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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

Conservatorship of the Person and  
Estate of DONALD G. HUNT.

B279337 C/W B281546

PRISCILLA HUNT, as Conservator,

(Los Angeles County  
Super. Ct. No. BP082936)

Petitioner and Respondent,

v.

ATTORNEY GENERAL OF  
CALIFORNIA,

Objector and Appellant.

SAMUEL INGHAM,

(Los Angeles County  
Super. Ct. No. BP083451)

Plaintiff and Respondent,

v.

ATTORNEY GENERAL OF  
CALIFORNIA,

Defendant and Appellant.

APPEALS from a judgment and an order of the Superior Court of Los Angeles County. Mary Thornton House, Judge. Dismissed.

Tania M. Ibanez, Assistant Attorney General, James M. Toma and Joseph N. Zimring, Deputy Attorneys General, for Objector and Appellant and Defendant and Appellant.

Loeb & Loeb, Ronald C. Pearson, Laura A. Wytsma, Amy L. Koch, and Alexandra A. Letzel for Petitioner and Respondent.

No Appearance for Plaintiff and Respondent.

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These consolidated appeals arise from petitions filed by Priscilla Hunt and Samuel Ingham for an order of substituted judgment and for reformation or modification of the living trust of Priscilla's husband, Donald Hunt. Priscilla<sup>1</sup> and Ingham asserted that relief was warranted because Donald intended his entire estate to pass to Priscilla upon his death, yet was prevented from doing so due to the need to settle contested litigation with his estranged sons. The Attorney General opposed the petitions on the basis that they were contrary to Donald's intent that the trust assets ultimately pass to a charitable trust. The probate court granted the petitions and, pursuant to Probate Code section 1310, subdivision (b),<sup>2</sup> directed Donald's conservator

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<sup>1</sup> To avoid confusion, we refer to members of the Hunt family by their first names. We mean no disrespect.

<sup>2</sup> All further section references are to the Probate Code unless otherwise specified.

and the trustees of the living trust<sup>3</sup> to take all actions as set forth in its order granting the petitions. Thereafter, the trustees and conservator executed an amended version of the living trust consistent with the court's orders, which omitted the charitable trust as a remainder beneficiary. On appeal, the Attorney General requests that we reverse the probate court's orders and remand the matter so that any distributed trust assets can be reclaimed for the benefit of the charitable trust. However, per section 1310, subdivision (b), the execution of the amended living trust is valid regardless of the results of these appeals. As a result, we lack authority to provide any meaningful relief and dismiss the appeals as moot.

#### **FACTUAL AND PROCEDURAL BACKGROUND**

In 1995, Donald executed the Donald G. Hunt Living Trust (Living Trust). The Living Trust provided stipulations for various bequests upon Donald's death, with the residue of the trust estate eventually going to the Donald G. Hunt Foundation, a not-for-profit public benefit corporation.<sup>4</sup> At the time, Donald's estate planning priorities were that his sons not receive more than a stipulated dollar sum and that his real estate holdings not be liquidated due to estate taxes. The charitable foundation structure was chosen as a default means of accomplishing these goals. The Living Trust's primary asset was Donald's successful

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<sup>3</sup> Priscilla was conservator of Donald's person and estate, and co-trustee of the living trust.

<sup>4</sup> At the time, Donald was married to Nancy Patterson Panzica. The Living Trust provided that if, upon Donald's death, he remained married to Panzica, the residue of the estate would pass to a trust for her benefit. At Panzica's death, the residue of that trust would pass to the Donald G. Hunt Foundation.

real estate business, Hunt Enterprises, Inc. (Hunt Enterprises). Donald executed numerous amendments to the Living Trust over the course of several years.

Priscilla met Donald in 1998 when she began working for Hunt Enterprises. Priscilla and Donald were married in January 2004.

In October 2004, Donald's son, Rodger Hunt, filed a petition for appointment of a conservator.<sup>5</sup> In his petition, Rodger alleged that Donald was unable to manage his financial resources or resist fraud or undue influence. Rodger accused Priscilla of effectively taking control of Hunt Enterprises and unduly influencing Donald to alter his estate planning documents in her favor. In response to the petition, the probate court appointed Ingham to serve as Donald's Probate Volunteer Panel (PVP) attorney. (See § 1470.) Priscilla filed a separate petition for conservatorship on November 12, 2004.

