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FILED

DEC 13 2021

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

CASE NO. PR2100162

IN RE BARBARA LYNN KELLER

RULING AND ORDER
APPOINTING CONSERVATOR

Presently before the court are two competing petitions for appointment of conservator for Barbara Lynn Keller: a petition by Royce Mendonca (Ms. Keller’s husband’s nephew), and a petition by Sharon Wolff (Ms. Keller’s daughter). Objections were also filed to both petitions. Similar competing petitions were filed in Ronald Keller’s matter, Humboldt Superior Court case no. PR2100161. Ronald and Barbara Keller are married.

Both petitioners appear to agree that Ms. Keller needs a conservator of her person and of her estate. The probate investigator also recommended appointment of a conservator. From the evidence presented to the court, including but not limited to the testimony at the hearing and the investigator’s reports, the court finds that Ms. Keller is unable to properly provide for her personal needs for physical health, food, clothing or shelter, and that Ms. Keller is substantially unable to manage her own financial resources or resist fraud or undue influence. The court finds that appointment of a conservator of Ms. Keller’s person and estate is in Ms. Keller’s best

1 interests.

2 Which petitioner should be appointed conservator is a more difficult question. After
3 reviewing all the filings in this matter as well as in Mr. Keller's matter, and considering the
4 testimony presented at the hearing, the court appoints Mr. Mendonca as the conservator of Ms.
5 Keller's person and estate, for the following reasons.

6 The probate investigator recommended that Ms. Wolff be appointed conservator for Ms.
7 Keller's person and estate, in her original report and in her subsequent report. The court is
8 appointing Mr. Mendonca as Mr. Keller's conservator; appointing Ms. Wolff as conservator for
9 Ms. Keller would require either that Mr. Mendonca and Ms. Wolff work together to support Ms.
10 Keller and Mr. Keller as a married couple, or require Ms. Keller and Mr. Keller to live apart and
11 go their separate ways.

12 Mr. Mendonca and Ms. Wolff are unable to work together. During the hearing, and as
13 reflected in the papers submitted by the parties, it is apparent that each petitioner undermines the
14 other, trades insults, and withholds key information from each other. Appointing Mr. Mendonca
15 for Mr. Keller and Ms. Wolff for Ms. Keller would likely result in more contentious interactions,
16 high stress for the conservatees, and extensive litigation over instructions, orders, accountings
17 and the like.

18 Ms. Keller, as did Mr. Keller, signed a written document nominating Mr. Mendonca to be
19 her conservator. A proposed conservatee may nominate a conservator, either in the petition for
20 appointment or in a writing signed by the proposed conservatee at a time when she had sufficient
21 capacity to form an intelligent preference. Prob. C. §1810. The court must appoint the
22 nominee unless it finds that the appointment is not in the best interests of the proposed
23 conservatee.

24 Though Ms. Keller may have been influenced by Mr. Keller and by Mr. Keller's sister
25 when making the nomination of Mr. Mendonca, there was insufficient evidence that any such

1 influence was undue. Though Ms. Keller is clearly suffering from memory loss and some
2 diminished capacity, it appears to the court that Ms. Keller had sufficient capacity to form an
3 intelligent preference at the time she signed the nomination. At the hearing, Ms. Keller also
4 clearly and unequivocally testified that she preferred the appointment of Mr. Mendonca over the
5 appointment of Ms. Wolff. Ms. Keller also told the probate investigator that she preferred Mr.
6 Mendonca be appointed conservator.

7 The court finds that Ms. Keller had sufficient capacity to form an intelligent preference
8 for a conservator at the time she nominated Mr. Mendonca.

9 The court further finds that Mr. Mendonca's appointment is in Ms. Keller's best interest.
10 According to Alma Barber, a social worker with Adult Protective Services, prior to the
11 involvement of Mr. Keller's sister and Mr. Mendonca, when Mr. Keller and Ms. Keller were
12 living close to Ms. Wolff and her family, they stopped accepting assistance from Ms. Wolff and
13 began trying to sell their house and leave the area. When visited by Ms. Barber, the Kellers had
14 no food in their house, and Ms. Keller had lost 10 pounds. Ms. Barber testified that Mr. Keller
15 looked disheveled and was crying frequently. Ms. Barber concluded that both were
16 decompensating rapidly.

