№ S251574

In the

Supreme Court

of the

State of California

JOAN MAURI BAREFOOT,
Plaintiff and Appellant,

vs.

JANA SUSAN JENNINGS, *et al.*,
Defendants and Respondents.

AFTER THE DECISION OF THE
COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT
№ F076395
(OPN. BY HILL, P.J., POOCHIGIAN & MEEHAN, JJ., CONC.)

TUOLUMNE COUNTY SUPERIOR COURT
№ PC051396
(HON. KATE POWELL SEGERSTROM, JUDGE)

APPLICATION FOR LEAVE TO FILE AMICUS CURIÆ BRIEF; BRIEF OF AMICUS CURIÆ BONNIE STERNGOLD IN SUPPORT OF APPELLANT

*ROBERT COLLINGS LITTLE, 182396
ANGLIN FLEWELLING ET AL.
301 North Lake Ave., Ste. 1100
Pasadena, California 91101-4158
(626) 535-1900 | FAX (626) 577-7764
E-MAIL rlittle@afrct.com

Amber C. Haskett, 194129
HASKETT LAW FIRM, P.C.
5820 Stoneridge Mall Rd., Ste. 207
Pleasanton, California 94588-3200
(925) 460-8850 | FAX (925) 460-9987
E-MAIL ahaskett@haskettlaw.com

Attorneys for Amicus Curiæ
BONNIE STERNGOLD

№ S251574

In the

Supreme Court

of the

State of California

JOAN MAURI BAREFOOT,
Plaintiff and Appellant,

vs.

JANA SUSAN JENNINGS, *et al.*,
Defendants and Respondents.

AFTER THE DECISION OF THE
COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT
№ F076395
(OPN. BY HILL, P.J., POOCHIGIAN & MEEHAN, JJ., CONC.)

TUOLUMNE COUNTY SUPERIOR COURT
№ PC051396
(HON. KATE POWELL SEGERSTROM, JUDGE)

APPLICATION FOR LEAVE TO FILE AMICUS CURIÆ BRIEF; BRIEF OF AMICUS CURIÆ BONNIE STERNGOLD IN SUPPORT OF APPELLANT

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

(CAL. RULES OF COURT, rule 8.208)

The following are interested entities or persons under Rule 8.208 of the California Rules of Court:

(1) Tamara M. McReynolds (Child of Donald McReynolds, and beneficiary of the McReynolds Family Trust);

(2) Cary D. McReynolds (Child of Donald McReynolds, and beneficiary of the McReynolds Family Trust);

(3) Crystal F. Cavin (Child of Frieda McReynolds King, beneficiary of the McReynolds Family Trust, and beneficiary of the Tony and Frieda King Living Trust);

(4) Mary F. Forest (Child of Frieda McReynolds King, beneficiary of the McReynolds Family Trust, and beneficiary of the Tony and Frieda King Living Trust); and

(5) Sterling S. Forest (Child of Frieda McReynolds King, beneficiary of the McReynolds Family Trust, and beneficiary of the Tony and Frieda King Living Trust).

Respectfully submitted,

June 3, 2019

ANGLIN FLEWELLING RASMUSSEN CAMPBELL & TRYTTEN, LLP

By: ROBERT COLLINGS LITTLE

Appellate Counsel for Amicus Curiæ
BONNIE STERNGOLD

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

FEDERAL CASES

CALIFORNIA CASES

FEDERAL CONSTITUTIONAL PROVISIONS

CALIFORNIA STATUTES

RULES OF COURT

OTHER AUTHORITIES

APPLICATION FOR LEAVE TO FILE AMICUS CURIÆ BRIEF OF BONNIE STERNGOLD IN SUPPORT OF APPELLANT

TO THE HONORABLE CHIEF JUSTICE CANTIL-SAKAUYE, AND MAY IT PLEASE THE COURT:

Amicus Curiæ Bonnie Sterngold respectfully applies for Your Honor's permission to file the accompanying amicus curiæ brief in support of Appellant Joan Mauri Barefoot. (Cal. Rules of Court, rule 8.520(f)(1).) Sterngold's application is timely filed within 30 days after all briefs, other than supplemental briefs, were filed by the parties May 2, 2019. (Cal. Rules of Court, rule 8.520(f)(2); 8.25(b)(3)(A).)