Following contentious litigation related to the conservatorship petitions—including allegations that Priscilla physically abused Donald—Rodger, Donald, and Priscilla agreed to a settlement in June 2006. Per the terms of the agreement (Settlement Agreement), Priscilla was to be appointed as conservator of Donald's person and estate, with the power to bring "substituted judgment proceedings for modification, establishing, or funding of existing or future trust, and making of gifts." Priscilla further agreed to file a petition for substituted judgment pursuant to section 2580, which would amend and

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<sup>5</sup> In December 2003, Donald's other son, David, filed a petition for appointment of a conservator. The probate court denied a request for a temporary conservatorship, and David eventually dismissed the petition.

restate the Living Trust in a manner agreed to by the parties. Upon entry of an order for substituted judgment, Priscilla would receive a \$15 million one-time distribution and distributions of \$3 million for each year she remained married to Donald. In return, Priscilla agreed to waive and release all claims related to the Living Trust and Donald's estate. In addition, the parties agreed that Ingham would continue serving as Donald's PVP attorney.

Priscilla was subsequently appointed as Donald's conservator and petitioned the court for an order of substituted judgment, which resulted in the execution of the Eighth Amendment and Second Restatement of the Living Trust (Eighth Amended Living Trust) on December 21, 2006. Priscilla and a corporate trustee were named co-trustees. As agreed to by the parties in the Settlement Agreement, the Eighth Amended Living Trust provided the following: Upon Donald's death, all remaining assets held in the Living Trust were to pass to a marital trust to benefit Priscilla. Upon Priscilla's death, any assets remaining in the marital trust were to pass to the Donald G. Hunt Charitable Trust (Charitable Trust). The operative version of the Charitable Trust vests in the trustee sole discretion to provide annual distributions to numerous charities, including Torrance Memorial Health Care Foundation (Torrance Memorial), Providence Little Company of Mary Foundation (Providence), the Salvation Army, and the Horatio Alger Association of Distinguished Americans.

Article 2 of the Eighth Amended Living Trust set forth the rights reserved by Donald as settlor of the trust. Paragraph 2.7 limited the authority of anyone other than Donald—including his conservator—to amend or revoke the Living Trust. It provided his conservator may only seek to amend the "Nondispositive

Provisions” of the Living Trust, which included “those provisions . . . that, if amended, will not materially adversely affect the interests of any beneficiary” of the Living Trust.

The Living Trust was amended twice in 2011 pursuant to court orders, which resulted in the execution of the Ninth Amendment and Third Restatement of the Living Trust and the Tenth Amendment to the Living Trust. The amendments maintained all provisions from the Eighth Amended Living Trust relevant to the present appeals.

*Petitions for Substituted Judgment and Reformation*

On February 19, 2016, Priscilla, acting in her capacity as conservator of Donald’s estate, filed a petition for an order of substituted judgment pursuant to section 2580. Priscilla sought court authorization and a direction to execute an Eleventh Amendment and Restatement to the Living Trust (Eleventh Amended Living Trust). The proposed Eleventh Amended Living Trust would provide that, upon Donald’s death and after making certain distributions, the remaining trust estate would pass directly to Priscilla rather than to a marital trust for her benefit during her lifetime. The amendment would effectively remove the Charitable Trust as the remainder beneficiary.

Priscilla argued the proposed amendment was consistent with Donald’s intentions. Priscilla further asserted that under the current estate plan, Hunt Enterprises would cease to exist within five years of Priscilla’s death due to tax regulations that prevent charitable organizations from owning certain businesses. In addition to amending the Living Trust, Priscilla sought authorization and a direction to negotiate and execute pledge

agreements with several charitable organizations in the aggregate amount of \$100 million.<sup>6</sup>

The same date Priscilla filed her substituted judgment petition, Ingram, acting as Donald's PVP attorney, filed a petition for reformation or modification of the Living Trust. Ingram asked the court to remove paragraph 2.7's limitation on Priscilla's authority to seek substituted judgment related to dispositive provisions of the Living Trust because it was inconsistent with Donald's intentions and the terms of the Settlement Agreement, or alternatively, there were changed circumstances warranting modification.

The Attorney General filed objections to the petitions.<sup>7</sup> No other beneficiaries or interested parties objected. According to the Attorney General, Donald intended his estate to go to charity after his wife's death, paragraph 2.7 prevented Priscilla from amending the Living Trust in such a manner, Priscilla waived her rights to trust assets as part of the Settlement Agreement, and Priscilla failed to offer any authority or evidence for her proposition that Hunt Enterprises would be liquidated due to tax regulations.

