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HONORABLE WYMAN YIP
Hearing Date: March 17, 2023
Without Oral Argument

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

In Re the Matter of:

Case No. 22-4-08326-1 KNT

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

a Trust.

**DECLARATION OF ALEKSANDER
R. SCHILBACH IN SUPPORT OF
MOTION FOR APPOINTMENT OF A
LITIGATION GUARDIAN AD LITEM
FOR SHARON M. HAROLD**

I, Aleksander R. Schilbach, declare as follows:

1. I am an attorney with Lane Powell PC, attorneys of record for David A. Paice (“Trustee”), in his capacity as successor trustee of the Sharon M. Harold Irrevocable Trust dated November 12, 2004 (“Harold Trust” or “Trust”). I have personal knowledge of the facts set forth herein. I make this declaration based in support of the Trustee’s Motion for Appointment of a Litigation Guardian Ad Litem for Sharon M. Harold (“Motion for Appointment”). In making this declaration to authenticate the attached exhibits and to describe non-privileged conversations that I have had with individuals other than my client, I am not waiving any attorney-client privilege held by our client as to our communications and legal advice, nor any work-product protections that attach to the legal services and work that we have done for him.

2. Telephone Conversation with Ms. Sharon Harold. On October 5, 2022, I received a telephone call from Ms. Sharon Harold. I called her back that same day and talked with her about the Release and Discharge of Successor Trustee, which she had executed on September 24, 2022, and which my office received on September 26, 2022. Ms. Harold informed me that she wished to revoke the release of the Trustee because she found some “discrepancies” in the Trust’s accounting. When I asked her what “discrepancies” she had found, she could not identify any. She

DECLARATION OF ALEKSANDER R. SCHILBACH IN SUPPORT
OF MOTION FOR APPOINTMENT OF A LITIGATION GUARDIAN
AD LITEM FOR SHARON M. HAROLD - 1
No. 22-4-08326-1 KNT

134455.0001/9299355.1

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1420 FIFTH AVENUE, SUITE 4200
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SEATTLE, WASHINGTON 98111-9402
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1 then told me that she “fe[lt] [she] [was] being pulled in five different directions by [her] children.”
2 I understood this to mean that she was being influenced or pressured by her children.

3 3. Oral Motion for Appointment of Litigation Guardian Ad Litem. During a hearing
4 in this matter on February 3, 2023 before Commissioner Henry Judson of the King County
5 Superior Court, I requested that Commissioner Judson appoint a litigation guardian ad litem for
6 Ms. Harold due to the concerning statements and facts included in Ms. Michelle Blackwell’s filed
7 declarations.

8 4. Unofficial Transcript of February 3, 2022 Hearing. My office ordered the audio
9 recording of the February 3, 2022 hearing before Commissioner Judson and prepared an informal
10 transcript of the hearing based on the audio recording for my office’s own internal usage. A true
11 and correct copy of the informal transcript of the February 3, 2023 hearing is attached to this
12 declaration as **Exhibit A**. This is not a formal transcript transcribed by a certified transcriptionist,
13 but I believe it to be an accurate report of what was said during the portion of the proceedings
14 where Commissioner Judson made his rulings.

15 I declare under penalty of perjury under the laws of the State of Washington that the
16 foregoing is true and correct to the best of my knowledge.

17 Executed on this 28th day of February, 2023, at Seattle, Washington.

18 
19 _____
20 Aleksander R. Schilbach

Exhibit A

Unofficial Transcript of February 3,
2022 Hearing before Commissioner
Henry Judson as Prepared by Mr.
Schilbach's Office Staff



MEMORANDUM

February 13, 2023

TO: File

FROM: Lane Powell PC

RE: *In re Sharon M. Harold Irrevocable Trust*
King County Superior Court Cause No. No. 22-4-08326-1 KNT
Transcription of February 3, 2023 Hearing Before Commissioner Henry Judson

Judge: Trust matter of Sharon Harold. King County Superior Court cause #22-4-08326-1. There are a number of people here today, and . . .

Schilbach: Good m—

Judge: Go ahead.

Schilbach: Your honor, Aleksander Schilbach on behalf of petitioner Mr. David Harold who's also—or David Paice, who's also here in the courtroom today, the trustee of the Sharon Harold irrevocable trust.

Judge: Alright. I see Mrs. Mautner as well, good morning.

Mautner: Good morning your honor, this is Mr. Schilbach's argument and I am here primarily as colleague and observer.

