

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA**

**IN RE: THE MATTER OF LAURA DEAN
HEAD LIVING TRUST**

DECLARATION OF MAILING
Case No. **RP20061734**

I certify that I am not a party to this cause and that on the date stated I mailed (first class, postage pre-paid) a copy of the **STATE OF DECISION** to the addresses stated below:

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Dated: March 28, 2023

CHAD FINKE
Executive Officer/County Clerk

by: *Dana Fisher*

Dana Fisher, Clerk of Dept. 1B

ENDORSED
FILED
ALAMEDA COUNTY

MAR 28 2023

CLERK OF THE SUPERIOR COURT

By Debra Fisher Deputy OK TO CERTIFY 04

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

In re:

The Matter of Laura Dean Head Living Trust

Case No. RP20061734
Statement of Decision

The court issued and served its proposed statement of decision on March 15, 2023. Having considered the objections thereto, the court makes the following findings and orders.

On May 18, 2020, Petitioners Della Hamlin and Helaine Head filed their verified Petition to Invalidate Trust; and for a Finding of Undue Influence; and or Forgery. Respondent/Trustee Zakiya Jendayi filed a verified response on August 3, 2020, denying the allegations of undue influence, lack of capacity, and forgery and an amended verified response on August 18, 2020. Petitioners filed their Supplement to the Petition addressing the standing issue on August 31, 2020. Respondent was to file and serve any response to the standing issue on or before October 30, 2020. Respondent filed her Response to the Supplement addressing the standing issue on May 7, 2021. The court found that the Petitioners have standing to bring the action on May 10, 2021 and set the matter for trial.

The parties appeared for court trial on July 25, 28, 29, August 1, 2, 3, 4, 5, October 4, 5, 6, 7, 10, 11, 12, 13, 14, 2022. Parties submitted written closing statements thereafter and replies.

The court heard from witnesses Dr. Stephen Sarafian (treating physician), Della Hamlin (sister of the settlor), Helaine Mildred Head (sister of the settlor), Attorney Elaine Lee, Dr. Stephanie Marquet, Zakiya Jendayi (Trustee and beneficiary of the Trust), Roxanne Fowler, Jenna Noe, Trina Easley-Jackson, Attorney Vernon Goins, Dolly Woodson, Diane Doss, Elaine Chuck, Jennifer Hopping, and Derethia DuVal. The court notes that Dr. Head died ten years before the trial in this matter resulting in poor witness recollections of the incidents and circumstances due to the passage of time.

The court admitted exhibits into evidence as follows:

Exhibit 1, Exhibit 2, Exhibit 3, Exhibit 4, Exhibit 5, Exhibit 6, Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 10, Exhibit 11, Exhibit 12, Exhibit 14, Exhibit 15, Exhibit 15, Exhibit 16, Exhibit 20, Exhibit 22, Exhibit 24, Exhibit 25, Exhibit 27, Exhibit 28, Exhibit 29, Exhibit 51 page 7 only for impeachment, Exhibit 55, Exhibit 57, Exhibit 58, Exhibit 59 page 1 only, Exhibit 61, Exhibit 83, Exhibit 84, Exhibit 85, Exhibit 86, Exhibit 88, Exhibit 89, Exhibit 93, Exhibit 95.

Statement of Facts

After Dr. Head failed to appear for work for over a week, her colleagues at San Francisco State University requested a welfare check on April 2, 2013. Police officers found Dr. Head in her home and arranged for her transfer to Kaiser Hospital in Oakland on April 3, 2013. (Exhibit 29, p. 330).

[REDACTED]

[REDACTED] and noted hospice care of highest priority (Exhibit 29, p.333- 334). Thus, upon admission to Kaiser Hospital, the medical providers determined Dr. Head's condition untreatable. She was placed on Hospice and released to Respondent's care. Dr. Head died on June 19, 2013.

Legal Issues:

1. Is the capacity necessary to execute The Laura Dean Head Living Trust (the Trust) testamentary or contractual capacity?

The court carefully reviewed the Trust (Exhibit 2) and finds that **contractual capacity** is the applicable standard in this case. The court finds the Trust contains a level of complexity far beyond a simple will.

2. Did Laura Dean Head lack capacity to execute Trust on June 5, 2013?

The evidence regarding capacity is inconclusive. Therefore, the court finds that Laura Dean Head had capacity.

3. Did Laura Dean Head sign the Trust?

The court finds that Laura Dean Head signed the Trust. **The court has no credible evidence of forgery** and thereby finds that Laura Dean Head did execute the trust. However, the court notes that the signature affixed to the Trust is atypical of the usual way Laura Dean Head signed her name as it omits her middle initial.