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<sup>6</sup> The proposed pledges consisted of \$22 million to Torrance Memorial, \$20 million to Providence, \$7.5 million to the Salvation Army, and \$50.5 million to the California Community Foundation.

<sup>7</sup> The Attorney General objected pursuant to its "broad powers" to carry out its "responsibility for supervising charitable trusts in California, for ensuring compliance with trusts and articles of incorporation, and for protection of assets held by charitable trusts and public benefit corporations . . . ." (Gov. Code, § 12598, subd. (a).)

### *Evidentiary Hearing*

The probate court held an evidentiary hearing over the course of nine days. The court heard testimony from 20 witnesses, including seven attorneys who represented Donald and/or Priscilla around the time of the conservatorship litigation, four physicians who had examined Donald for purposes related to his capacity, a former representative of the corporate co-trustee of the Living Trust, the trustee of the Charitable Trust, Donald's two sons, Priscilla, Priscilla's grandson and current Director of Acquisitions at Hunt Enterprises, and representatives of two organizations named in the Charitable Trust.

### *Probate Court Orders and Responses*

On September 12, 2016, the probate court issued a 30-page proposed statement of decision granting both petitions. In response, the Attorney General filed a motion for reconsideration based on an IRS public letter ruling (PLR) issued on July 22, 2016. The Attorney General argued that, pursuant to the PLR, the IRS would not require the Charitable Trust to liquidate the assets of Hunt Enterprises. In addition to its motion for reconsideration, the Attorney General filed numerous objections to the probate court's proposed decision.

The probate court denied the Attorney General's motion for reconsideration. The court determined the PLR would not affect its ultimate decision to grant the petitions, the Attorney General failed to provide a sufficient reason why the PLR was not submitted earlier, the PLR has no precedential value, and the PLR supports a finding that the Charitable Trust would need to sell Hunt Enterprises to diversify its assets.



On October 26, 2016, the probate court overruled most of the Attorney General's objections and issued its final statement of decision granting the petitions. The court provided three independent bases for reforming the Living Trust to eliminate paragraph 2.7: the paragraph was inconsistent with Donald's intent and constituted a drafting mistake, Donald's and Priscilla's reconciliation with Donald's sons constituted changed circumstances warranting reformation, and paragraph 2.7 was ambiguous when read in conjunction with the Settlement Agreement and other portions of the Living Trust, and should be interpreted in favor of Priscilla.<sup>8</sup>

The court then examined the numerous factors set forth in section 2583<sup>9</sup> and determined substituted judgment was appropriate. The court's determination was based primarily on the following factual findings, which it supported with detailed credibility determinations and discussions of the relevant evidence presented at the hearing: (1) Donald's intent, which he expressed to numerous individuals while he had testamentary capacity, was to leave his entire estate to Priscilla; (2) Donald was prevented from effectuating his intent due to the risk of prolonged litigation related to the conservatorship; (3) Donald

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<sup>8</sup> Paragraph 24.1 of the Living Trust provides that a "construction or interpretation that would favor the Settlor's wife shall be adopted or applied" as to any question of construction or interpretation of the Living Trust.

<sup>9</sup> Section 2583 provides that, "[i]n determining whether to authorize or require a proposed action under this article, the court shall take into consideration all the relevant circumstances . . . ." It then enumerates numerous factors the court may consider.

“dearly and clearly” wanted Hunt Enterprises to continue after his death and trusted Priscilla to continue its operations; (4) Hunt Enterprises would be broken apart and sold under the current estate plan due to the Charitable Trust trustee’s fiduciary duty to diversify its portfolios to reduce risk and avoid taxes; and (5) substituted judgment benefits Donald and his estate because it will allow Priscilla to carry out Donald’s desires and provide a legacy for him.

The court entered judgment on November 21, 2016. The judgment ordered the corporate co-trustee and Priscilla, in her capacities as conservator and co-trustee, to execute the Eleventh Amended Living Trust and negotiate, execute, and satisfy pledge agreements with certain charities.

*Appeal, Stay, and Petition for Direction*

On November 28, 2016, the Attorney General appealed the judgment, which automatically stayed the court’s orders pursuant to section 1310, subdivision (a).