17 In contrast, after Mr. Keller's sister and Mr. Mendonca became involved, both Mr. and
18 Ms. Keller were placed in an assisted living facility where they both are receiving medical care,
19 eating well, live in a safe environment, and are generally being well-cared for. At the hearing on
20 the petitions, the court was able to observe the Kellers as they testified via Zoom, and they both
21 appeared to be doing well in the assisted living facility.

22 In addition, and as recommended by the probate investigator, Mr. Mendonca is
23 committed to Mr. and Ms. Keller living together, as long as their medical condition allows it and
24 as long as there are no concerns regarding physical safety. In contrast, Ms. Wolff did not appear
25 to be strongly in favor of the Kellers living together, at least not initially.

1 It is also clear from testimony as well as the investigator's reports that Ms. Keller (and
2 Mr. Keller) are willing to listen to and cooperate with Mr. Mendonca, whereas neither proposed
3 conservatee seemed willing or able to do so with Ms. Wolff. Ms. Keller not only expressed a
4 strong preference for the appointment of Mr. Mendonca -- which she has consistently asserted
5 since the first investigator's report -- but she also strongly expressed her opposition to Ms.
6 Wolff being appointed.

7 The court gives no weight to Mr. Mendonca's assertions that Ms. Wolff is not qualified
8 to serve as a conservator of the estate because of her prior bankruptcy or current financial
9 situation. Those factors do not support a conclusion that Ms. Wolff would embezzle or misuse
10 the conservatees' financial assets.

11 Similarly, the court does not give any weight to Ms. Wolff's assertions that Mr.
12 Mendonca was falsifying documents or otherwise not qualified to serve as conservator.

13 Considering the vitriolic accusations made against each other, Ms. Wolff and Mr.
14 Mendonca are not able to cooperate with each other in making decisions regarding care and
15 support for Ms. Keller and her husband. Instead, it is likely that each conservator would make
16 decisions inconsistent with the other's decision, which in turn would not be in the best interests
17 of the married couple. A likely outcome of having two different conservators is that Mr. Keller
18 and Ms. Keller may be split up. As the investigator noted, splitting Mr. Keller and Ms. Keller
19 up may cause their respective conditions to deteriorate more rapidly.

20 The court further concludes that having a different conservator for Mr. Keller and for Ms.
21 Keller would not be in the conservatees' best interests, but would likely be disastrous.

22 For the foregoing reasons, the court finds that the appointment of Royce Mendonca as
23 conservator for Ms. Keller's person and estate is in the best interests of Ms. Keller. The court
24 grants Mr. Mendonca's petition for appointment, and appoints Mr. Mendonca as conservator for
25 Ms. Keller's person and estate. Except as expressly granted herein, all other requests for relief in

1 this case have been considered and are denied.

2 For the foregoing reasons,

3 **IT IS HEREBY ORDERED THAT:**

4 1. Sharon Wolff's petition for appointment as conservator is denied;

5 2. Royce Mendonca's petition for appointment as conservator of the person and estate of
6 Ms. Keller is granted, and letters shall issue; and

7 3. The court will set dates for review and accounting, and will notify the parties of those
8 dates.

9

TIMOTHY A. CANNING

10 Dated: December 10, 2021

Timothy A. Canning
Judge of the Superior Court

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PROOF OF SERVICE BY MAIL

I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, 825 5th St., Eureka, California, 95501; that I served a true copy of the attached RULING AND ORDER APPOINTING CONSERVATOR by placing said copies in the attorney's mail delivery box in the Court Operations Office at Eureka, California on the date indicated below, or by placing said copies in envelope(s) and then placing the envelope(s) for collection and mailing on the date indicated below following our ordinary business practices. I am readily familiar with this business practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service at Eureka, California in a sealed envelope with postage prepaid. These copies were addressed to:

Sharon Wolff, 3 Painter St., Rio Dell, CA 95562

Alex Grotewohl, County Counsel, Court Operations Box #39

Chris Hamer, Court Operations Box #4

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

Executed on the 13th day of December 2021, at the City of Eureka, California.

Kim M. Bartleson, Clerk of the Court

By 
Deputy Clerk