

The court never read or considered any of this as far as I can tell. It isn't half bad for an In Pro Per if I do say so myself. Please feel free to use this as a teaching tool but keep in mind that absolutely NONE of it matters in the Humboldt County Superior Court - but good luck in other jurisdictions where the laws might apply.

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1 INTRODUCTION

2 Petitioner Sharon L. Wolff (“SHARON”) hereby opposes the Petition of Royce
3 Mendonca (“ROYCE”) to be appointed Conservator of the Estate and Person of Barbara Keller
4 (“BARBARA”), filed with this court on August 26th, 2021.

5 SHARON requests the Court grant her petition for Conservatorship of the Estate and
6 Person of BARBARA.

7 Further, SHARON respectfully requests the Court to set aside the Petition filed by
8 ROYCE as well as the objections filed by ROYCE to SHARON’s Petition for Conservatorship
9 of the Estate and Person of BARBARA in their entirety.

10 This Court should set aside the Petition filed by ROYCE which is comprised of
11 unlawful documentation, including:

12 The petition filed by ROYCE includes a legal document, NOMINATION BY
13 CONSERVATEE OF ROYCE MENDONCA AS THE CONSERVATOR OF HER PERSON
14 AND ESTATE, signed by BARBARA on August 25th, 2021, despite a known pre-existing GC-
15 335 CAPACITY DECLARATION and GC-335A MAJOR NEUROCOGNITIVE DISORDER
16 ATTACHMENT TO CAPCITY DECLARATION, filed with this court on August 17th, 2021.
17 See CIV § 39; See Prob. § 811; See Prob. § 812; See W&I § 15610.30; See W&I § 15610.70;
18 See CIV § 1575; See Cal. Rules of Professional Conduct, rule 3-3.

19 The petition filed by ROYCE includes a legally insufficient and unnecessary GC-335
20 CAPACITY DECLARATION and GC-335A MAJOR NEUROCOGNITIVE DISORDER
21 ATTACHMENT TO CAPCITY DECLARATION, signed by Heather Allen, NP of Iris Health
22 on August 24th, 2021 without a corresponding signature of a California-licensed physician or
23 psychologist, with at least two years experience in diagnosing and treating major
24 neurocognitive disorders (including dementia), See Prob. § 2356.5; See Cal. Rules of
25 Professional Conduct, rule 3-3.

26 Despite months of denial regarding the urgency of the situation with the rapidly
27 declining mental state of BARBARA and her spouse Ronald Wayne Keller (“RONALD”
28 collectively the “KELLERS”) by ROYCE and Diane Mendonca (“DIANE”), there appears to
no longer be any dispute that BARBARA and RONALD are severely cognitively impaired,
unable to live independently and require an undetermined level of care in a qualified assisted
living facility.

This is evidenced by ROYCE placing the KELLERS into the locked memory care unit
of The Pines, A Merrill Gardens Community in Rocklin, CA on August 26th, 2021, despite not
having any legal authority to sign as the patient representative for the placement or to
encumber the KELLER estate. See W&I § 15610.30; See W&I § 15610.70; See CIV § 1575.

The Memorandum of Points and Authorities, filed by Attorney Chris Johnson Hamer
 (“HAMER”) on Sept. 1, 2021, stating this Court MUST [emphasis added] appoint ROYCE
 conservator because “Barbara Keller nominated him” is based on the unlawful NOMINATION
 document submitted to the Court. See Prob. § 811; See Prob. § 812; See W&I § 15610.30; See
 W&I § 15610.70; See CIV § 1575; See Cal. Rules of Professional Conduct, rule 3-3.

The Petition for Appointment of Probate Conservatorship, the Petition for Appointment
 of Temporary Conservator and the additional filings by ROYCE and Attorney HAMER were
 not served on BARBARA’s siblings; Nancy Zinos (“NANCY”) and Rick Bareuther (“RICK”)
 as required. Service to granddaughter Shauna Wolff (“SHAUNA”) was sent to her physical

1 address where there is no USPS service. This is despite the fact that the mailing addresses for
2 BARBARA's relatives are included in earlier filings by SHARON. *See* Prob. 1821(b).

