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Petitioner, In Pro Per

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, NORTH WEST DISTRICT

In Re)	Case No.:
THE YOUR MOTHER'S LIVING)	
TRUST)	PETITION TO DETERMINE VALIDITY OF
ESTABLISHED JULY 19, 2003)	PURPORTED TRUST AMENDMENT;
-----)	SUSPEND AND REMOVE CO-TRUSTEES
JANE DOE,)	AND APPOINTMENT OF SUCCESSOR
Petitioner,)	TRUSTEE; FOR OTHER RELIEF FOR
v.)	BREACH OF TRUST; FOR AN
SIBLING BENEFICIARY NAMED AS CO-)	ACCOUNTING; FOR INSTRUCTIONS
TRUSTEE AND SIBLING RESPONDENT TO))	[PROBATE CODE §§15642, 16420, 17200]
TRUST LITIGATION, CO-TRUSTEES OF))	
THE YOUR MOTHER'S LIVING TRUST.))	
Respondents.)	
_____)	

Petitioner, JANE DOE, alleges as follows:

1. YOUR MOTHER, hereinafter referred to as Petitioner's Mother, died on February 15, 2009. At the time of her death she resided at 12727 Gladstone Avenue, City of Sylmar, County of Los Angeles, State of California and left property in that jurisdiction.
2. Jurisdiction is proper in that Petitioner's Mother's Trust is being administered at 100 S. Broadway Avenue, Glendale, Los Angeles County, California. Venue is

1 appropriate as the Respondents are both residents of Los Angeles County, California.

2 3. On or about July 19, 2003, Petitioner's Mother, as Settlor, executed a
3 document purporting to create a revocable living trust ("Petitioner's Mother's Trust").
4 Petitioner's Mother's Trust instructs the Co-Trustees to "divide and distribute the net income
5 and principal of the Trust Estate for the benefit of the Settlor's named beneficiaries as follows:
6 JANE DOE ["Petitioner"], Jill Victoria Castaneda ["Jill"], Jessica Linda Sibling (sic) ["Jessica"],
7 Robert Smith, SIBLING RESPONDENT TO TRUST LITIGATION ["Margie"], Oliva Christina
8 Wyatt, share and share alike." A true and correct copy of Petitioner's Mother's Trust, as
9 received from Respondents, is attached hereto as **EXHIBIT "A"**.

10 4. On or about January 23, 2009, Petitioner's Mother also allegedly executed a
11 document titled "Amendment to the YOUR MOTHER'S Living Trust Dated July 19, 2003." A
12 true and correct copy of this purported amendment (the "Purported Amendment"), as received
13 from Respondents, is attached hereto as **EXHIBIT "B"**.

14 5. Petitioner is a person interested in both the devolution of the estate and proper
15 administration of Petitioner's Mother's Trust because Petitioner is decedent's daughter and a
16 beneficiary of Petitioner's Mother's Trust, and therefore has standing to bring this petition.

17 **INVALID TRUST**

18 6. The Court should rescind and nullify the Purported Amendment on the following
19 grounds:

20 a. First Ground: At the time of the alleged execution of the Purported
21 Amendment, the Petitioner's Mother was not of sound and disposing mind. Petitioner is
22 informed and believes and thereon alleges that, at the time the purported Amendment was
23 executed her mother did not have sufficient mental capacity to (i) understand the nature of her
24 actions in executing the Purported Amendment, (ii) understand and recollect the nature and
25 situation of her property, and (iii) remember and understand her relations to other family
26 members.

27 b. Second Ground: Petitioner is informed and believes and thereon
28 alleges that the Purported Amendment is not and never was the result of Petitioner's Mother's

1 freewill and was made at the time of its alleged execution as a result of undue influence
2 exerted by Respondents, Jill and others. The undue influence consisted of the following:

3 (i) Petitioner is informed and believes and based on such information
4 alleges that her mother battled cancer for the last five years of her life. Jessica and Jill lived
5 with Petitioner's Mother during the last five years before her death and occupied positions of
6 trust and confidence with Petitioner's Mother. During that Petitioner's Mother's health
7 progressively worsened and Petitioner's Mother put her trust and confidence in Jessica,
8 Margie and Jill. During this time Jessica, Margie and Jill isolated decedent from her close
9 friends and relatives, including the Petitioner.

10 (ii) During this time, Petitioner's Mother was taking various medications for
11 treatment of pain, anxiety and depression, including Morphine (15 to 30 mg), Temazepam
12 (7.5 mg), and Sertraline (25 mg).

13 (iii) Also during this time, while Petitioner's Mother was under Respondents'
14 and Jill's undue influence, Respondents and Jill suggested the contents of the Purported
15 Amendment, created the document, arranged for its execution and caused Petitioner's Mother
16 to execute the document by placing a pen in her hand and then physically moving her hand to
17 scribe an "X" near the signature block. At the time, Petitioner's Mother was wholly under the
18 influence and control of Respondents and Jill and the document does not represent her free
19 and voluntary act.

