Trust. *See* Dkt. 28 in TEDRA Proceeding.

At the initial hearing, Commissioner Henry Judson set the matter for trial before Judge Yip. *See* Ex Parte Department Certification for Trial dated February 3, 2023. Also, at that hearing, Ms. Harold's former attorney, Michelle Blackwell, made a "noisy withdrawal" and advised the Court that she believed Mr. Harold was perpetuating a "fraud" on the Court. Second Schilbach Decl., Ex. A. Ms. Blackwell supported Mr. Paice's counsel's verbal request that, in light of her withdrawal as counsel, a litigation guardian ad litem be appointed for Ms. Harold. *Id.* Commissioner Judson's Order reserved the issue of appoint of a GAL to Judge Yip and that motion is currently pending. *See* Trustee's Motion for Appointment of a Litigation Guardian Ad Litem for Sharon M. Harold (Dkt. 51 in TEDRA Proceeding). This motion was made in direct response to what Ms. Harold's former attorney, Ms. Michelle Blackwell, said in open court to Commissioner Judson: Ms Blackwell told Commissioner Judson at the February 3 hearing that she "believe[d] a fraud was being perpetrated on the Court" by Mr. Harold. Second Schilbach Decl., Ex. A. Her declarations also contained startling and alarming facts regarding Mr. Harold's actions toward his mother, and Mr. Harold's manipulation of TEDRA Proceedings. *See* Second Schilbach Decl., Ex. A (unofficial transcript of hearing); First Blackwell Decl.; Second Blackwell Decl.

(explaining, for example, Mr. Harold terminated Ms. Blackwell's representation of Ms. Harold).

B. The entry of the *ex parte* Temporary Order was extremely disruptive to Mr. Paice and his family.

On March 6, 2023, in apparent retaliation for the Motion to Appoint a GAL, Mr. Harold filed this Petition, and Commissioner Pro Tem Heritage Filer entered a Temporary Protection Order and Hearing Notice. Petition at 1; TPO at 1. Although Mr. Harold's declaration filed in support of his Petition acknowledges that Mr. Paice is represented by Lane Powell PC, Mr. Harold chose not to provide Mr. Paice's counsel with notice. *See* Harold Decl. ¶ 27 (admitting Lane Powell PC represents Mr. Paice); TPO at 3 (noting only Charles Harold appeared at *ex parte* hearing); Third Schilbach Decl. ¶ 4 (noting no notice given).

The entry of the Temporary Order was extremely disruptive for Mr. Paice and his family. Third Paice Decl. ¶3. Because the Temporary Order froze Mr. Paice and his wife's personal BECU account, they were unable to use these funds to buy food, pay monthly bills, and pay their day-to-day living expenses. *Id.* This was also extremely disruptive to the Paice's minor child. *Id.* The entry of the Temporary Order and the date of filing of the Petition strongly suggest that Mr. Harold intended to upend Mr. Paice's personal and professional life. *Id.*

The Temporary Order also blocked a \$20,740.50 distribution from the Trust from reaching Ms. Harold. Third Paice Decl. ¶ 4. On February 27, 2023, and in response to a February 24th request for a distribution to pay for Ms. Harold's attorney's fees, medical expenses, and other bills, the Trustee arranged for a distribution of \$20,740.50 to be made via check. *Id.*, Ex. A. The check was to arrive to Ms. Harold by Tuesday or Wednesday, March 7 or 8. *Id.*, Ex. A at 1-2. But the Temporary Order entered on March 6, 2023 without notice froze the Paice family's account (#2739), the Trust's accounts (#9232, #9307, #9349, and #4662),² and Ms. Harold's personal USAA membership number (#6888), which presumably controls all of her USAA bank accounts. Temporary Order at 5. This effectively prevented the \$20,740.50 distribution, which was for Ms. Harold's attorney's fees and medical expenses, from reaching Ms. Harold. Third Paice Decl. ¶ 4.

² The Trust's account #9349 was closed in 2014. First Paice Decl. ¶ 4 (Dkt. 3 in TEDRA Proceeding).

