

**1. MATTER OF THE CAROLE MARIE SARE 2013 TRUST, 25PR0048**

**Petition for Orders Concerning Trust**

**TENTATIVE RULING # 1: ABSENT OBJECTION, PETITION GRANTED AS REQUESTED.**

**2. MATTER OF DeTARR FAMILY TRUST, SP20140014**

**Petition for Order Approving Distribution of Trust Assets (See Related Item No. 3)**

**TENTATIVE RULING # 2: APPEARANCES ARE REQUIRED AT 8:30 A.M., FRIDAY,  
APRIL 18, 2025, IN DEPARTMENT FOUR.**

**3. MATTER OF DeTARR FAMILY TRUSTS, 24PR0335****Court Trial (See Related Item No. 2)**

On December 13, 2024, petitioners Katherine Alvord and Brandon Cauley (the children of Andrea DeTarr, deceased) filed a petition against respondents Darcy DeTarr and Dawson DeTarr alleging causes of action for: (1) removal of current trustees and appointment of successor trustee (Prob. Code, § 17200, subd. (b)(10)); (2) order requiring current trustees to account, provide requested information, and charge the trustees for improper expenditures (Prob. Code, §§ 16061, 16064, subd. (a)); (3) breach of fiduciary duty; (4) determination that the current trustees are entitled to no trustee fee as compensation; and (5) declaratory relief.

Respondents oppose the petition. On January 17, 2024, the court set a schedule for supplemental briefing on two preliminary matters, which the court addresses in this tentative ruling: (1) whether petitioners have standing to raise the claims in their petition; and (2) whether petitioners are entitled to the requested accountings as a matter of law.

**1. Background**

On July 18, 1990, Vincent B. DeTarr and Corienne J. DeTarr (collectively, the “Grantors”), executed the DeTarr Family Trust. (Petr., Ex. A.) Corienne DeTarr died on October 15, 1990, at which time the Trust estate was divided between the Marital Deduction Trust (“Trust A”) and the Bypass Trust (“Trust B”). Trust A consisted of one-half of all community property owned by the Grantors and the smallest fractional share of the balance of the interest of Corienne DeTarr in the Trust estate necessary as a marital deduction to eliminate any federal estate tax at Corienne DeTarr’s death. (Petr., Ex. A at Art. III, ¶ 1(a).) Trust A remained revocable. (Petr., Ex. A at Art. I.) Trust B consisted of the remaining fraction of the assets and was irrevocable. (Petr., Ex. A at Arts. I & III, ¶ (1)(b).)

Vincent DeTarr and Corienne DeTarr had four children: (1) Martin DeTarr, (2) Darcy DeTarr, (3) Andrea DeTarr, and (4) Dawson DeTarr.

On July 7, 2008, Vincent DeTarr executed the Amendment and Restatement of the DeTarr Family Trust – Trust A (the “2008 Restatement”). The 2008 Restatement: (1) made Vincent DeTarr and Darcy DeTarr co-trustees of Trust A (Petn., Ex. C at 1:9–12); (2) directed the trustees to divide the trust property of Trust A into four shares (one share for each of Vincent DeTarr’s children who survived him) (Petn., Ex. C, ¶ 5.6, subd. (a)); (3) created a separate Trust for Andrea L. DeTarr with a spendthrift clause<sup>1</sup> (Petn., Ex. C, ¶ 6.1); (4) directed that the share of Trust A created for Andrea L. DeTarr shall be held, administered, and distributed by the trustees in the separate Trust for Andrea L. DeTarr (Petn., Ex. C, ¶ 5.6, subd. (a)); (5) specially gifted all of Vincent DeTarr’s interest in the “Los Angeles Cabin” to the Trust for Andrea L. DeTarr upon Vincent’s death (if Andrea survived Vincent, which she did) (Petn., Ex. C, ¶ 5.2); and (6) provides that, notwithstanding any provision of law to the contrary, at no time shall the trustees be required to render accounts to any person (Petn., Ex. C, ¶ 7.17).

Further, regarding the Trust for Andrea L. DeTarr, the 2008 Restatement provides that: (1) during Andrea DeTarr’s lifetime, the trustees shall pay to or apply for the benefit of Andrea as much of the net income and principal of her share of the trust property as the trustees deem proper for Andrea’s health, education, support, and maintenance (Petn., Ex. C, ¶ 6.1, subd. (a)); (2) upon Andrea DeTarr’s death, the trustees shall distribute Andrea’s share of the trust property outright to Andrea’s then-living issue<sup>2</sup> in the manner

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<sup>1</sup> “A spendthrift trust is a trust that provides that the beneficiary’s interest cannot be alienated before it is distributed to the beneficiary. Creditors of the beneficiary generally cannot reach trust assets while those assets are in the hands of the trustee, even if they have a secured judgment against the beneficiary. Rather, creditors must wait until the trustee makes distributions to the beneficiary.” (*Carmack v. Reynolds* (2017) 2 Cal.5th 844, 849.)