4. Was Laura Dean Head unduly influenced to execute the Trust?

On August 4, 2022, the court granted the Petitioner's request for a finding that Petitioners established a prima facie case of undue influence sufficient to shift the burden of disproving the Trust was a product of undue influence to Respondent.

The court finds the Respondent failed to meet her burden of proof by a preponderance of the evidence that the Trust was not the product of undue influence (*Estate of Sarabia*, 221 Cal. App. 3rd at p.605).

Therefore, the court finds that Laura Dean Head was unduly influenced to name Respondent and her mother, Hattie Simsisulu as beneficiaries. The court bases this conclusion on the factors set forth in Welfare and Institutions Code Section 15610.70(a). Specifically, the court considered the factors of vulnerability, influencer's apparent authority, the actions or tactics used by the influencer, and the equity of the result. The code specifies that an unequitable result alone is not sufficient to prove undue influence.

First, the court finds that Laura Dean Head was vulnerable. She was dying with untreatable conditions that left her severely debilitated. Kaiser Hospital released Dr. Head to the Respondent on 04/12/2013 with a hospice agency to provide hospice care to focus on comfort and quality of life until the end of life on June 19, 2013 (Trial Transcript, Testimony of Stephen Sarafian, M.D. p 12 lines 7-9 and p.13 lines 2-6). During her illness Dr. Head lost approximately 80 pounds of body weight. The court finds that Laura Dean Head was completely dependent on Respondent who knew or should have known of Dr. Head's vulnerability.

The Respondent exerted apparent authority as Dr. Head's power of attorney and her status as a fiduciary. Respondent took Dr. Head to her apartment where she assumed complete control of Dr. Head's day to day care, medical care, and all aspects of her life.

Respondent controlled Dr. Head's necessities of life, food, and hospice care which satisfy the provisions of Welfare and Institutions Code Section 15610.70(a)(3)(A). The court also finds evidence of use of affection pursuant to Welfare and Institutions Code Section 15610.70(a)(3)(B).

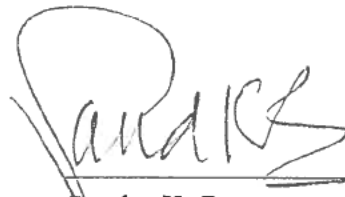
The court finds Welfare and Institutions Code Section 15610.70(a)(3)(C) applies. The Respondent called Attorney Lee to request she prepare a Trust for Dr. Head (Trial Transcript p. 206 line 16-24). The Respondent filled out the client intake form (Exhibit 28). The Respondent signed the attorney-client fee agreement on April 15, 2023 (Exhibit 14, Bates Stamped pages 000046-000049). Attorney Lee prepared a rough draft of the Trust based on the intake form (Trial Transcript p. 216 lines 17-25 and 266 lines 1-3)). Thereafter, Attorney Lee met with Dr. Head at Respondent's apartment and showed her the Trust she prepared from the intake form (Trial Transcript p. 266 lines 4-7). The beneficiaries of the Trust were Respondent, if she did not survive the settlor, then her mother Hattie Simsisulu, and if Ms. Simsisulu did not survive the settlor, the United Negro College Fund (Trial Transcript p. 267 lines 20-25). The Respondent gave Attorney Lee the information as to the beneficiaries of the Trust based on her conversations with Laura Dean Head (Exhibit 27, Deposition of Zakiya Jendayi p. 89 lines 5-15). Respondent did not present any documentary evidence authored by Dr. Head concerning the Trust creation.

The Trust provides Respondent with significant assets, in addition to the pay on death accounts that the court understands the Respondent collected. These assets include the settlor's real property which has a current estimated value of \$800,000.00 and a claim to the settlor's deceased mother's estate. The result is inequitable because the evidence shows that Respondent was a former student and friend who, at best, cared for the settlor for the last two months of her life. The court finds the result inequitable within the meaning of Welfare and Institutions Code Section 15610.70(a)(4).

Based on the court's finding of undue influence, the court finds the Trust **invalid**. The court orders all Trust assets transferred forthwith to the Special Administrator of the Estate of Laura Dean Head, Phillip Campbell, in case number RP20066047. A copy of the Letters of Special Administrator is attached hereto.

IT IS SO ORDERED.

Dated: March 28, 2023

A handwritten signature in black ink, appearing to read "Sandra K. Bean", written over a horizontal line.

Sandra K. Bean
Judge of the Superior Court