1 The Temporary Order was disruptive to Ms. Harold and Mr. Paice's family; it was also
2 extremely unsettling and disturbing. *Id.* ¶ 5 (describing unsolicited Zelle transfers for \$1 from Amy
3 Jane Small and Charles Harold with menacing notes). After the Temporary Order froze Mr. Paice's
4 personal bank account, Mr. Paice received multiple attempted Zelle transfers for \$1 from Charles
5 Harold to his work e-mail. *Id.*, Ex. C. These attempted Zelle transfers were all unsolicited. *Id.* Two
6 of the unsolicited attempted Zelle transfers on March 12, 2023, after Mr. Paice's personal bank
7 account had been frozen, were accompanied by the words "Just Checking." *Id.* Mr. Paice
8 interpreted these words as taunting. *Id.* Although Mr. Harold had been told multiple times not to
9 contact Mr. Paice directly, Third Schilbach Decl. ¶ 5, many of the recent attempted Zelle transfers
10 were sent to Mr. Paice at his BECU/work e-mail address. Third Paice Decl. ¶ 5.

11 Mr. Harold's newest ploy is to seek an order freezing Lane Powell's IOLTA Trust Account
12 in which it holds funds of multiple Washington clients. As set forth in Mr. Schilbach's declaration,
13 there are no funds from the Harold Trust or from Mr. Paice in Lane Powell's IOLTA Trust
14 Account. *In fact, there have been no funds related to the Harold Trust or Mr. Paice in Lane*
15 *Powell's IOLTA Trust Account since June 2022, when Mr. Paice's original retainer deposit of*
16 *\$3,500 was applied to an invoice for legal services.* Third Schilbach Decl. ¶ 6. Freezing Lane
17 Powell's IOLTA Trust Account would immediately place Lane Powell in violation of Washington
18 State Bar regulatory requirements and cause irreparable harm to Lane Powell and its other clients.
19 *Id.*

20 There is no evidence that Mr. Paice has taken Trust funds for his own purposes. There is
21 certainly no evidence of imminent or irreparable harm in support of a protection order, temporary
22 or otherwise. There is no evidence that an Trust funds are in Lane Powell's IOLTA account—in
23 fact the evidence is to the contrary. *Id.* The dispute over the accountings and the payment of
24 attorneys' fees are before Judge Yip and set for trial. There is simply no legitimate basis for this
25 Petition or any Order based on the Petition.

26 **IV. EVIDENCE RELIED UPON**

27 This Motion relies upon the Declaration of David A. Paice, and the exhibits thereto ("Third

1 Paice Decl.”); the Declaration of Aleksander R. Schilbach, and the exhibits thereto (“Third
2 Schilbach Decl.”); and the pleadings on file in this matter. Additionally, Mr. Paice relies on
3 evidence contained in pleadings and declarations in the pending TEDRA Petition, which are
4 attached to Mr. Schilbach’s Third Declaration.

5 **V. ISSUES**

6 1. Must the Court disregard the inadmissible evidence contained in Mr. Harold’s
7 declaration? *Yes*.

8 2. Must the Court dismiss the Petition for Protection Order where the Petition was
9 based on falsities and half-truths? *Yes*.

10 3. Must the Petition for Protection Order be dismissed where there are no prima facie
11 allegations of imminent harm or irreparable injury facing Ms. Harold and the Petition was filed as
12 an abusive litigation tactic? *Yes*.

13 4. Must the Court dismiss any argument that the TEDRA Proceeding and the Trustee’s
14 Verified Petition constitute “abusive litigation” under chapter 7.105 RCW where the Verified
15 Petition is explicitly allowed to be filed by Washington law and does not meet the statutory
16 definition of “abusive litigation”? *Yes*.

17 5. Must the Court dismiss the argument that the Trustee’s payment of the Trust’s
18 attorneys’ fees constitutes financial exploitation of Ms. Harold where the Trust explicitly allows
19 the Trustee to hire and pay counsel from the Trust? *Yes*.

20 6. Where the Petition and the civil-protection order proceedings are being used only
21 to harass, abuse, and smear Mr. Paice, may the Court exercise its inherent authority to control
22 litigants before it and stop them from conducting abusive litigation? *Yes*.