3 Additional objections to the appointment of ROYCE by members of BARBARA's
4 family have been filed with this Court.

5 BACKGROUND

6 SHARON filed a Petition for Appointment of Probate Conservator of the Estate for
7 BARBARA with a corresponding Petition for RONALD on June 21, 2021. An Amended
8 Petition for Appointment of Temporary Conservator for the Person and Estate of BARBARA
9 was filed by SHARON on August 17, 2021 – this amended filing included a GC-335 and GC-
10 335A capacity declaration completed by BARBARA's medical provider.

11 Extensive documentation of the need for the conservatorship and the rapidly
12 deteriorating mental health of the KELLERS has been provided in the Petitions.

13 In the hope for brevity with as-of-yet uncontested facts contained in the initial and
14 amended Petitions by SHARON, the Court may take note: **This is how the Mendonca's found out about the
15 situation - Sharon called them for help!**

16 **Uncontested Fact One:** SHARON began trying to locate DIANE in early April 2021 in
17 order to let RONALD's sister know that the KELLER's were having tremendous difficulties
18 and RONALD could benefit from his families support. It should be noted that DIANE and
19 ROYCE were wholly unknown to SHARON or anyone else in BARBARA's family at this
20 point despite the KELLER's 29 year marriage. The pages from BARBARA's address book had
21 been removed so there were no contact names or numbers available to SHARON and
22 RONALD had never mentioned his sister's last name or details that would help in locating her.

23 SHARON was able to track down RONALD's biological sons, Robert and Scott Diller,
24 who provided some historical information on the family and some additional information that
25 assisted SHARON in finding a phone number for ROYCE which eventually led to DIANE
26 contacting BARBARA's son Timothy C. Jenkins ("TIM") on May 7th, 2021.

27 ROYCE, DIANE and Attorney HAMER have yet to acknowledge the fact that
28 SHARON undertook active efforts to try and locate RONALD's family to offer him support as
his mental health was rapidly deteriorating alongside BARBARA's severe Alzheimer's
symptoms.

RONALD and BARBARA did not contact ROYCE and DIANE to ask for their
assistance – it was SHARON who initiated that. There is yet to be any attempt to explain why
SHARON would take efforts to locate RONALD's family and bring them into this situation if
there was any malicious intent or attempt to deceive as alleged without evidence by ROYCE
and Attorney HAMER.

Uncontested Fact Two: SHARON contacted Adult Protective Services ("APS") on
April 26th, 2021. There is yet to be any attempt to explain why SHARON would contact a
governmental investigative agency and request their assistance if there was any malicious
intent or attempt to deceive as alleged without evidence by ROYCE and Attorney HAMER.

APS Social Worker Alma Barba ("ALMA") was assigned to investigate. ALMA
received permission from RONALD and BARBARA to speak with DIANE about the ongoing
investigation so information was shared with DIANE by ALMA from the very beginning.

1 ALMA received permission from BARBARA to speak with SHARON about the ongoing investigation so information on BARBARA was able to be shared.

2 ALMA was able to ensure that a cognitive assessment for both BARBARA and RONALD were completed by Dr. Andrew Levine, Ph.D. of North Coast Neuropsychology on
3 June 25th, 2021 in the KELLER home. His report was completed on July 8th, 2021 and a copy
4 of both reports were provided to the KELLER's medical provider Open Door Community Health in Fortuna who had referred the KELLER's to Dr. Levine.

5 **Uncontested Fact Three:** a GC-335 Capacity Declaration and GC-335A Major Neurocognitive Disorder Attachment to Capacity Declaration was completed by BARBARA's
6 medical provider Danielle Cole, FNP and countersigned by Dr. Andrew Johnston, MD on July 22, 2021. The cognitive assessment completed by Dr. Levine was attached as further
7 supporting documentation.

8 The original GC-335 and GC-335A for BARBARA were filed with this Court on August 17th, 2021 by SHARON.

9 A copy of RONALD's cognitive assessment by Dr. Levine has not been submitted to this court by ROYCE or Attorney HAMER in support of their petition despite its known
10 existence.