This amicus curiæ brief was authored *pro bono publico* in whole by her appellate counsel Robert Collings Little, and her probate attorney Amber Carol Haskett, without charge for counsel's time, to advance the cause of justice and for the public good. (Cal. Rules of Court, rule 8.520(f)(4)(A)(i)–(ii).) No other person or entity made any monetary contribution intended to fund the brief's preparation or submission. (*Id.*, rule 8.520(f)(4)(B).)

Mr. Little is certified as a legal specialist in appellate law by the California State Bar's Board of Legal Specialization, and Ms. Haskett is a veteran probate litigator with extensive experience litigating claims under both Probate Code section 17200 and 850. (Cal. Rules of Court, rule 8.520(f)(3).)

Amicus curiæ Sterngold respectfully submits that her brief will assist the Court's review in deciding the issue on review by focusing on the access-to-justice concerns raised by *Barefoot v. Jennings* (2018) 27 Cal.App.5th 1, review granted Dec. 12, 2018, S251574 [240 Cal.Rptr.3d 70, 430 P.3d 1178]. (Cal. Rules of Court, rule 8.520(f)(3).)

Sterngold has experienced these issues firsthand as a probate court litigant in Alameda County Superior Court No. RP1890308, now on appeal before the First District Court of Appeal, Division One, in number A156291. In April 2018, Sterngold initiated a cause of action under section 17200 in her capacity as trustee of the last allegedly valid trust iteration (a 2014 first amendment and restatement) of her mother and her mother's third husband.[1]

After the unpublished status of *Barefoot* changed to published in September 2018, the probate court terminated Bonnie's 17200 cause of action by sustaining a demurrer without leave to amend because the invalid trust amendment signed on the day her mother was being cremated made her a "former," rather than "current" co-trustee and beneficiary. This was so even though her verified, well-pled, material allegations, presumed true at the pleadings stage,[2]

---

[1] Undesignated statutory references are to the Probate Code.

[2] "Treating as true all material facts properly pleaded, we determine de novo whether the factual allegations of the complaint are adequate to state a cause of action under any legal theory, regardless of the title under which the factual basis for relief is

[Footnote Text Cont'd on Next Page]

demonstrated that second amendment to her mother's trust was invalid because her mother's third husband lacked capacity to amend the trust, or was acting as a result of fraud, duress, undue influence, forgery or elder abuse exerted upon him by his adult children from a different woman. In this way, all her mother's substantial real properties and assets, characterized as separate property in a premarital agreement, were spirited away to benefit her incompetent stepfather and his adult children from a different relationship. Applying *Barefoot*, the probate court terminated her section 17200 trust contest on a "one-and-done" demurrer.

This Court's opinion will have a major effect on how trust contests are litigated in California. *Barefoot* not only gives an alleged wrongdoer the keys to the litigation war chest (trust assets) to outspend any disinherited beneficiary who might dare challenge the wrongdoer in Court, but it also implausibly gives the wrongdoer the keys to the probate courtroom door (standing) to keep out disinherited beneficiaries.

Instead of permitting the disinherited trust beneficiary from challenging a void trust document in probate court under section 17200, it sends the disinherited beneficiary on a needlessly expensive and wasteful trip, first to the unlimited civil court to adjudicate the fraud, then on to the probate court to accomplish the very same purpose of adjudicating the validity *vel non* of the "internal

---

stated." (*Burns v. Neiman Marcus Group, Inc.* (2009) 173 Cal.App.4th 479, 486 [93 Cal.Rptr.3d 130].)

affairs" of the wrongfully amended trust. This is unreasonably complex and expensive, particularly for the party wrongfully deprived of their anticipated share of an inheritance by an invalid amendment procured by duress, fraud, undue influence, incapacity, forgery, or elder abuse.

Our courts have recognized that the family and probate courts, along with the criminal courts, are generally the primary doors through which this State's public pass to litigate. The difference is that the Sixth Amendment ensures assistance of counsel for those accused of a crime (U.S. Const., 6th Amend.), while the frequently self-represented litigants in the family and probate courts have no such protection. The scales are tipped even further when the wrongdoer can, by the stroke of a fraudulent pen, deprive a trustee or beneficiary of access to the probate courts which are not only in the best position to litigate such disputes, but where a litigant must now go *after* congesting the already-taxed civil departments with even more litigation.