23 **VI. AUTHORITY**

24 The Temporary Order must be allowed to expire, and the Petition must be denied. The
25 parties to the TEDRA Proceeding—including Mr. Paice, the Trustee; Ms. Harold; and Mr.
26 Harold—must be allowed to litigate that matter to a resolution. This civil-protection proceeding is
27 the wrong place to litigate disputes related to the Harold Trust, which is the subject of the TEDRA

1 Proceeding before Judge Yip.

2 **A. The Court must disregard the inadmissible evidence contained in Mr. Harold's**
3 **declaration.**

4 Mr. Harold's declaration filed in support of the Petition for Protection Order contains
5 inadmissible hearsay statements and statements for which Mr. Harold lacks personal knowledge.
6 The Court should disregard this evidence.

7 Evidence Rule 602 provides:

8 A witness may not testify to a matter unless evidence is introduced
9 sufficient to support a finding that the witness has personal
10 knowledge of the matter. Evidence to prove personal knowledge
may, but need not, consist of the witness' own testimony. This rule
is subject to the provisions of rule 703, relating to opinion testimony
by expert witnesses.

11 *See also Overton v. Consolidated Ins. Co.*, 145 Wn.2d 417, 38 P.3d 322 (2002) (affidavit properly
12 disregarded for lack of personal knowledge).

13 "Hearsay" is not admissible except as provided by the evidence rules, other court rules, or
14 by statute. ER 802. "'Hearsay' is a statement, other than one made by the declarant while testifying
15 at the trial or hearing, offered in evidence to prove the truth of the matter asserted." ER 801(c). A
16 "statement" is: "(1) an oral or written assertion or (2) nonverbal conduct of a person, if it is
17 intended by the person as an assertion." ER 801(a).

18 Here, the Harold Declaration contains inadmissible hearsay testimony and testimony for
19 which Mr. Harold lacks personal knowledge that the Court should not consider:

- 20 • ¶ 14: Mr. Harold is testifying to what Mr. Paice allegedly told his sister on a telephone
21 call that Mr. Harold did not participate in.
- 22 • ¶ 16: Mr. Harold is testifying to what his sister asked Mr. Paice regarding a trust
accounting and what Mr. Paice's alleged response was.
- 23 • ¶ 17: Mr. Harold is testifying as to what Mr. Paice and his attorney purportedly
24 "recommended" to Sharon Harold. Mr. Harold is testifying to what Mr. Paice's attorney
25 did without personal knowledge and is testifying to the content of alleged telephone
conversations he admits he never participated in.
- 26 • ¶ 19: Mr. Harold is speculating as to what may or may not have happened had Mr. Paice
27 not filed the Verified Petition.

- ¶ 22: Mr. Harold is testifying as to what Sharon Harold told her own attorney. He is speculating as to why Mr. Paice did or did not take certain actions.
- ¶ 25: Mr. Harold is testifying to what Mr. Paice’s attorney said to Ms. Harold’s attorney on a telephone call that Mr. Harold did not participate in.
- ¶ 28: Mr. Harold is speculating as to why various interested parties did or did not execute releases related to the Trust.
- ¶ 32 and Exhibit 15 (Reedsport Police Report): Mr. Harold is testifying as to what an unnamed witness supposedly heard at Ms. Harold’s home as understood by the Reedsport Police Department. Further, the police report contains no reference to Mr. Paice or to his immediate family; it contains absolutely no evidence regarding the Trust or Mr. Paice’s actions as Trustee.
- ¶ 34: Mr. Harold is testifying to what Mr. Paice, his wife, and Jenifer Harold said to Sharon Harold “in a series of phone calls and texts.” Mr. Harold is speculating as to what was said or not said in these conversations, if they even occurred. There is no evidence that Mr. Paice or his wife or anyone else interfered with Ms. Harold’s powers of attorney or estate planning.
- ¶ 36(3): Mr. Harold is testifying as to what a third party “concluded” about the Trust’s accounting.
- ¶ 36(9): Mr. Harold is speculating that Mr. Paice has taken Ms. Harold’s money to “enhance himself personally” and “pay for his attorney fees.” There is no evidence of this, and Mr. Harold cannot have personal knowledge of this.