11 BARBARA's cognitive assessment report includes the following summary
12 "considering that her spouse is also severely impaired cognitively, the most suitable living situation appears to be an assisted living home" [emphasis added].

13 **These facts remain uncontested - they were simply ignored by Attorney Hamer and Judge Canning**

14 ARGUMENT

15 ROYCE and Attorney HAMER stipulated to the facts and evidence listed by SHARON
16 in her original Petition for Conservatorship of BARBARA in their GC-310 Petition for Appointment of Probate Conservator submitted by ROYCE, (5.c.1 & 2) "This is set forth in
17 Capacity Declarations filed herein by Sharon Wolff, as to her petition for conservatorship of Barbara Keller."

18 ROYCE has placed the KELLER's into the locked memory care unit of The Pines, A Merrill Gardens Community in Rocklin, CA despite not having the legal authority to sign any
19 agreement as the representative or to encumber the KELLER estate.

20 There is no disagreement over the need for assisted living for both BARBARA and RONALD but no care and needs assessment has been done to date in order to determine the
21 appropriate level of care each needs.

22 In order to illustrate the most recent developments in this conservatorship case, a
23 timeline is required. All documentation cited has been filed with this Court previously:

24

August 24, 2021	Heather Allen, NP ("ALLEN") signs GC-335 and GC-335A for BARBARA (without countersignature of licensed physician or psychologist). <ul style="list-style-type: none">• GC-335 Judicial Council form is <u>altered</u> to now include "Nurse Practitioner" as having independent signature authority• ALLEN states that BARBARA lacks legal capacity to give consent and is unable to attend hearings, citing some unknown medical inability.
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6	August 25, 2021	ROYCE and Attorney HAMER provide a legal declaration NOMINATION BY CONSERVATOR OF HER PERSON AND ESTATE to BARBARA and secure her signature.
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8	August 26, 2021	Attorney HAMER files a Petition for Appointment of Probate Conservatorship for BARBARA's person and estate based on the unlawful NOMINATION document.
9		<ul style="list-style-type: none"> • Petition affirmed BARBARA was a resident of Humboldt County on that date • Petition requests authority to move BARBARA to Sunrise of Carmichael or another facility providing comparable care • Petition states the evidence of the need for a conservatorship "is set forth in Capacity Declaration filed herein by Sharon Wolff, as to her petition for conservatorship of Barbara Keller" (5.c.1 & 2) • <i>Thereby affirming their agreement to the facts presented in SHARON's Petition</i>
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28	August 27, 2021	Attorney HAMER signs SUPPLEMENTAL DECLARATION OF CHRIS

Memorandum of Points and Authorities

1		HAMER IN SUPPORT OF ROYCE MENDONCA'S PETITION FOR APPOINTMENT OF CONSERVATOR
2		<ul style="list-style-type: none"> • Discloses that BARBARA and RONALD were moved into The Pines, A Merrill Gardens Community on August 26th – the day before • No reason for why the placement change – one week prior to Court – was necessary
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5		SHARON receives packet of documents from Attorney HAMER, including DECLARATION OF CHRIS JOHNSON HAMER IN SUPPORT OF OBJECTION TO PETITION FOR CONSERVATORSHIP OF BARBARA LYNN KELLER BY SHARON WOLFF
6		<ul style="list-style-type: none"> • DECLARATION stated that BARBARA continued to reside with DIANE in her Citrus Heights home and they were all doing very well. • There was no indication that an imminent move into a locked memory care facility was needed prior to the Court issuing any orders.
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10	August 30, 2021	Attorney HAMER files SUPPLEMENTAL DECLARATION OF CHRIS HAMER IN SUPPORT OF ROYCE MENDONCA'S PETITION FOR APPOINTMENT OF CONSERVATOR.
11		<ul style="list-style-type: none"> • HAMER attests to her “own personal knowledge” of the “facts” set forth herein • This document states BARBARA changed residence on August 26th to a locked memory care unit at The Pines, A Merrill Gardens Community in Rocklin, CA • No information is provided as to why BARBARA was suddenly moved into a locked memory care unit ONE WEEK before the scheduled Court hearing (Sept. 2, 2021)
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16		Granddaughter Shauna M. Wolff (“SHAUNA”) calls The Pines to speak with her grandma and was successful. BARBARA didn't know where she was or who put her there and she asked SHAUNA if there was going to be a “rescue mission” to get her.
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19	September 1, 2021	SHARON speaks with ROBERTSON re. the KELLER's placement at the facility and the apparent lack of required documentation. SHARON follows up with an email to ROBERTSON:
20		<ul style="list-style-type: none"> • Provided a copy of Keller 2017 Trust which includes medical release of information (ROI) for both BARBARA and RONALD • Provided a copy of GC-335 and GC-335A on file with the court for BARBARA • Requested a copy of the care level assessment • Requested a copy of LIC 602A Physician's Report for Residential Care Facilities for the Elderly (RCFS) • Requested a copy of the California Admission Orders or its equivalent
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25		Grandson Michael L. Wolff (“MICHAEL”) called The Pines to speak with his grandma BARBARA – they refused to transfer the call to her room
26		MICHAEL's spouse Kathryn (“KATHRYN”) called The Pines to speak with BARBARA – they said they couldn't transfer the call
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28	September 2, 2021	Granddaughter Laura Jenkins (“LAURA”) visits The Pines (approx. 1:30pm) and is told BARBARA has been taken out of the facility for a