Judge: Alright, that's fine. So, for the responding parties, uh, I'll have counsel for responding parties, uh, identify him or herself and then introduce the other folks who are here today.

Blackwell: Good morning, your honor. Michelle Blackwell for respondent Sharon Harold. There is a motion to withdraw pending as well.

Judge: Alright. Who else is here on this case? I see Chuck Harold, John Harold, Sharon Harold, and someone entitled "Zoom user", are you here on this case? Person who's—go ahead . . .

Ramirez: This is Joey Harold Ramirez, I'm here for Sharon.

Judge: Oh, okay. Very good, thank you. Good morning.

Ramirez: Good morning your honor.

Judge: So, the person listed as “Zoom user,” who—are you connected to this case, or?

Paice: Oh, that might be me. My name’s David. I’m the trustee.

Judge: *You* are the trustee. Very good, I didn’t—

Paice: My apologies, I thought I’d changed that.

Judge: That’s okay, that’s fine. Alright, so, Mr. Schilbach, and folks: I received, really a massive amount of paperwork here. I did see a reply. The reply asked for additional time. Someone else has just come on—Ms. Loomis, are you here on this case?

Loomis: Yes, I am your honor.

Judge: And what is your connection to this case?

Loomis: Um, I am the granddaughter of Sharon Harold.

Judge: Alright, very good. That’s fine. So, as I was saying, there is an enormous amount of paperwork. There is a request in the reply to continue the matter because the rather significant amount of paperwork was not timely submitted according to court rules. Mr. Schilbach, I’ll hear from you on that.

Schilbach: Absolutely your honor, thank you. So, as the court is aware there is an enormous amount of paperwork, in fact I have it here: 300 pages or more of declarations and exhibits that were submitted late Monday; untimely as your honor recognized under the court rules. Given that these accusations, which most all of them appear to be completely baseless, go back 12 years, frankly, we don’t have enough time for today’s hearing to have this be a hearing on the merits and we would ask that the court continue this out on the calendar, *or*, our second request is that really the court give us a trial calendar—a 90 day trial calendar so that we can address these factual disputes. I think that there’s going to be tremendous difficulty in addressing this—just the volume of disputed facts—at 10 minutes aside on the Ex Parte calendar, and so we would ask that the court respectfully give us a case schedule—issue us a case schedule.

As for the merits—I don’t want to talk about the merits too much of the accusations in this mountain of pleadings, but many of them are completely false. For example, just one example of many, on page 7 they site a petition filed in the Los Angeles Superior Court from 2016, and then they say that Mr. Paice was appointed as trustee of another trust. Well, they conveniently omit the court order from that court denying the petition, in other words, Mr. Paice was never appointed trustee of the Joseph Daley Family Trust. And this false narrative runs throughout their pleadings. There’s a number of those types of things, we just simply don’t have enough time to formulate a response for your honor at this hearing today. I’m happy to answer any questions.

I also have another request, given that there was a number of pleadings filed by Mr. Harold, and then also Ms. Blackwell, the former, well, sounds like former attorney, for

the grantor Ms. Harold. Ms. Blackwell's declarations raised a number of very concerning and serious issues. Um, the trustee has always been willing and absolutely ready to make distributions for the trust for the purpose of having Ms. Harold independently represented by counsel, provided that those distributions go to the attorney, and provided that the attorney does not represent her children, who appear to have a material conflict of interest with their mother. I think this is reflected in the declarations Michelle Blackwell filed, um, and we would ask that the court appoint a litigation guardian ad litem, we think that's appropriate here, for a few reasons.

In the past—and I'm happy to make argument on this if your honor wants to hear this now or if the court would like to address the continuance. First, I'm not sure, but that in August for example, Ms. Harold texted my client and said, quote "she wants to sue her four kids for parent abuse." The next text stated that she has "deleted Charlie, John, Angel, and Amy," the respondents in the courtroom here today, from her phone. A few months later we sent her the accountings, she reviewed them, she signed a release. A few days later, or a week later, that was rescinded. When I called her and asked why she was rescinding the release she said "there's discrepancies" and did not—I asked what those were—she was not able to answer. And again, we believe that some of Ms. Harold's children have in fact—have access to her email somehow, and have basically corresponded pretending to be Ms. Harold. We believe that's a concerning, uh, very concerning issue, especially when there could be absolute conflicts of interest between their interests and their mother's interests as it pertains to the trust.