B. The Petition for Protection Order rests on falsities and half-truths designed to get the Court to adopt Mr. Harold’s conspiracy theory.

The Petition for Protection Order and the Harold Declaration level serious accusations against Mr. Paice—all of which are untrue:

- **No Refusal to Distribute Funds for Assisted Living or Memory Care:** Ms. Harold has never once requested a distribution from the Harold Trust to pay for her assisted living or memory care. Mr. Paice understands that Ms. Harold is not currently living in (or considering living in) an assisted-living or memory-care facility. Mr. Paice believes, however, that Ms. Harold’s children are alleging nonpayment of assisted-living expenses so that they can force Mr. Paice into making a large distribution to Ms. Harold that some of the children can steal. Third Paice Decl. ¶ 7.
- **No Interference with Powers of Attorney:** Neither Mr. Paice nor his attorney has ever “manipulated” Ms. Harold “into removing” powers of attorney, interfered with Ms. Harold’s powers of attorney, or tampered with Ms. Harold’s powers of attorney. Third Paice Decl. ¶ 8; Second Paice Decl. ¶ 4. The Reedsport Police Department’s report, which contains inadmissible hearsay, does not even identify Mr. Paice or any other member of his family or the Trust in any way. Mr. Paice had nothing to do with the incident purportedly described in the police report. Third Paice Decl. ¶ 9.

- 1 • **No Improper Use of Mail System:** Mr. Paice has never used the United States
2 mail system improperly or unlawfully. The allegations that Mr. Paice has used the
3 mail system to perpetrate frauds are completely baseless and without merit. First
4 Paice Decl. ¶ 10 (refuting allegations of mail fraud).
- 5 • **No Refusal to Disburse Trust Funds for Legal Counsel:** Mr. Paice has not
6 “refuse[d] to release trust funds . . . so [Sharon Harold] can hire an attorney to
7 defend herself in [the TEDRA Proceeding]. To the contrary—Mr. Paice has always
8 encouraged Ms. Harold to obtain independent representation. Mr. Paice made a
9 disbursement of over \$20,000 on February 27, 2023 from the Trust in response to
10 a request from Ms. Harold’s e-mail address for funds to pay attorneys and medical
11 expenses. The Temporary Order, however, prevented the disbursement from
12 reaching Ms. Harold because it froze the Trust’s bank accounts. *See* First Schilbach
13 Decl., Ex. F (letter to Blackwell encouraging representation of Ms. Harold and
14 offering to pay \$10,000 to Blackwell directly for representation); Third Paice Decl.
15 ¶ 4 (explaining distribution of \$20,740.50 to Ms. Harold on February 27, 2023).
- 16 • **No Extortion of Trust Funds:** The allegation that Mr. Paice and his attorneys
17 “extorted” the Trust’s funds for legal fees “because beneficiaries refused to sign a
18 Release and Discharge of Trustee” is false. Washington law authorizes a trustee to
19 seek court approval of accountings and resignation/discharge. Third Paice Decl.
20 ¶ 4.
- 21 • **No Purposeful or Intentional Comingling of Trust Funds:** The Trustee has
22 never purposefully comingled funds belonging to the Trust with his own personal
23 funds. First Paice Decl. ¶¶ 4, 10. Mr. Paice’s BECU account (#2739) is wholly and
24 completely unrelated to the Harold Trust and does not contain any of the Trust’s
25 funds in it. Third Paice Decl. ¶ 3.

26 **C. There is no evidence of “serious immediate harm or irreparable injury” to Ms.
27 Harold: the true goal of the Petition was to smear, scare, and harass Mr. Paice.**

By filing a meritless Petition Mr. Harold has used Washington’s civil-protection system as
a blowtorch for his scorched-earth, burn-it-down civil-litigation tactics. This is highly improper.
Instead of bringing any legitimate concerns regarding the Trustee’s actions to the attention of
Judge Yip, the judge presiding over an action that has been pending since 2022, Mr. Harold dressed
up his allegations against Mr. Paice in hyperbolic, threatening language and went judge-shopping
to find a new proceeding in which he could obtain an *ex parte* order against Mr. Paice and the
Harold Trust.