Memorandum of Points and Authorities

1	meeting.
2	<ul style="list-style-type: none"> • LAURA had spoken with The Pines General Manager, John Robertson (“ROBERTSON) the day prior to confirm COVID-19 protocols for visits and she stated her intent to visit her grandma the next day.
3	
4	BARBARA did <u>not</u> appear on camera at the Sept. 2, 2021 conservatorship hearing (2:15pm).
5	Court hearing continued to Evidentiary Hearing set for Sept. 30 th , 2021
6	NO orders were issued
7	SHARON emails ROBERTSON to confirm the Court issued NO ORDERS and continued the hearing.
8	<ul style="list-style-type: none"> • Asked for ROBERTSON’s assistance to ensure family visits/calls happened
9	
10	September 3, 2021
11	TIM and spouse Jo (“JO”) visit The Pines (approx. 2:30pm). They were told that the KELLERS didn’t want to see them. Met Public Relations staff member Carin and ROBERTSON.
12	<ul style="list-style-type: none"> • ROBERTSON stated “we’re going to let them decide” whether to allow visit/call. • TIM explained the circumstances with RONALD’s paranoia and its influence on BARBARA.
13	
14	September 3, 2021
15	MICHAEL called The Pines to try again to speak with his grandma – “they said they couldn’t transfer me. I left a phone number and received a call back from John at the The Pines [general manager]. He stated that both Barbara and Ron did not want to talk to me and would not be returning my call.”
16	
17	September 4, 2021
18	TIM visits The Pines with a box of Kentucky Fried Chicken (“KFC”), BARBARA’s favorite chicken. Staff told TIM that they refused a visit and the KFC.
19	September 6, 2021
20	TIM and JO visit The Pines and BARBARA was happy to see them for an approx. 2 hour visit (1:30pm-3:45pm). Staff told TIM that RON had been taken by DIANE for “tests” prior to TIM’s arrival (Labor Day Holiday).
21	<ul style="list-style-type: none"> • BARBARA gave TIM and JO a tour of her room – it was completely bare of any personal effects • BARBARA repeatedly asked TIM to “get her out of there” • BARBARA says she didn’t know anything about the KFC TIM brought previously – she asked TIM to bring her KFC at the next visit • BARBARA was very worried about RONALD not being in the room
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25	TIM texted DIANE (approx. 6:15pm) to inquire about RON and was told RON was in the emergency room had a blood clot in his lung and would be checked-in to the hospital. RON was not checked in to the hospital and returned to The Pines later that evening.
26	
27	September 7, 2021
28	LAURA visits The Pines at approx. 9:00am. Staff told her they refused to see her.