<sup>2</sup> The 2008 Restatement provides that, as used in that instrument, the term “issue” refers to all lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of “child” and “children” set forth in the instrument. (Petn., Ex. C, ¶ 1.6.) As used in the 2008 Restatement, the terms “child” and “children” refer to natural children and to children who have been legally adopted

provided in Probate Code section 240<sup>3</sup> (Petr., Ex. C, ¶ 6.1, subd. (b)); and (3) Martin DeTarr and Darcy DeTarr are designated as co-trustees (Petr., Ex. C, ¶ 7.3).

Vincent DeTarr died on October 29, 2011. Upon Vincent's death: (1) Darcy and Dawson DeTarr became the co-trustees of Trust A; (2) Darcy DeTarr became the sole trustee of Trust B; (3) the Trust for Andrea L. DeTarr became irrevocable; and (4) the property of Trust B was to be divided equally amongst each of the Grantors' four children, except that Martin DeTarr's share was to be \$50,000 less than the share for each of the other three children (Petr., Ex. A at Art. III, ¶ 3(a)(i)).

On May 14, 2014, in El Dorado County Case No. SP20140014, Darcy DeTarr and Dawson DeTarr, as successor cotrustees of Trust A, petitioned the court under Probate Code sections 850, subdivision (a)(3)(B) and 17200, for an order requiring the portion of the trust estate held in Trust A and Trust B for the benefit of Andrea L. DeTarr to be held in the Trust for Andrea L. DeTarr for her life (despite the fact that Trust B called for the outright distribution of Andrea's share under Trust B to Andrea "free of any and all trusts"). On June 14, 2014, the court granted this request (the "2014 Judgment"). (Petr., Ex. D at ¶ 5.)

On June 28, 2019, Martin DeTarr passed away.

On September 4, 2021, Andrea DeTarr passed away. She was survived by her estranged husband, Don Ensminger, and two children, petitioners Katherine Alvord and Brandon

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during minority by the parent or parents from or through whom their right to inherit or to take is determined or derived. (Petr., Ex. C, ¶ 1.6.)

<sup>3</sup> Probate Code section 240 provides, "If a statute calls for property to be distributed or taken in the manner provided in this section, the property shall be divided into as many equal shares as there are living members of the nearest generation of issue then living and deceased members of that generation who leave issue then living, each living member of the nearest generation of issue then living receiving one share and the share of each deceased member of that generation who leaves issue then living being divided in the same manner among his or her then living issue." (*Ibid.*)

Cauley. Andrea DeTarr died intestate and no one has been appointed as personal representative of her estate.

## **2. Evidentiary Objections**

Respondents object to the declarations from petitioners and their attorney, Christopher Schlies, filed February 7, 2025, on the grounds of hearsay, foundation, improper opinion, speculation, improper conclusions, and Evidence Code section 352. However, respondents do not identify any specific portions of these declarations to which they object.

The court overrules any objection to petitioners' declarations that they are the children of Andrea DeTarr.

## **3. Standing**

Probate Code section 17200, subdivision (a) confers statutory standing on the beneficiary of a trust to petition the trial court "concerning the internal affairs of the trust."<sup>4</sup> (*Ibid.*) Under Probate Code section 24, " 'Beneficiary' means a person to whom a donative transfer of property is made or that person's successor in interest, and: [¶] (a) As it relates to the intestate estate of a decedent, means an heir ... [¶] (c) As it relates to a trust, means a person who has any present or future interest, vested or contingent." (*Id.*, subds. (a) & (c).)

"In interpreting [Probate Code] section 24, our Supreme Court has recently reminded us that 'the Probate Code " 'was intended to broaden the jurisdiction of the probate court so as to give that court jurisdiction over practically all controversies which might arise between the trustees and those claiming to be beneficiaries under the trust.' "

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<sup>4</sup> Proceedings concerning the internal affairs of a trust include, but are not limited to, compelling the trustee to account to the beneficiary (Prob. Code, § 17200, subd. (b)(7)(C)); fixing or allowing payment of the trustee's compensation or reviewing the reasonableness of the trustee's compensation (*id.*, subd. (b)(9)); and compelling redress of a breach of the trust by any available remedy (*id.*, subd. (b)(12)). This covers all of petitioners alleged causes of action herein.