Mr. Paice’s personal bank account, which was frozen by the Temporary Order, does not
hold any funds that belong to the Harold Trust. The unsolicited attempted Zelle transfers to Mr.
Paice’s work e-mail address clearly demonstrate that Mr. Harold was trying to taunt Mr. Paice and
destroy Mr. Paice’s reputation, not protect Ms. Harold. Although Mr. Harold has been warned

multiple times not to contact Mr. Paice directly regarding this litigation, Mr. Harold has disregarded these requests and has e-mailed Mr. Paice's work e-mail directly even after Mr. Paice's counsel entered a Notice of Appearance in this matter. There is no evidence in the Petition or in the supporting pleadings of "serious immediate harm or irreparable injury" to Ms. Harold. Many of Charles's most damning allegations—extortion, refusal to release funds, and breach of fiduciary duty—do not list the dates of when alleged events occurred, and when dates are listed, many of them are years in the past. There is no declaration from Sharon Harold before the Court, and there is no indication that Ms. Harold is even aware of this proceeding. *See, e.g.*, TPO at 3 (noting only Mr. Harold appeared at *ex parte* hearing). There is no explanation as to why Judge Yip was unable to grant the relief Mr. Harold seeks from this Court or why emergency, *ex parte*, no notice relief was necessary. There is no declaration from any of Ms. Harold's physicians as to her mental or health condition, and most importantly, there is no evidence before the Court that Mr. Paice is currently holding funds that belong to the Trust in the Paice family's BECU bank account, let alone in Lane Powell PC's IOLTA Trust Account.

On its face the Petition raises no new allegations of serious immediate harm or irreparable injury. *See* Petition for Protection Order at 4, 9. The most recent allegation included in the Petition is that "on 2/27/23 [Ms. Harold] received a diagnosis of skin cancer in her tear duct." *Id.* at 9. Yet Ms. Harold's testimony is conspicuously absent from the Petition. The hearsay-ridden declaration of Mr. Harold also fails to state when, exactly, some of the most damning allegations occurred. *See, e.g.*, Harold Decl. ¶¶ 8, 21, 26 (failing to specify when Trustee allegedly "interfere[d] with disability planning and refuses to release trust funds," when Trustee allegedly failed to "release trust funds," and when alleged "extort[ion]" occurred).

Mr. Harold filed a Supplemental Brief in Support of Protection Order ("Supplemental Brief") just yesterday, on March 15, 2022. The allegations contained in the Supplemental Brief are unsubstantiated by any declarations or properly authenticated exhibits. *See* Supplemental Brief. In addition to being bizarre and conspiratorial, the allegations in the Supplemental Brief are highly disturbing. They allege that the unsolicited Zelle transfers were accepted, but this is not true. *See*

1 Third Paice Decl. 5 & Ex. C (showing Zelle transfers were not accepted and that Mr. Paice is
2 unenrolled from Zelle). Mr. Paice has read and re-read Mr. Harold's allegations in the
3 Supplemental Brief and still does not fully understand them. *Id.* ¶ 10. To the extent there are
4 allegations of computer fraud, hacking, and improper use of BECU's or Ms. Harold's e-mail or
5 computer systems, Mr. Paice categorically denies these allegations. *Id.*

6 **D. The Trustee's Verified Petition and the TEDRA Proceeding cannot constitute**
7 **"abusive litigation" for purposes of Washington's civil-protection statutes as a matter**
8 **of law.**

9 The Court can quickly dispose of the argument that the TEDRA Proceeding was "abusive
10 litigation" that was "prosecuted" against Ms. Harold. Petition at 4, 9, Attach. B at 3; Temporary
11 Order at 5. This argument is meritless.