Memorandum of Points and Authorities

1 2 3 4 5	<p>Approx. 2:55pm TIM visits The Pines with another box of KFC. Was told they refused a visit and the KFC.</p> <p>TIM speaks with ROBERTSON about visits being blocked by RONALD and the right for BARBARA's family to visit her without interference.</p> <ul style="list-style-type: none"> • TIM asks for a copy of the Resident's Handbook – ROBERTSON declined to provide. • TIM asked about any written health care assessment for the KELLER's – ROBERTSON declined to provide
6 7 8	<p>September 10, 2021</p> <p>Long-Term Care Ombudsman Rae Williams ("OMBUDSMAN WILLIAMS") visits the KELLERs at the request of SHARON. OMBUDSMAN WILLIAMS discussed the role of the Ombuds office and their rights. OMBUDSMAN WILLIAMS left her business card with the KELLERs and encouraged them to call if they had any questions or concerns.</p>
9 10 11 12 13 14 15 16 17	<p>September 13, 2021</p> <p>TIM visits The Pines and asks a staff member to give BARBARA a note he wrote. BARBARA sends the note back refusing to see TIM because "We're slightly (I hope) under the weather right now. Ron picked up a flu bug a few days ago and is feeling pretty bad." And "Thanks for the good wishes and we will look forward to visiting you sometime in the future. Love, Mom"</p> <p>TIM spoke with ROBERTSON about Ron refusing – or influencing BARBARA – to refuse visits and calls from her family. When Ron is napping or out of the room, BARBARA readily agrees to visits/calls with her family.</p> <p>TIM provides a copy of the note with BARBARA's reply to ROBERTSON as she is not refusing to visit because of some fear or anger towards her family. Also, if they are indeed ill there is no medical history on file or ability to consent to care.</p>
18 19 20 21 22 23 24	<p>September 15, 2021</p> <p>TIM visits The Pines and staff brought BARBARA out to the lobby for a visit. TIM gives BARBARA an electronic picture frame that he demonstrates which has been loaded with cherished family pictures. BARBARA seems excited about the photos as she had no mementos or personal effects in her room.</p> <p>Staff assures TIM they will help BARBARA put the photo frame in her room and plug it in so she can enjoy the photos.</p> <p>The photo frame was turned off shortly after it was placed in BARBARA's room – as per the application used to upload photos.</p>
25 26 27 28	<p>September 19, 2021</p> <p>Grandson Michael Wolff ("MICHAEL") visits The Pines from Salinas. Staff tells him that his grandma doesn't want to see him. MICHAEL gives staff a card he brought for grandma to give to her.</p>

Additional information to note:

September 10, 2021	Fortuna shuts off water/sewer to KELLER home at 2730 Kenmar Rd. due to non-payment; \$559.14 due – of which, \$449.14 is past due. The KELLER's had not paid their utility bill since May.
September 13, 2021	PG&E confirms \$280.91 due – of which, \$233.05 is past due. The last payment made by the KELLERS was June 24 th 2021

I. STANDARD OF REVIEW

The standard of proof for the appointment of a conservator pursuant to this section shall be clear and convincing evidence . Prob § 1801(e)

II. ROYCE MENDONCA AND ATTORNEY CHRIS JOHNSON HAMER SECURED BARBARA KELLER'S SIGNATURE ON A NOMINATION DOCUMENT DESPITE COGNITIVE IMPAIRMENT

BARBARA suffers from Alzheimer's. A GC-335 Capacity Declaration and GC-335A Major Neurocognitive Disorders Attachment to Capacity Declaration was completed by BARBARA's medical provider Danielle Cole, FNP and countersigned by Dr. Andrew Johnston on **July 22, 2021**.

Adult Protective Services ("APS") Social Worker Alma Barba ("ALMA") arranged for a cognitive assessment to be done by Dr. Andrew Levine, Ph.D. of North Coast Neuropsychology for both BARBARA and her spouse Ronald Wayne Keller ("RONALD"). The date of evaluation was June 25, 2021 and his report was submitted to APS on July 8, 2021. The cognitive assessment report for BARBARA is attached to the GC-335 and GC-335A Capacity Declaration as supporting documentation of the cognitive impairment.

