
PARTIES/ATTORNEYS

Plaintiff	Penny Lane Equity, Inc.	Elizabeth A. Culley Adamski Moroski Madden Cumberland & Green LLP
Defendant	Silvia Villegas, Nathan Villegas,	William Frederick, Esq.
Defendant	Jorge Ruvalcaba	Default entered 5/11/23

TENTATIVE RULING

For all the reasons discussed below, the court grants the request to substitute in as defendants in the civil action Ernesto Ruvalcaba, personal representative of the estate of Jorge A. Ruvalcaba, and Sylvia Villegas as Trustee of the Tyler Villegas Trust, beneficiary of the Jorge A. Ruvalcaba Trust.

Plaintiff has not requested that the successor trustee of the Jorge A. Ruvalcaba Trust, Tyler Villegas, be substituted in, nor has notice been given to Tyler Villegas.

The court is unwilling to make any orders substituting in “*the trustee in office*” of the Jorge A. Ruvalcaba Trust as requested by plaintiff because this request is too broad and nonspecific.

Plaintiff is directed to provide an order commensurate with this ruling.

The parties are instructed to appear at the hearing for oral argument. Appearance by Zoom Videoconference is optional and does not require the filing of Judicial Council form RA-010, Notice of Remote Appearance. (See [Remote Appearance \(Zoom\) Information | Superior Court of California | County of Santa Barbara.](#))

Plaintiff Penny Lane Equity, Inc. asserts that defendants, Silvia Villegas, Nathan Villegas, and Jorge Ruvalcaba engaged in a conspiracy to defraud it of its opportunity to purchase and rehabilitate property at 825 San Pascual Street in Santa Barbara. On March 3, 2023, plaintiff filed a complaint alleging intentional interference with economic interest, breach of fiduciary duties, fraud, and other

torts. Silvia Villegas and Nathan Villegas answered on May 8, 2023. The default of Jorge Ruvalcaba was taken on May 11, 2023.

Plaintiff now reports that Jorge Ruvalcaba (hereafter, decedent) died on May 20, 2023. The decedent's estate is pending in Dept. 1 of this court (Estate of Ruvalcaba, Case No. 23PR00469). Plaintiff petitions to substitute in as defendant in this case Ernest Ruvalcaba as "the Personal Representative of Jorge Ruvalcaba" and also to substitute in "Slyvia (sic) Villegas (or the trustee in office) as trustee of the Jorge A. Ruvalcaba Trust dated September 9, 2022." Notice of this motion was timely served on Ernest Ruvalcaba, who is currently self-represented. Notice was also served on William Frederick, as counsel for Silvia Villegas and Nathan Villegas. It is unknown whether Silvia Villegas has counsel for purposes of the Jorge A. Ruvalcaba Trust. No opposition has been filed.

Legal Standards

"Except as otherwise provided by statute, a cause of action for or against a person is not lost by reason of the person's death, but survives subject to the applicable limitations period." (Code Civ. Proc. § 377.20, subd. (a).) A pending action or proceeding does not abate by the death of a party if the cause of action survives. (Code Civ. Proc., § 377.21.) Here, plaintiff's cause of action have not abated. California law permits the action to continue against a substituted party pursuant to certain conditions:

"On motion, the court shall allow a pending action or proceeding against the decedent that does not abate to be continued against the decedent's personal representative or, to the extent provided by statute, against the decedent's successor in interest, except that the court may not permit an action or proceeding to be continued against the personal representative unless proof of compliance with Part 4 (commencing with Section 9000) of Division 7 of the Probate Code governing creditor claims is first made."

(Code Civ. Proc. § 377.41.)

A personal representative is defined as "executor, administrator, administrator with the will annexed, special administrator, successor personal representative, public administrator acting pursuant to Section 7660, or a person who performs substantially the same function under the law of another jurisdiction governing the person's status." (Prob. Code § 58.) A successor in interest means the beneficiary of the decedent's estate or other successor in interest who succeeds to a cause of action or to a particular item of the property that is the subject of a cause of action. (Code Civ. Proc. § 377.11.)