On November 30, 2016, Priscilla, acting as Donald’s conservator and trustee of the Living Trust, applied ex parte for an order to carry out the court’s November 21, 2016 judgment notwithstanding the stay, pursuant to section 1310, subdivision (b) (section 1310(b)). Priscilla argued there was a risk that she or Donald might pass away prior to the resolution of the appeal (he was then 96 years old and she 85 years old) and she needed to begin preparations immediately to effectuate Donald’s estate plan and prepare for possible changes to tax laws. In addition, the charitable organizations required the pledges in order to proceed with substantial capital projects. Ingham joined in Priscilla’s petition, and the Attorney General opposed it.

After hearing oral argument, the probate court granted the petition, noting the age of the parties and the possibility that their deaths could cause a “glitch” in carrying out Donald’s wishes. The court’s order directed the co-trustees of the Living Trust and the conservator of Donald’s person and estate to take all actions set forth in the November 21, 2016 judgment as if no appeal was pending.

*Writ Petition*

On December 20, 2016, the Attorney General filed in this court a petition for writ of supersedeas or other appropriate relief seeking to stay the probate court’s section 1310(b) order on the basis that the court failed to identify any harm that would warrant lifting the automatic stay. The Attorney General asserted extraordinary relief was warranted because actions taken pursuant to a section 1310(b) order are valid, regardless of the outcome on appeal. Thus, in the absence of writ relief, the Court of Appeal would lose the ability to review the probate court’s judgment and section 1310(b) order. After reading and considering the Attorney General’s petition, Priscilla’s opposition to the petition, and the Attorney General’s reply, on January 10, 2017, we summarily denied the writ petition.

*Subsequent Events*

On January 17, 2017, Priscilla, in her capacities as conservator and co-trustee, executed the Eleventh Amended Living Trust.<sup>10</sup> The corporate co-trustee executed the trust the

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<sup>10</sup> We grant Priscilla’s motion for judicial notice of records from the superior court proceeding, *In re Estate of Donald G. Hunt*, which are relevant to Priscilla’s argument that the appeals are moot. (Evid. Code, §§ 452, 459; see *In re R.V.* (2009) 171 Cal.App.4th 239, 245, fn. 1.) The Attorney General does not

following day. Consistent with the probate court's judgment, the Eleventh Amended Living Trust provides that upon Donald's death and after making all distributions of specific gifts and personal property, the trustee shall distribute the entire remaining balance of the trust estate to Priscilla, free of trust.

On February 8, 2017, Donald passed away.

On March 1, 2017, the Attorney General appealed the probate court's section 1310(b) order.

In June 2017, Priscilla entered into pledge agreements with Providence and Torrance Memorial and made the first annual payments under those agreements. On July 31, 2017, Priscilla distributed specific gifts to certain family member beneficiaries as set forth in the Eleventh Amended Living Trust.

We consolidated the November 2016 and March 2017 appeals.

## **DISCUSSION**

### **I. The Appeals are Moot**

Priscilla urges us to dismiss the Attorney General's appeals as moot. She contends that we cannot provide any effectual relief because the actions taken pursuant to the section 1310(b) order are valid irrespective of the results of these appeals. We agree.

Generally, probate court orders and judgments are automatically stayed pending appeal. (§ 1310, subd. (a).) Section 1310(b) provides an exception to this general rule. It states that, "for the purpose of preventing injury or loss to a person or property, the trial court may direct the exercise of the powers of the fiduciary . . . as if no appeal were pending." Actions taken

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oppose the motion, nor does it contest any facts contained in the records.

pursuant to a section 1310(b) order are “valid, irrespective of the result of the appeal.” (*Ibid.*) As a result, “an appellate court may not reverse an order made pursuant to [section 1310(b)] to the extent doing so would disturb acts of the trustee taken pursuant to statute. Moreover, where a [section 1310(b)] order grants relief identical to that of the underlying order on appeal, the statute effectively deprives an appellant of his or her right to appeal altogether.” (*East Bay Regional Park Dist. v. Griffin* (2016) 2 Cal.App.5th 734, 744 (*East Bay*).)

This Division recently discussed the implications of section 1310(b) in *Sterling v. Sterling* (2015) 242 Cal.App.4th 185 (*Sterling*), which involved a dispute over a trustee’s sale of the Clippers basketball team. Donald and Rochelle Sterling were the settlors and co-trustees of a trust that owned the Clippers. (*Id.* at p. 190.) When Donald refused to sign a binding term sheet for the sale of the Clippers, Rochelle removed him as trustee in accordance with the provisions of the trust. (*Id.* at p. 191.) She then filed a petition seeking a court order confirming the sale and for a direction under section 1310(b) to complete the sale. (*Sterling*, at p. 192.) After an extensive evidentiary hearing, the probate court determined Donald was properly removed as trustee and instructed Rochelle to complete the sale. (*Id.* at p. 193.)