I think this is reflected in Ms. Blackwell's declaration which raises very serious issues it caused her to—as she stated, go to the Oregon State Bar ethics hotline, and we would ask that the court take this seriously and that the court appoint a guardian ad litem who can represent Ms. Harold, but also represent to the court what is going on with Ms. Harold. And so, your honor, unless the court has any questions, I'm happy to take those, but at this point we would ask that the court at a minimum continue this hearing for another in the future, or, even better, issue a case schedule and appoint a litigation guardian ad litem for Ms. Harold.

Judge: Alright. Thank you. So, there are a plethora of folks—Ms. Blackwell, do you want to respond at all?

Blackwell: Yes, thank you, your honor. Michelle Blackwell here. Your honor, thank you for taking the time this morning to hear this matter. I know that there is a large volume of paperwork, and some of which was filed and served on me at 4:27 PM last night to which I responded at lightning speed—within an hour. So I assume that the court has had the opportunity to read the supplemental declaration that I filed effectively this morning. And—I agree that Ms. Harold ought to have an attorney of her own choosing. I agree that a guardian ad litem should be appointed for Ms. Harold. I agree with the concerns about a potential conflict of interest, and, um, that are deeply concerning to me. The fact that I was not permitted, um, an opportunity to vet those with Ms. Harold herself before I was abruptly terminated by, um, Mr. Charles Harold, who held her power, or purports to hold her power of attorney.

I question a lot of things in this case, and I have quite a bit of information that I'm prohibited from sharing by the attorney-client confidentiality, unless I'm ordered to by the court. And, uh, I would simply state that this is a civil case: our fee agreement allowed Ms. Harold to terminate me at any time, or for me to terminate the representation at any time. In this case, I was terminated by the client's authorized, or purportedly authorized, representative. I was expressly instructed to withdraw within 2 days by that same representative in that same email terminating me. It put me in a catch-22 with CR-71. So I followed the client's instructions and our representation agreement and promptly filed a notice to withdraw, as the client's representative Mr. Charles Harold instructed me. I couldn't get it done within the 2 days, but I got it done in less than 10. I filed a proof of mailing—at the time of filing a proof of mailing I had received no objection to my withdrawal. Several days later, much to my surprise, the very person who had terminated me, and told me to do it within 2 days, then filed an objection stating that I had not waited 10 days. That was the reason I filed my alternative motion to withdraw, so the court had a method to proceed. I would ask the court to grant that motion to withdraw, effective as of the date stated the order. Thank you. I'm happy to answer any questions, and if the court orders me I'm certainly happy to share more information.

Judge: Alright, thank you. Mr. Charles Harold as to that issue, if in a position as a fiduciary you're asking counsel to withdraw within 2 days, what is the basis for objecting to the fact that they didn't?

C. Harold: Your Honor, I have an email I'd like to read—I don't think it violates attorney-client privilege because I'm not going to read a couple portions of it, but to say that I terminated representation is—I don't know where that came from, I have plain documentation that shows that Ms. Blackwell did not work on the petition. I'll read one paragraph if I may, from Ms. Blackwell?

Judge: Go right ahead.

C. Harold: "With the hearing coming up, we want to make sure the trust deposit is maintained at the agreed level of \$10,000. We'll need to receive the trust funds prior to appearing in a case or filing any objection and supporting documents. As the filing requires significant preparation, coordination, and advance work, your urgent attention to this matter is requested." That's dated December 29th, at 5:17pm. Our response to that was, in talking to my mother and Amy, who both have durable power of attorney—we can't spend any more money. She wanted the trust fund deposited. I said, "look, I gave you \$10,000 for the trust fund deposit, can you pay that \$6,000 out of the bill?" She took that portion out, then wanted the trust fund replenished, and I said, "It's irresponsible of me to run up my mother's credit cards anymore because we funded this thing on a credit card."

So, you know, did I fire her, did she resign? She brought up the fact that she was a vulnerable adult to us—my mother did. She brought that up as a legitimate question. I sent her some medical records and said: "Okay, that's fine. Let's make a determination on that." But, knowing that she's a vulnerable adult, she has a duty to go forward, your honor. I was not aware of that duty until I filed my objection. I did a little research, I

looked up CV-71 and said “Oh, wait a minute, she has to move forward.” And I think it’s really clear when she says: “We’ll need to receive the trust funds prior to appearing for the case of filing any objection,” that she had no intention of filing the objection. Because as you can see by the voluminous work we did on this, uh, by the way, it’s 250 pages, the exact amount of pages Mr. Schilbach submitted to the court. It’s the same amount of his cases, just a little side note. She couldn’t have possibly gotten this done. And we have other emails that say “I’m on vacation,” “I’m going to a lawyer retreat,” “Can’t, got to get back to you”—I have all these emails. She didn’t really do that sort of work in the case. Now, I think Ms. Blackwell’s competent and that she’s a good lawyer. When my mother approached us on this and said, “Well, can we help? We did some research.” You know, I think she’d be great to represent mom going forward, but, this costs money. And we’re here before the court because we don’t really have anymore, and that’s why we have filed this on ourselves.