The Capacity Declaration for BARBARA was then filed with this court on **August 17, 2021** with an Amended Petition for Appointment of Temporary Conservator – Person and Estate by Sharon Wolff. The amended petition and the GC-335 and GC-335A were served by Northcoast Legal Services to DIANE on August 18th, 2021 as well as the other parties (proof of service filed). ROYCE was not a party to the case at that time.

Attorney HAMER has subsequently identified herself as representing both ROYCE and DIANE in this matter.

1 Welfare and Institutions Code Sec. 15610.70 clearly defines “undue influence” and the
2 elements needed to determine if a result was produced by undue influence:

- 3 (1) The vulnerability of the victim – includes cognitive function, emotional distress,
4 isolation or dependency, and whether the influencer knew or should have known of
5 the alleged victim’s vulnerability.
- 6 (2) The influencer’s apparent authority – includes status as a family member and/or
7 legal professional
- 8 (3) The actions or tactics used by the influencer. Evidence of actions or tactics used
9 may include, but is not limited to, all of the following:
- 10 A. Controlling necessities of life, medication, the victim’s interactions with
11 others, access to information or sleep
 - 12 B. Use of affection, intimidation or coercion
 - 13 C. Initiation of changes in personal or property rights, use of haste or secrecy
14 in effecting those changes, effecting changes at inappropriate times and
15 places, and claims of expertise in effecting changes.
- 16 (4) The equity of the result. Evidence of the equity of the result may include, but is not
17 limited to, the economic consequences to the victim, any divergence from the
18 victim’s prior intent or course of conduct or dealing, the relationship of the value
19 conveyed to the value of any services or consideration received, or the
20 appropriateness of the change in light of the length and nature of the relationship.

21 The KELLER’s were taken from their home in Fortuna California by DIANE on or
22 about July 20th, 2021 and moved to DIANE’s home in Citrus Heights (as per
23 DECLARATION OF ROYCE MENDONCA). No contact with BARBARA’s family was
24 initiated or allowed by DIANE after that date. Nancy Zinos (“NANCY”) called DIANE after
25 the August 5th court hearing in order to check on her sister. NANCY was told BARBARA is
26 “mad at you” by DIANE when she asked to speak to her sister. *See* WIC § 15610.43. The
27 severity of BARBARA’s Alzheimer’s makes her wholly defenseless against delusions and
28 false accusations about her family and unable to resist fraud or influence.

1 BARBARA had been isolated from her family and made entirely dependent on DIANE
2 and ROYCE from July 20th to August 25th when they secured her signature on a
3 NOMINATION legal document. *See* WIC § 15610.43; *See* WIC § 15610.53.

4 The NOMINATION document was presented to BARBARA to sign on August 25th,
5 one day after ROYCE and Attorney HAMER signed the GC-310 Petition for Appointment of
6 Probate Conservator. The very next day, BARBARA was admitted to the locked memory care
7 unit of The Pines by ROYCE. Clearly this is an initiation of a change in personal rights using
8 haste and effecting the change at an inappropriate time – one week prior to the next Court
9 hearing and prior to any order(s) being granted.

10 The KELLER's have clearly documented their wishes and intents for many years now
11 as indicated by their Will's naming SHARON and TIM as executors of their estate (signed
12 April 17, 2003) and the Keller 2017 Trust naming SHARON and TIM as co-trustee's (signed
13 May 15, 2017). The NOMINATION of ROYCE as conservator is a complete and total
14 divergence from the long standing intent and course of conduct that the KELLER's have
15 demonstrated prior to RONALD's mental health crisis on April 20, 2021.

16 ROYCE has provided absolutely no evidence of any prior relationship with the
17 KELLER's other than biology. The nature of the relationship between ROYCE and the
18 KELLER's in addition to the isolation of BARBARA and her vulnerability makes the
19 NOMINATION wholly inappropriate on its face. *See* Cal. Rules of Professional Conduct,
20 rule 3-3; *See* CIV § 39; *See* Prob. § 811, 812; *See* WIC § 15610.43; *See* WIC § 15610.53.

21 Civil Code § 39 clearly applies in this matter:

22 (a) A conveyance or other contract of a person of unsound mind, but not entirely without
23 understanding, made before the incapacity of the person has been judicially determined, is
24 subject to rescission, as provided in Chapter 2 (commencing with Section 1688) of Title 5 of
25 Part 2 of Division 3.