[Citations.] ... [A]n expansive reading of the standing afforded to trust challenges under section 17200 “not only makes sense as a matter of judicial economy, but it also recognizes the probate court’s inherent power to decide all incidental issues necessary to carry out its express powers to supervise the administration of the trust.” [Citation.]’ [Citation.]” (*Dunlap v. Mayer* (2021) 63 Cal.App.5th 419, 424.)

### **3.1. Standing Related to Trust A and the Trust for Andrea L. DeTarr**

The issue is whether petitioners have standing to petition the court regarding the internal affairs of Trust A and the Trust for Andrea L. DeTarr under Probate Code section 17200 as beneficiaries of each trust.

In *Babbitt v. Superior Court* (2016) 246 Cal.App.4th 1135, the court confirmed that a contingent beneficiary has standing to petition the probate court under Probate Code section 17200 after the trust or a portion of the trust becomes irrevocable. (*Id.* at pp. 1144–1145.) Here, both Trust A and the Trust for Andrea L. DeTarr became irrevocable upon Vincent DeTarr’s death. Pursuant to the 2008 Restatement (as well as the 2014 Judgment), Andrea’s share of the trust property under Trust A was to be held, administered, and distributed in the Trust for Andrea L. DeTarr. The 2008 Restatement also provides that, upon Andrea DeTarr’s death, the trustees shall distribute Andrea’s share of the trust property outright to Andrea’s then-living issue in the manner provided in Probate Code section 240. As of the date of the filing of the petition, petitioners are present beneficiaries of Trust A and the Trust for Andrea L. DeTarr because they are both the living issue of Andrea DeTarr.<sup>5</sup> Accordingly, petitioners have standing to petition the court regarding the internal affairs of Trust A and the Trust for Andrea L. DeTarr under Probate Code section 17200.

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<sup>5</sup> The court notes that petitioners were also contingent beneficiaries of both Trust A and the Trust for Andrea L. DeTarr upon Vincent DeTarr’s death.

### **3.2. Standing Related to Trust B**

Upon the death of both Grantors, the property of Trust B was to be divided equally amongst each of the Grantors' four children, except that Martin DeTarr's share was to be \$50,000 less than the share for each of the other three children. (Petr., Ex. A at Art. III, ¶ 3(a)(i).) Pursuant to the 2014 Judgment, Andrea DeTarr's share of Trust B was to be held, administered, and distributed to the Trust for Andrea L. DeTarr. And, upon Andrea DeTarr's death, the Trust for Andrea L. DeTarr was to be distributed outright to Andrea's then-living issue in the manner provided in Probate Code section 240.

The issue is whether petitioners have standing to petition the court regarding the internal affairs of Trust B as beneficiaries of Trust B.

As it relates to a trust, a beneficiary "means a person who has any present or future interest, vested or contingent." (Prob. Code, § 24, subd. (c).)

The court finds that petitioners meet the statutory definition of beneficiary under Probate Code section 24, subdivision (c) because as of the date of filing the petition, they have a present vested interest in Andrea DeTarr's share of Trust B (as the living issue of Andrea DeTarr).

Respondents argue petitioners must have the authority to administer Andrea DeTarr's estate before having standing to petition the court under Probate Code section 17200 as to the administration of assets allocated to Trust B. (Resp. to Petr., filed Jan. 10, 2025, ¶ 16.) However, that is more than Probate Code section 24 requires.

### **4. Petitioners' Right to Accountings**

Petitioners seek accountings for the affairs of each DeTarr Trust (Trust A, Trust B, and the Trust for Andrea L. DeTarr) from October 29, 2011, to present. (Petr., ¶ 12, subd. (b).)

Respondents argue petitioners are not entitled to accountings covering any period prior to Andrea DeTarr's death on September 4, 2021.

Respondents also assert that the doctrine of laches applies. (See Resp. to Petr., filed Jan. 10, 2025, at Sec. (E), ¶ 7.) " 'The defense of laches requires unreasonable delay plus



either acquiescence in the act about which plaintiff complains or prejudice to the defendant resulting from the delay.’ [Citation.]” (*Johnson v. City of Loma Linda* (2000) 24 Cal.4th 61, 68.) Any delay is measured from the time the plaintiff (or in this case, petitioners) knew (or should have known) about the alleged claim. (*Magic Kitchen LLC v. Good Things Internat., Ltd.* (2007) 153 Cal.App.4th 1144, 1157.)