If this was a different court room, your honor, we would not be filing this sort of a petition. We would be filing a protection order against Mr. Paice to allow us to get an oversight on what’s going on with this case so we can put her into an assisted living facility. It’s really not as complicated as it all sounds, I will let my writing speak for themselves. When you’re ready, I can respond to Mr. Schilbach as well.

Judge: Alright, and I am ready for that—

Blackwell: Your honor, pardon me, this is Michelle Blackwell. May I quote one email since now the door has been opened, and apparently the privilege is waived.

C. Harold: No, I don’t think you can, Michelle, because I didn’t waive privilege because I did not talk about anything about this case. So you’re not allowed to waive privilege and I’m directing you not to.

Blackwell: Your honor, I believe a fraud is being perpetrated on the court and I would ask the court to order—

Judge: Alright, wait. So, I’m going to do two things: I’m certifying this matter for a trial, first. Second, Ms. Blackwell appears to wish to withdraw as counsel. The objection to her withdrawal is dually noted, but it is clear to me that this is not a relationship that the counsel wishes to have continue. She is authorized to withdraw.

Blackwell: Thank you, your honor.

Judge: I’m going to have the issue of whether or not a litigation guardian ad litem should be appointed, that would be before the trial court, with the assigned judge. So, I know the attorneys know this, but for everybody else who is here, the court will enter an order certifying this matter for trial on a 90-day trial track. You will receive from the Clerk’s office a trial date only case schedule, and an assignment to a specific judge. Any issues relating to the discovery schedule, a briefing schedule, a different trial date, need to be brought before that judge. So, that’s what we’re doing today. This matter is clearly way, way, way too large to be resolved on the Ex Parte motions calendar. The

appropriate step is to move this before a judge who will have the time and the ability to delve into all of the issues and resolve this matter. So, Ms. Blackwell, do I have an order from you authorizing your withdrawal?

Blackwell: You do, your honor. I submitted it with my motion to withdraw.

Judge: Okay, let me double check.

Mautner: And your honor, we don't have—this is Gail Mautner, Mr. Schilbach's Zoom apparently totally crashed on him—he's been sending me frantic texts and is now in the waiting room, waiting to come in. Given that your honor has ruled, we don't have a proposed order certifying for trial but I believe the bench has it.

Judge: I do.

Mautner: As a form.

Judge: Yeah, I do have the form order, which is the order that will make the clerk happy. So, that is the order that we will use.

Mautner: Thank you, your honor.

Judge: And, should we have a proposed order from Ms. Blackwell? Ms. Blackwell, you may need to send a copy of that order in, I'll give you the email address to send it to. It is: scexparteorders@kingcounty.gov.

Blackwell: I've got that and I'll mail it, this morning, thank you.

Judge: Alright, very good.

Mautner: Thank you, your honor, and we can renew our motion for appointment of a litigation guardian ad litem before the trial judge?

Judge: Yes, yes indeed.

Mautner: Yeah, it sounds—based on what Ms. Blackwell has said, that that is absolutely imperative before this case go forward. And I see Ms. Blackwell nodding, so I appreciate that.

C. Harold: Your honor, I think it might be nice to hear from my mother about what she thinks about all of this discussion. It's her case.

Judge: It is her case.

C. Harold: Before we appoint a guardian ad litem, you can make your own determination right here and talk to her.

Judge: I'm not going to do that, sir. I've already told you what I am going to do and what I'm not going to do.

C. Harold: Okay. Thanks, your honor.

Judge: That's a matter to be brought before the assigned judge, I want to give people an opportunity to be able to think about this and respond to it instead of doing it on the fly. So, I will enter the order that certifies the matter for a trial, and Ms. Blackwell, will send in the order allowing her to withdraw. I will sign both orders, and court staff will send copies out. So, very good folks. Thank you, take care. I'm sorry this is somewhat of an anticlimax today, but I believe this is the appropriate way to handle a matter with this many moving parts. Thank you.