26 (b) A rebuttable presumption affecting the burden of proof that a person is of unsound mind
27 shall exist for purposes of this section if the person is substantially unable to manage his or
28

1 her own financial resources or resist fraud or undue influence. Substantial inability may not be
2 proved solely by isolated incidents of negligence or improvidence.

3
4 III. A LEGALLY INSUFFICIENT, ALTERED AND DUPLICATIVE GC-335 AND GC-
5 335A WERE FILED WITH THIS COURT BY ROYCE AND ATTORNEY HAMER

6 Despite the known existence of a legal GC-335 and GC-335A for BARBARA,
7 ROYCE and Attorney HAMER procured a legally insufficient and duplicative GC-335 and
8 GC-335A signed by Nurse Practitioner ALLEN on August 24th, 2021. There is no
9 countersignature of a California licensed physician or psychologist with at least two year's
10 experience in diagnosing and treating major neurocognitive disorders (including dementia) as
11 required, *See* Prob. § 2356.5.

12 An undated support letter from ALLEN, attached to SUPPLEMENTAL
13 DECLARATION OF CHRIS HAMER clearly states ALLEN had only met BARBARA twice
14 (8/16/21 and 8/20/21) in her capacity as a primary care provider.

15 Although Assembly Bill 890 (Wood) Nurse Practitioners: scope of practice was signed
16 into law September 29, 2020, the bill does not take effect until 2023 and it is not a wholesale
17 expansion of the scope of practice (including independent signature authority) for nurse
18 practitioners. The bill would not apply in this case, even when it does take effect.

19 The Judicial Council form GC-335 Capacity Declaration-Conservatorship was altered
20 to include "Nurse Practitioner" as an authorized signatory and the new category is then check-
21 marked.

22 This altered Judicial Council form, with the legally insufficient signature authority,
23 was then filed with this Court by ROYCE and Attorney HAMER on August 26, 2021. *See*
24 Cal. Rules of Professional Conduct, rule 3-3.

25
26 IV. ROYCE PLACED BARBARA INTO A LOCKED MEMORY CARE UNIT AT THE
27 PINES, A MERRILL GARDENS COMMUNITY DESPITE NOT HAVING LEGAL
28

1 AUTHORITY TO SIGN AS REPRESENTATIVE OR TO ENCUMBER KELLER
2 ESTATE

3 On August 26, 2021, Attorney HAMER filed a Petition for Appointment of Temporary
4 Conservator for BARBARA (person and estate) on behalf of ROYCE. The Petition requests
5 permission to move BARBARA into “Sunrise of Carmichael or another facility providing
6 comparable care.” The Petition stated “she suffers from Alzheimer’s Disease and requires
7 placement in a locked perimeter memory unit.”

8 There is no indication in the filed paperwork that there was a crisis or urgent need to
9 relocate BARBARA to a locked facility PRIOR to the Court making any ruling on the
10 Petition.

11 On August 26, 2021, ROYCE signed an agreement with The Pines, A Merrill Gardens
12 Community for the immediate placement of BARBARA that same day. ROYCE signed the
13 agreement (page 16) as “Responsible Party” on August 26, 2021. The signature line states “a
14 copy of your Power of Attorney or Legal Guardianship form must be provided.” ROYCE did
15 not sign as Payor – indicating that ROYCE is not taking responsibility for the cost.

16 Despite not being provided a copy of the legal authority to sign as representative or
17 having a financially responsible party indicated, the agreement was signed by ROBERTSON
18 as General Manager of The Pines.

19 There is no evaluation to determine the level of care needed for BARBARA and no
20 Level of Care Worksheet attached to the agreement. It is unknown how The Pines determined
21 the appropriate level of care for the placement – the agreement indicates Care Level 1 in their
22 Garden House facility (locked memory care).

23 ROYCE agreed to a monthly fee of \$3,870 for BARBARA’s living accommodations
24 and standard services.

25 The agreement states \$763.82 prorated fees were due upon signing and the required
26 second month’s fee (for agreements signed after the 20th of the month) was waived (Page 3 of
27 Ex. I). It is unknown if ROYCE has paid this fee.