**4.1. Trust A and the Trust for Andrea L. DeTarr**

Petitioners concede that Article 7, Paragraph 17 of the 2008 Restatement waives the usual statutory accountings. However, they argue they are nonetheless entitled to accountings pursuant to Probate Code section 16064, subdivision (a), which provides in relevant part, “[r]egardless of a waiver of accounting in the trust instrument, upon a showing that it is reasonably likely that a material breach of the trust has occurred, the court may compel the trustee to account.” (*Ibid.*)

The court agrees that, depending on the sufficiency of the evidence, petitioners may be entitled to accountings of Trust A and the Trust for Andrea L. DeTarr, subject to the court’s discretion under Probate Code section 16064, subdivision (a). However, as defendants point out, Probate Code section 16064 only entitles a beneficiary as described in Probate Code section 16062, subdivision (a) to accountings. Probate Code section 16062, subdivision (a) refers to “each beneficiary to whom income or principal is required or authorized in the trustee’s discretion to be currently distributed.” (*Ibid.*) Prior to Andrea DeTarr’s death, petitioners were not entitled to distribution of Andrea DeTarr’s share of Trust A or the Trust for Andrea L. DeTarr. Therefore, the earliest accounting that petitioners may be entitled to under Probate Code section 16064, subdivision (a) – assuming petitioners establish it is reasonably likely that a material breach of the trust has occurred – is the date of Andrea DeTarr’s death, September 4, 2021.

In that case, the court finds that the doctrine of laches would not apply, as petitioners have not unreasonably delayed their request for accountings following Andrea DeTarr’s death in 2021.

**4.2. Trust B**

Unlike Trust A, Trust B does not include a waiver of accountings.

Probate Code section 16062, subdivision (a) provides that, with exceptions not applicable here, “the trustee shall account at least annually, at the termination of the trust, and upon a change of trustee, *to each beneficiary to whom income or principal is required or authorized in the trustee’s discretion to be currently distributed.*” (*Ibid.* [emphasis added].)

The property of Trust B was not to be distributed to the four children of the Grantors until the death of both Grantors. Upon Vincent DeTarr’s death, Andrea DeTarr’s share of Trust B was to be held, administered, and distributed to the Trust for Andrea L. DeTarr. (Petr., Ex. A at Art. III, ¶ 3(a)(i); Ex. D at ¶ 5.)

Prior to Andrea DeTarr’s death, petitioners were not entitled to distribution of Andrea DeTarr’s share of Trust B. Therefore, the court finds petitioners are not entitled to accountings for Trust B prior to Andrea DeTarr’s death on September 4, 2021. Assuming, however, that Andrea DeTarr’s full share of Trust B had not been fully distributed prior to her death, the court finds that petitioners, as the living issue of Andrea DeTarr, were entitled to distribution of her share as of the date of her death, and thus, petitioners are entitled to statutory accountings under Probate Code section 16062, subdivision (a) for the period covering September 4, 2021, through present. With respect to respondents’ assertion of the doctrine of laches, the court finds that that petitioners have not unreasonably delayed their request for accountings following Andrea DeTarr’s death in 2021.

**TENTATIVE RULING # 3: THE COURT FINDS THAT PETITIONERS HAVE STANDING TO PURSUE THE CLAIMS STATED IN THEIR PETITION. WITH RESPECT TO TRUST A AND THE TRUST FOR ANDREA L. DeTARR, PETITIONERS MAY BE ENTITLED TO ACCOUNTINGS UNDER PROBATE CODE SECTION 16064, SUBDIVISION (A), SUBJECT TO THE COURT’S**

DISCRETION. WITH RESPECT TO TRUST B, PETITIONERS ARE ENTITLED TO STATUTORY ACCOUNTINGS UNDER PROBATE CODE SECTION 16062, SUBDIVISION (A) FOR THE PERIOD COVERING SEPTEMBER 4, 2021, THROUGH PRESENT.

NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

**4. CONSERVATORSHIP OF DIANNA S., 24PR0179**

**Review Hearing Re: Least Restrictive Placement (Welf. & Inst. Code, § 5358, subd. (d)(3))**

**TENTATIVE RULING # 4: APPEARANCES ARE REQUIRED AT 8:30 A.M., FRIDAY,  
APRIL 18, 2025, IN DEPARTMENT FOUR.**

**5. MATTER OF JOHN & EUNICE EILER LIVING TRUST 1991, 25PR0074**

**Petition to Confirm Trust, Determine Ownership and Direct Transfer of Property**

**TENTATIVE RULING # 5: ABSENT OBJECTION, PETITION GRANTED AS REQUESTED.**

**6. ESTATE OF ENSENAT, 25PR0025**

**Petition to Administer Estate**

**TENTATIVE RULING # 6: ABSENT OBJECTION, PETITION GRANTED AS REQUESTED.  
LETTERS SHALL ISSUE. THE COURT SETS A STATUS OF ADMINISTRATION HEARING AT  
8:30 A.M., FRIDAY, APRIL 17, 2026, IN DEPARTMENT FOUR.**