A probate or trust estate is not a legal entity; it is simply a collection of assets and liabilities. As such, it has no capacity to sue, be sued or defend an action. Any litigation must be maintained by, or against, the executor, administrator or trustee of the estate. (*Galdjie v. Darwish* (2003) 113 Cal.App.4th 1331, 1344; *Greenspan v. LADT, LLC* (2010) 191 Cal.App.4th 486, 496; *Portico Mgmt. Group, LLC v. Harrison* (2011) 202 Cal.App.4th 464, 474—judgment against trust was meaningless and unenforceable.)

Finally, an action or proceeding pending against the decedent at the time of death may not be continued against the decedent's personal representative unless all of the following conditions are satisfied:

- (1.) A claim is first filed as provided in this part.
- (2.) The claim is rejected in whole or in part.
- (3.) Within three months after the notice of rejection is given, the plaintiff applies to the court in which the action or proceeding is pending for an order to substitute the personal representative in the action or proceeding. This paragraph applies only if the notice of rejection contains a statement that the plaintiff has three months within which to apply for an order for substitution.

No recovery shall be allowed in the action against property in the decedent's estate unless proof is made of compliance with this section. (Prob. Code § 9370.)

Analysis

Here, plaintiff has provided evidence that Ernesto Ruvalcaba has been appointed as the personal representative of the decedent's estate. (See RJN, Exh. 3.) Under the terms of decedent's will, he "give[s] the residue of my estate to the trustee then in office of the trust designated as The Jorge A. Ruvalcaba Trust, September, 9, 2022, of which SILVIA VILLEGAS is the Trustee, to be held and administered by the trustee according to the terms and conditions of that trust . . ." (Will, para. Fifth.) Plaintiff also provides evidence that it has filed a claim in the estate proceeding that was "deemed" rejected because the personal representative neglected to act on it within 30 days after the claim was filed. (Prob. Code, § 9256.) Since the claim was "deemed" rejected rather than expressly rejected, the three-month limitation of Probate Code section 9370 subdivision (c) does not apply. The court will grant the request to substitute Ernesto Ruvalcaba as the personal representative of the estate of Jorge Ruvalcaba in as defendant in this action.

While the Will provides that Silvia Villegas is the trustee of decedent's trust, the document itself does not support this. On November 20, 2023, the personal representative lodged the Jorge A. Ruvalcaba Trust dated September 9, 2022 in the estate proceeding (Case No. 23PR00469). (RJN, Exh. 4.) The trust document declares decedent is the trustee and grantor. (RJN, Exh. 4, First paragraph

[“JORGE A. RUVALCABA, hereafter referred to as the "Trustee" or “Grantor” . . .”). It nominates Tyler Villegas as the successor trustee: “If the said Trustee shall die, become incompetent or otherwise cease to act as a trustee of this trust, then Tyler Villegas, shall act as Successor Trustee of this trust.” (RJN, Exh. 4, Art. VI, ¶ H.) In other words, Silvia Villegas is not the nominated successor trustee of the Jorge A. Ruvalcaba Trust dated September 9, 2022.

She is, however, the nominated trustee of the Tyler Villegas Trust, to which all Trust assets are to be distributed upon the death of decedent. According to the Trust: “Upon the death of Settlor, the Successor Trustee shall distribute the trust estate as follows: The entire residue, remainder and assets in the Trust to Sylvia Villegas as trustee to Tyler Villegas Trust created herein to be held for the health, education and welfare of Settlor's cousin Tyler Villegas.” (RJN, Exh. 4, Art. 1, ¶ 5.) As such, the Tyler Villegas Trust qualifies as a beneficiary of decedent’s estate pursuant to Code Civ. Proc. § 377.11. Thus, the court is willing to order Sylvia Villegas as trustee of the Tyler Villegas Trust substituted in as a defendant in the civil action.

Summary of Rulings

In summary, the court grants the request to substitute in as defendants in the civil action Ernesto Ruvalcaba, personal representative of the estate of Jorge A. Ruvalcaba and Sylvia Villegas as Trustee of the Tyler Villegas Trust, beneficiary of the Jorge A. Ruvalcaba Trust. Plaintiff has not requested that the successor trustee of the Jorge A. Ruvalcaba Trust, Tyler Villegas, be substituted in, nor has notice been given to Tyler Villegas. The court is unwilling to make any orders substituting in “*the trustee in office*” of the Jorge A. Ruvalcaba Trust as requested by plaintiff because this request is too broad and nonspecific.