1 V. LACK OF LEGAL AUTHORITY FOR THE PLACEMENT RESULTS IN NO
2 LEGAL AUTHORITY TO CONSENT TO CARE FOR MEDICAL NEEDS

3 The Pines, A Merrill Gardens Community does not have legal authorization on file for
4 consent to care for BARBARA as ROYCE did not have legal authority to sign the placement
5 agreement. BARBARA's spouse RONALD also lacks capacity to consent to care on behalf of
6 BARBARA as he is also placed in the same locked memory care facility.

7 There is no LIC 602A Physician's Report for Residential Care Facilities for the Elderly
8 (RCFE) as required to be on file by California Community Care Licensing. Similarly, other
9 forms such as the California Admission Orders (applicable to Assisted Living) also don't exist
10 as BARBARA does not have a medical provider to complete them. No medical provider
11 outside of Humboldt County has requested any medical records from BARBARA's medical
12 provider Open Door Community Health in Fortuna, CA.

13
14 VI. ROYCE KNEW OR REASONABLY SHOULD KNOW THAT PLACING
15 BARBARA INTO A FACILITY WITHOUT LEGAL AUTHORITY TO CONSENT
16 TO CARE ENDANGERS HER HEALTH AND SAFETY

17
18 ROYCE knew he had not been granted authority by the Court to relocate BARBARA
19 to a care facility, sign as BARBARA's representative, or encumber the KELLER estate at the
20 time he placed her in the locked facility. ROYCE knew he did not have the legal authority to
21 portray himself as BARBARA's representative. The lack of legal authority extends to the
22 ability to consent to care on behalf of BARBARA.

23 California Penal Code Sec. 368 recognizes the special considerations and protections
24 provided to elders and adults admitted as inpatients to a 24-hour health facility. "A person who
25 knows or reasonably should know that a person is an elder or dependent adult and who, under
26 circumstances or conditions likely to produce great bodily harm or death, willfully causes or
27 permits any elder or dependent adult to suffer, or inflicts thereon unjustifiable physical pain or
28 mental suffering, or having the care or custody of any elder or dependent adult, willfully causes

1 or permits the person or health of the elder or dependent adult to be injured, or willfully causes
2 or permits the elder or dependent adult to be placed in a situation in which his or her person or
3 health is endangered, is punishable by imprisonment in a county jail not exceeding one year, or
4 by a fine not to exceed six thousand dollars (\$6,000), or by both that fine and imprisonment, or
5 by imprisonment in the state prison for two, three, or four years [emphasis added]. *See* Pen.
6 Sec. 368(b)(1)

7
8 CONCLUSION

9
10 SHARON respectfully requests, for the reasons discussed above, that the Court grant
11 SHARON's petition for conservatorship of BARBARA (person and estate).

12
13 SHARON further requests the Court dismiss the petition for conservatorship of
14 BARBARA (person and estate) filed by ROYCE for the reasons discussed above. SHARON
15 asks the Court to take into consideration the actions of ROYCE in placing the KELLER's into
16 a locked memory care unit without legal authorization to do so – in addition to the legally
17 insufficient documentation and altered Judicial Council forms submitted by ROYCE and
18 Attorney HAMER – when evaluating any objection or petition filed on his behalf.

19
20 The KELLER's remain in legal limbo, without an authorized representative to protect
21 their interests or consent to any needed care. If this Court declines to grant SHARON's
22 petition, for whatever reason, SHARON asks the Court to appoint the Humboldt County Public
23 Guardian's Office as conservator in order to ensure the KELLER's safety and needs are being
24 met.

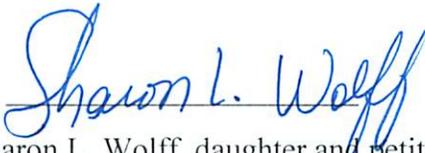
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DECLARATION OF SERVICE

Proof of service to be filed separately.

Respectfully submitted,

Dated: 9/20/21

By: 
Sharon L. Wolff, daughter and petitioner