12 First, the Verified Petition and the TEDRA Proceeding do not fit the statutory definition of
13 "abusive litigation" for purposes of a civil-protection proceeding. RCW 7.105.310 provides that
14 in full or temporary protection orders, the court may enter "an order that provides relief as
15 follows":

16 (p) Enter an order restricting the respondent from engaging in
17 *abusive litigation as set forth in chapter 26.51 RCW* A stand-
18 alone motion for an order restricting abusive litigation may be
19 brought by a party who meets the requirements of chapter 26.51
20 RCW regardless of whether the party has previously sought a
protection order under this chapter, In cases where a finding of
domestic violence was entered pursuant to an order under chapter
26.09, *26.26, or 26.26A RCW, a motion for an order restricting
abusive litigation may be brought under the family law case or as a
stand-alone action filed under this chapter, when it is not reasonable
or practical to file under the family law case[.]

21 RCW 7.105.310(1)(p) (emphasis added). "Abusive litigation," under chapter 26.51 RCW, can only
22 be litigation where the opposing parties are current or former intimate partners, which Ms. Harold
23 and Mr. Paice are not:

24 (1) "Abusive litigation" means litigation where the following apply:

25 (a)(i) The *opposing parties have a current or former intimate*
26 *partner relationship*;

27 (ii) The party who is filing, initiating, advancing, or continuing the
litigation has been found by a court *to have committed domestic*

1 *violence against the other party* pursuant to: (A) An order entered
2 under chapter 7.105 RCW or former chapter 26.50 RCW; (B) a
3 parenting plan with restrictions based on RCW 26.09.191(2)(a)(iii);
4 or (C) a restraining order entered under chapter 26.09, 26.26A, or
5 26.26B RCW, provided that the issuing court made a specific
6 finding that the restraining order was necessary due to domestic
7 violence; and

8 (iii) The litigation is being initiated, advanced, or continued
9 primarily for the purpose of harassing, intimidating, or maintaining
10 contact with the other party; and

11 (b) At least one of the following factors apply:

12 (i) Claims, allegations, and other legal contentions made in the
13 litigation are not warranted by existing law or by a reasonable
14 argument for the extension, modification, or reversal of existing law,
15 or the establishment of new law;

16 (ii) Allegations and other factual contentions made in the litigation
17 are without the existence of evidentiary support; or

18 (iii) An issue or issues that are the basis of the litigation have
19 previously been filed in one or more other courts or jurisdictions and
20 the actions have been litigated and disposed of unfavorably to the
21 party filing, initiating, advancing, or continuing the litigation.

22 RCW 26.51.020(1) (emphasis added).

23 Here, the Verified Petition does not qualify as “abusive litigation” under chapter 7.105
24 RCW because Mr. Paice and Ms. Harold do not “have a current or former intimate partner
25 relationship.”

26 Second, the Verified Petition and the TEDRA Proceeding cannot constitute abusive
27 litigation because Washington law explicitly allows trustees to petition a court for the approval of
the trustee’s acts and trust accountings, to appoint a successor trustee, and to release and discharge
the serving trustee. *See* RCW 11.96A.080 (allowing trustee to seek declaration of rights or legal
relations); RCW 11.106.030 (allowing trustee to file intermediate statement of account with court);
RCW 11.98.039(4) (allowing petition for appointment of successor trustee “upon filing of petition
of resignation by trustee).

As a matter of law, neither the Verified Petition nor the TEDRA Proceeding can constitute
“abusive litigation.” These arguments are simply ploys to get the TEDRA Proceeding dismissed.

1 **E. The Trustee's hiring of counsel cannot constitute "financial exploitation" as a matter**
2 **of law.**

3 The Petition for Protection Order claims that by hiring counsel and paying counsel from
4 the Harold Trust, the Trustee is financially exploiting Ms. Harold. This argument must fail as a
5 matter of law. Article F of the Harold Trust allows the Trustee to hire legal counsel and pay counsel
6 from the Trust. Accordingly, hiring and paying counsel for the Trust cannot constitute the basis
7 for the Protection Order or the Petition for Protection Order. To the extent that Mr. Harold
8 disagrees with Mr. Paice's hiring of counsel, that issue is before Judge Yip, who will decide.

