

**SUPERIOR COURT, STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**Department 1, Honorable Le Jacqueline Duong, Presiding**  
Mai Jansson, Courtroom Clerk

191 North First Street, San Jose, CA 95113  
Telephone 408.882-2120

**To contest the ruling, call (408) 808-6856 before 4:00 P.M.**

**PROBATE LAW AND MOTION TENTATIVE RULINGS**

**DATE: April 26, 2024**

**TIME: 9:00 A.M.**

**\*\*\*NOTICE\*\*\***

**APPEARANCES IN DEPT. 1 MAY BE IN PERSON OR  
REMOTE THROUGH MICROSOFT TEAMS**

**PLEASE GO TO:**

**[https://www.scsccourt.org/general\\_info/ra\\_teams/video\\_hearings\\_teams.  
shtml](https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml) to find the appropriate link.**

State and local Court Rules prohibit recording of court proceedings without  
a Court order. This prohibition applies while on Microsoft Teams.

Prevailing party shall prepare the order by e-file, unless stated otherwise below

The court does not provide official court reporters for civil/probate law and motion  
hearings. See court website for policy and forms for court reporters at hearing

**TROUBLESHOOTING TENTATIVE RULINGS**

If do not see this week's tentative rulings, they have either not yet been posted or  
your web browser cache (temporary internet files) is accessing a prior week's rulings.  
"REFRESH" or "QUIT" your browser and reopen it, or adjust your internet settings to  
see only the current version of the web page. Your browser will otherwise access old  
information from old cookies even after the current week's rulings have been posted.

LINE #	CASE #	CASE TITLE	RULING
<a href="#">LINE 1</a>	17PR181227	<i>The Hijazi Living Trust</i>	Click on <a href="#">LINE 1</a> or scroll down for attached Tentative Ruling.
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## Calendar line 1

**Case Name:** *The Hijazi Living Trust*

**Case No.:** 17PR181227

**Hearing date, time, and department:** April 26, 2024 at 9:00 a.m. in Department 1

Petitioner Brandon Pierce initiated this case by filing a petition to appoint successor trustee in 2017. Subsequent petitions have been filed and the case is ongoing.

Currently before the court is motion to be relieved as counsel by John Kevin Crowley, Esq. (“Counsel”), attorney for Petitioners Brandon Pierce, Bradley Pierce, and Brooke Pierce (collectively, “Petitioners”). The motion is unopposed.

### DISCUSSION

#### **I. The Motion to Be Relieved as Counsel Appears to Comply With Rule 3.1362**

Motions to be relieved as counsel are technical and governed by Rules of Court, rule 3.1362 (“Rule 3.1362”). Notice and motion must be directed to the client on Judicial Council Form MC-051. No memorandum is required. (Rule 3.1362(a) & (b)). Counsel must provide a declaration on Judicial Council Form MC-052 stating “in general terms and without compromising the confidentiality of the attorney-client relationship why a motion under Code of Civil Procedure section 284(2) is brought instead of filing a consent under Code of Civil Procedure section 284(1).”<sup>1</sup> (Rule 3.1362(c)).

The notice of motion and motion, the declaration, and the proposed order must be served on the client and all parties “by personal service, electronic service, or mail.” (Rule 3.1362(d)).

If the notice is served on the client by mail under Code of Civil Procedure section 1013, it must be accompanied by a declaration stating facts showing that either:

- (A) The service address is the current residence or business address of the client; or
- (B) The service address is the last known residence or business address of the client and the attorney has been unable to locate a more current address after

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<sup>1</sup> Code of Civil Procedure section 284 provides, in its entirety,

The attorney in an action or special proceeding may be changed at any time before or after judgment of final determination, as follows:

1. Upon the consent of both client and attorney, filed with the clerk, or entered upon the minutes;
2. Upon the order of the court, upon the application of either client or attorney, after notice from one to the other.

making reasonable efforts to do so within 30 days before the filing of the motion to be relieved.

(Rule 3.1362(d).)

The proposed order relieving counsel must be prepared on the Order Granting Attorney's Motion to Be Relieved as Counsel—Civil (form MC-053) and must be lodged with the court with the moving papers. The order must specify all hearing dates scheduled in the action or proceeding, including the date of trial, if known. If no hearing date is presently scheduled, the court may set one and specify the date in the order. After the order is signed, a copy of the signed order must be served on the client and on all parties that have appeared in the case. The court may delay the effective date of the order relieving counsel until proof of service of a copy of the signed order on the client has been filed with the court.

(Rule 3.1362(e).)

Here, the reason for the request to withdraw is that “irreconcilable differences” have arisen between Counsel and Petitioners, resulting in a conflict of interest. Counsel has provided the court with the required form motion and declaration. A proof of service indicates that the motion, declaration, and proposed order have been served on Petitioners. Counsel indicates in the declaration that Petitioners' mailing addresses were confirmed within 30 days via telephone.

Counsel has provided a proposed order on the correct judicial counsel form (MC-053). The proposed order correctly indicates that the next court date is June 7, 2024 for a status on the currently operative petition.

### **CONCLUSION**

The motion to be relieved as counsel is GRANTED.

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