Donald appealed, seeking reversal of the probate court’s order and a direction to undo the sale. (*Sterling, supra*, 242 Cal.App.4th at p. 195.) We concluded, however, that Donald failed to show he was entitled to his requested relief. We reasoned that acts taken pursuant to section 1310(b) are valid regardless of the outcome on appeal. As a result, we lacked the

authority to undo the sale. We also noted that the issue was dispositive. (*Sterling*, at p. 195.)

More recently, the First Appellate District addressed the same issue, and came to the same conclusion, in *East Bay, supra*, 2 Cal.App.5th 734. In *East Bay*, the superior court granted a section 17200 petition, which ordered a trustee to receive a loan and distribute real property to the East Bay Regional Park District (the District). (*East Bay*, at p. 741.) The order was appealed, which automatically stayed its enforcement. Thereafter, the court granted the District's section 1310(b) petition and directed the trustee to take the actions ordered under the section 17200 petition. The section 1310(b) order was also appealed. (*East Bay*, at p. 741.)

The Court of Appeal dismissed both appeals as moot, noting that “where a section 1310, subdivision (b) order grants relief identical to that of the underlying order on appeal, the statute effectively deprives an appellant of his or her right to appeal altogether.” (*East Bay, supra*, 2 Cal.App.5th at p. 744.) The court determined that “even if the probate court erred, there is no relief we can provide to appellants in connection with their appeal of the section 1310(b) order. Nor is there any relief we can provide appellants in connection with their appeal of the section 17200 order, as that order granted identical relief. Put another way, we cannot reverse the section 17200 order without also invalidating the acts of the trustee taken pursuant to section 1310, subdivision (b), which would be a direct violation of the statute.” (*East Bay*, at p. 745.) Because the court found the mootness issue dispositive, it declined to consider the appellants' substantive arguments related to the sections 1310(b) and 17200 orders. (*East Bay*, at p. 745.)

The same result is warranted here. On appeal, the Attorney General requests that we overturn the probate court’s judgment and section 1310(b) order, and remand the case to recover assets that would have been distributed to the Charitable Trust under the previous version of the Living Trust.<sup>11</sup> However, as the Attorney General acknowledged in connection with its petition for writ of supersedeas, we do not have the authority to grant such relief.

Here, as in *East Bay*, the probate court’s judgment and section 1310(b) order granted identical relief: a direction to execute the Eleventh Amended Living Trust. Because Priscilla and her co-trustee have already executed the Eleventh Amended Living Trust, reversals of the judgment or order would have no practical effect unless they act to invalidate the trust. However, we lack the authority to grant such relief because, per section 1310(b), execution of the Eleventh Amended Living Trust is valid, irrespective of the results of these appeals. For the same reason, we lack the authority to order the recovery of distributions properly made pursuant to the Eleventh Amended Living Trust.<sup>12</sup>

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<sup>11</sup> The Attorney General does not seek to undo the pledge agreements with the charities.

<sup>12</sup> The Attorney General suggests that a remedy remains available because the substituted judgment order “provided for Priscilla to transfer the trust assets to herself . . .” and she retains control over the trust assets. The Attorney General’s argument is misleading because it fails to distinguish between Priscilla’s capacities as trustee and an individual. Regardless, contrary to the Attorney General’s assertion, the probate court did not direct Priscilla to transfer trust assets to herself. Instead, it ordered Priscilla—in her capacities as conservator and

Because we are unable to grant the Attorney General's requested relief in any effective way, the appeals are moot and subject to dismissal. (*In re Jessica K.* (2000) 79 Cal.App.4th 1313, 1315 ["[w]hen no effective relief can be granted, an appeal is moot and will be dismissed"].) The mootness issue is dispositive, and we need not consider the Attorney General's arguments related to the underlying judgment and order. (*East Bay, supra*, 2 Cal.App.5th at p. 745.)

We recognize that our disposition of the mootness issue has effectively shielded the probate court's judgment and order from review on appeal. However, as our Supreme Court noted in connection with a predecessor statute,<sup>13</sup> "[b]y validating the [] acts 'irrespective of the result of the appeal' and notwithstanding the fact that the appellant ultimately prevails, the Legislature has created an extraordinary procedure. In essence, the Legislature appears to have determined that in some cases the need for speedy disposition of certain matters outweighs the interest in affording the affected parties a right of review. It is not our province to pass upon the wisdom of this determination."