9 In construing a trust, the court's paramount duty is to give effect to the trustor's intent. *In*
10 *re Est. of Bernard*, 182 Wn. App. 692, 697, 332 P.3d 480, 484 (2014). Courts determine intent
11 from the instrument as a whole. *Id.* Article F of the Harold Trust explicitly allows the Trustee to
12 hire legal counsel and pay counsel from the Trust:

13 **F. POWERS OF THE TRUSTEE**

14 To carry out the purposes of the Trust, and subject to any limitation
15 stated elsewhere herein, the Trustee and any successor Trustee are
16 hereby vested with the following powers and discretions, in addition
17 to those now or hereafter conferred by law:

18 . . .

19 11. To employ counsel to assist and advise in the management,
20 preservation and administration of the Trust Estate; and to
21 compromise, arbitrate, settle, or litigate any matters pertaining
22 thereto. The Trustee shall pay reasonable compensation therefor,
23 and the same shall be charged against income and/or principal in
24 such manner as the Trustee shall deem just and equitable.

25 Third Schilbach Decl., Ex. A to Verified Petition.

26 Here, the Trustee's decision to hire and pay legal counsel cannot constitute financial
27 exploitation of a vulnerable adult, breach of the Trustee's fiduciary duty, deception, or conversion
of the vulnerable adult's property because the Harold Trust explicitly grants the Trustee the power
to hire counsel.

28 **F. This Court has the inherent power to stop bullying litigation tactics and should stop**
29 **Charles Harold from destroying Mr. Paice's reputation.**

Every Washington court has the inherent power to control the conduct of litigants who

1 impede the orderly conduct of proceedings and preserve and enforce order in the proceedings
2 before it:

3 Every court of justice has power—(1) To preserve and enforce order
4 in its immediate presence. (2) To enforce order in the proceedings
5 before it, or before a person or body empowered to conduct a judicial
6 investigation under its authority. (3) To provide for the orderly
7 conduct of proceedings before it or its officers. . . .

8 RCW 2.28.010(1)-(3).

9 Here, Mr. Harold has filed a meritless Petition for Protection Order based on nothing but
10 his own conspiracy theories in order to tarnish Mr. Paice’s reputation before his employer and
11 before the Court. This is abusive, bullying litigation, and it must stop. Mr. Paice respectfully
12 requests that the Court admonish Mr. Harold to stand down.

13 **VII. CONCLUSION**

14 The Temporary Order must be allowed to expire and the Petition for Protection Order must
15 be dismissed. There is not a shred of evidence that Mr. Paice, the Trustee of the Harold Trust, has
16 financially exploited, abused, stolen from, or threatened Ms. Sharon Harold, or that Ms. Harold is
17 in danger of serious imminent or irreparable harm from Mr. Paice. To the contrary, the Temporary
18 Order ***blocked*** a lawful distribution made from the Harold Trust to Ms. Harold for her attorneys’
19 fees and medical expenses, and all claims related to the Harold Trust—including Ms. Harold’s
20 objections to the Trust’s accountings—are currently being litigated in a separate matter.

1 DATED: March 17, 2023

2 LANE POWELL PC

3
4 By: /s/ Aleksander R. Schilbach
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10 *Attorneys for David Paice*

CERTIFICATE OF SERVICE

I certify, under penalty of perjury under the laws of the United States and the State of Washington, that on March 17, 2023, I served a copy of the foregoing document on all counsel of record as indicated below:

Charles A. Harold, <i>Pro Se</i> 1455 N. Tomahawk Road Apache Junction, AZ 85119 chuckharold@gmail.com Petitioner	<input type="checkbox"/> by CM/ECF <input checked="" type="checkbox"/> by Electronic Mail <input type="checkbox"/> by Facsimile Transmission <input checked="" type="checkbox"/> by First Class Mail <input type="checkbox"/> by Hand Delivery <input type="checkbox"/> by Overnight Delivery
Sharon M. Harold, <i>Pro Se</i> 100 River Bend Rd. #103 Reedsport, OR 97467 smharold7@gmail.com	<input type="checkbox"/> by CM/ECF <input checked="" type="checkbox"/> by Electronic Mail <input type="checkbox"/> by Facsimile Transmission <input checked="" type="checkbox"/> by First Class Mail <input type="checkbox"/> by Hand Delivery <input type="checkbox"/> by Overnight Delivery

Executed at Seattle, Washington this 17th day of March, 2023.

/s/ Silvia Webb
Silvia Webb