20 (iv) At the time the Purported Amendment was allegedly executed,
21 Petitioner's Mother was 76 years old and infirm. She was on constant oxygen treatment and
22 bed ridden suffering from extreme back pain. She was also suffering from anxiety,
23 depression and poor vision. She was often confused and had memory problems. She was
24 unable to read. She was totally dependent and submissive to the Respondents and Jill.

25 (v) Respondents and Jill actively procured the Purported Amendment as part
26 of a pattern of conduct aimed at wrongfully taking an unequal share of Petitioner's Mother's
27 assets.

28 (vi) Before, during and after execution of the Purported Amendment,

1 Respondents and Jill took active steps to isolate Petitioner’s Mother from Petitioner and her
2 other family members. Respondents and Jill were never very close to Petitioner. They
3 formed an alliance. They acted to make Petitioner feel uncomfortable whenever she visited
4 her mother. The never included her in the loop of current information concerning her mother’s
5 health and treated her very much like a stranger. Just a couple of days after the purported
6 Amendment was allegedly executed, Petitioner contacted Jessica to schedule a visit with her
7 mother to celebrate her mother’s February 3, 2009 birthday. Jessica denied each request
8 claiming simply, it would be best if she didn’t come.

9 Over Jessica’s objections, Petitioner went to see her mother. Upon arrival she found
10 that her mother couldn’t stay awake longer than 10 seconds. Her mother didn’t recognize
11 anyone, was hallucinating—claiming that two children were sitting on her bed, and couldn’t
12 complete a sentence, with one exception. She repeatedly complained about pain, asked for
13 more medication and pleaded for someone to “put a pillow on her face” (to kill her). During
14 that visit the same person that notarized the Purported Amendment arrived and was met by
15 Margie.

16 Together they met with Petitioner’s Mother. Margie instructed Petitioner’s Mother to
17 sign an unknown document. Margie even went so far as to place the pen in her mother’s
18 hand. Petitioner was present during this time. At this time the notary stated that because
19 Petitioner’s mother was completely incoherent, the document could not be legally executed.

20 (vi) The disposition of the Decedents’ estate as provided in the Purported
21 Amendment confers an undue benefit on Respondents and Jill. The original trust and the first
22 part of the Purported Amendment show that Petitioner’s Mother wanted her assets divided
23 equally between her children. Respondents and Jill were trying to get an unequal share not
24 only for themselves, but for Margie’s daughter as well.

25 c. Third Ground: The Purported Amendment was allegedly executed by mistake,
26 in that Petitioner’s Mother did not know or understand what was presented to her to sign.
27 Indeed the document itself is extremely confusing as it partially reiterates Petitioner’s Mother’s
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1 desire that each of her children take an equal interest in her house. The subsequent
2 language in that document conflicts with those wishes.

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Petitioner's Mother;

- 2. Finding the Purported Trust Amendment invalid due to the undue influence of Respondents and others;
- 3. Purported Trust Amendment invalid due to mistake;
- 4. Purported Trust Amendment invalid because it was not duly executed as required under the terms of the trust;
- 5. The court remove SIBLING BENEFICIARY NAMED AS CO-TRUSTEE and SIBLING RESPONDENT TO TRUST LITIGATION as co-trustees of the YOUR MOTHER'S Living Trust and appoint petitioner JANE DOE and OLIVIA CHRISTINA WYATT as successor co-trustees to serve without bond.
- 6. The court order SIBLING BENEFICIARY NAMED AS CO-TRUSTEE and SIBLING RESPONDENT TO TRUST LITIGATION to file an accounting with the court detailing their acts as trustee.
- 7. For \$355.00 in court filing costs for filing this petition.
- 8. For \$750 in legal document assistant fees incurred to help prepare this motion.
- 9. For attorneys fees and costs herein incurred by Petitioner in 2009 in researching, preparing and drafting this petition; and
- 10. For Instructions on how to proceed in this matter.
- 11. For such other orders as the Court may deem proper.

RESPECTFULLY SUBMITTED:

DATED: _____, 2010

JANE DOE, Petitioner, In Pro Per
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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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I have read the foregoing PETITION TO DETERMINE VALIDITY OF PURPORTED TRUST AMENDMENT and know its contents.

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____, 2010, at Los Angeles, California.

JANE DOE, Declarant

1 **PROOF OF SERVICE**

2 1013A (3) CCP Revised 5/1/05

3 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

4 I am employed in the county of Los Angeles, State of California.

5 I am over the age of 18 and not a party to the within action; my business address
6 is www.legalnoodle.com, 322 Culver Blvd., #144, Playa del Rey, CA 90293.

7 On _____, I served the foregoing document described as:

8
9 on the parties in this action

10 [X] by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

11
12
13 BY MAIL

14 [X] I deposited such envelope in the mail at Los Angeles, California.
The envelope was mailed with postage thereon fully prepaid.

15 Executed on _____, at Los Angeles, California.

16 [X] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and
17 correct.

18 Dean McAdams
Type or Print Name

Signature

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