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trustee—to execute the Eleventh Amended Living Trust. Because we lack the authority to invalidate the execution of that trust, it does not matter who currently controls or possesses the trust assets.

<sup>13</sup> The Supreme Court's comments concerned former section 2102, which provided that " 'for the purpose of preventing injury or loss to person or property, the trial court may direct the exercise of the powers of the conservator . . . as though no appeal were pending, and all acts of the conservator or temporary conservator pursuant to such directions shall be valid, irrespective of the result of the appeal.' " (*Gold v. Superior Court* (1970) 3 Cal.3d 275, 279 (*Gold*).)



(*Gold, supra*, 3 Cal.3d at p. 282; see also *Kane v. Superior Court* (1995) 37 Cal.App.4th 1577, 1586.)

The Attorney General maintains that, notwithstanding section 1310(b), we have the authority to reverse the judgment and order (and actions taken in conformance with them) because the trial court was not fully informed of the relevant circumstances. In support, the Attorney General relies on *Conservatorship of Hart* (1991) 228 Cal.App.3d 1244 (*Hart*). We find such reliance is misplaced.

In *Hart*, the conservator of an estate petitioned for an order of substituted judgment to make gifts from the estate. (*Hart, supra*, 228 Cal.App.3d at pp. 1250, 1255.) The conservator argued the gifts should be made immediately in order to take advantage of favorable tax laws that were likely to change in the near future. (*Id.* at p. 1255.) The superior court granted the petition over the objections of three beneficiaries of the estate. (*Id.* at pp. 1255–1256.) One of the objectors appealed, which automatically stayed the superior court’s order. (*Id.* at p. 1256.) The superior court subsequently granted the conservator’s petition under former section 2751, subdivision (b), and directed the conservator to distribute the gifts notwithstanding the statutory stay. (*Hart*, at p. 1256.) Section 2751, subdivision (b), like section 1310(b), empowered the superior court to direct a conservator to exercise powers notwithstanding an automatic stay, and provided that actions exercised pursuant to the order are “‘valid, irrespective of the result of the appeal.’” (*Hart*, at p. 1261.)

On appeal, the objector presented new evidence showing the gifts would not qualify for the favorable tax treatment as represented to the superior court by the conservator. (*Hart*,

*supra*, 228 Cal.App.3d at pp. 1258–1259.) The conservator, however, argued the appeal was moot as to the gifts authorized by the section 2751 order. (*Hart*, at p. 1261.) The Court of Appeal noted that, generally, such an order would “abrogate, at least as a practical matter, an appellant’s statutory right to review of the earlier order . . .” (*Ibid.*) It further noted that, because the section 2751 order was made on the same basis as the substituted judgment order, the considerations underlying the two orders could not be severed. (*Hart*, at p. 1262.)

Nevertheless, the court proceeded to consider the merits of, and reverse, the substituted judgment and section 2751 orders. (*Hart, supra*, 228 Cal.App.3d at p. 1262.) The court reasoned that “in the special circumstances of this matter it was essential that the court be as fully informed with respect to the section 2751 petition as it needed to be in order to substitute its judgment for the conservatee’s in the first instance.” (*Hart*, at p. 1262.) The court clarified that it stated a “rule for the special case of an appeal from an order under the substituted-judgment statute, and, further, that *where the court has been fully informed* a substituted-judgment action may be authorized, in the court’s sound discretion under subdivision (b) of section 2751, notwithstanding an appeal from the earlier substituted judgment order.” (*Hart*, at p. 1262.)

The Attorney General asserts a similar result is warranted here because Priscilla and Ingham did not fully inform the probate court of all relevant circumstances. However, unlike in *Hart*, the Attorney General fails to identify a single relevant circumstance or piece of evidence that was not before the court when it made the challenged orders. Instead, the Attorney General simply seeks to reargue the evidence that was before the

probate court, in the hopes that we will reach a different conclusion. We find no special circumstances that would warrant bypassing the Legislature's determination that actions taken pursuant to a section 1310(b) order are valid, irrespective of the result of an appeal.

**DISPOSITION**

The appeals are dismissed. Priscilla Hunt to recover her costs on appeal.

BIGELOW, P.J.

We concur:

RUBIN, J.

GRIMES, J.