Sterngold respectfully requests the Court consider these issues as discussed in her amicus curiæ brief accompanying this application to aid the Court in the correct disposition of this appeal.

Respectfully submitted,

June 3, 2019

ANGLIN FLEWELLING RASMUSSEN
CAMPBELL & TRYTTEN, LLP

By: _____
ROBERT COLLINGS LITTLE

AMBER C. HASKETT
HASKETT LAW FIRM, P.C.

Attorneys for Amicus Curiæ
BONNIE STERNGOLD

BRIEF OF AMICUS CURIÆ BONNIE STERNGOLD IN SUPPORT OF APPELLANT

INTRODUCTION

Since before Dickens's *Bleak House* first appeared as a monthly episodic in March 1852, the protracted duration and extraordinary expense of probate matters have been the stuff of legendary public scorn for bench and bar.[3] The U.S. Supreme Court recognized as much this past decade. (*Stern v. Marshall* (2011) 564 U.S. 462, 468–469 [131 S.Ct. 2594, 2600, 180 L.Ed.2d 475, 484–485] (maj. opn. of Roberts, C.J.).)

It is thus no coincidence that after its publication was completed three years into California's statehood, our Legislature in 1880 made resolving probate matters the first order of business for the state's reviewing judiciary immediately after matters jeopardizing physical liberty. (Code Civ. Proc., § 44 [preference in the reviewing court for probate proceedings]; see Advisory Com. com., Cal. Rules of Court, rule 8.240.)

And it is equally no mistake that *Barefoot* immediately fomented clamor from the ordinarily staid trusts and estates

---

[3] Considered among his finest achievements, *Bleak House* "tells the complex story of a notorious lawsuit [*Jarndyce and Jarndyce*] in which love and inheritance are set against the classic urban background of nineteenth century London, where fog in the river, seeping into the very bones of the characters, symbolizes the pervasive corruption of the legal system and the society that supports it." (Dickens, Bleak House (Knopf Everyman's Library 1991 ed.) jacket.)

sections of county bar associations: the intermediate appellate decision from Fresno upended decades' of generally accepted legal practice under section 17200 for trust contests throughout California. (Chambliss & Cummins, *Probate Court Closed to Disinherited Trust Beneficiaries*, L.A. & S.F. Daily J. (Sept. 27, 2018).)

That is why this postulate from Respondent Jennings and Wren deserves special examination: "In fact, if this Court were to adopt [Appellant] Mauri [Barefoot]'s interpretation of Section 17200, it would invite chaos because any former beneficiary or trustee could petition—i.e., meddle—with a trust in which the petitioner has no current interest." (RAB 9.) The very opposite is true.

The interpretation of section 17200 in *Barefoot* itself creates the chaos because of decades of standard legal practice emphasizing the expeditious and inexpensive resolution of trust contests in the direct lineage of probate matters under section 17200 are thrown out of the very same probate courts with the special expertise to handle them. (Chambliss & Cummins, *Probate Court Closed to Disinherited Trust Beneficiaries*, *supra.*)

Appellant is correct that an unwieldy, two-tier juridical journey has been assembled for trustees or beneficiaries removed or disinherited by the stroke of a fraudulent pen to a trust instrument. The omitted beneficiary must first go to the civil departments to prove that the trust instrument was invalidly amended by fraud, duress, undue influence, incapacity, or elder abuse, and *then* she must take her case over to the probate court to have the trust examined. (See discussion at AOB 49–51.) This is wasteful and wrong. (See

e.g., (*Stern v. Marshall*, *supra*, 564 U.S. at p. 468 ["This is the second time we have had occasion to weigh in on this long-running dispute between Vickie Lynn Marshall and E. Pierce Marshall over the fortune of J. Howard Marshall II, a man believed to have been one of the richest people in Texas. The Marshalls' litigation has worked its way through state and federal courts in Louisiana, Texas, and California, and two of those courts — a Texas state probate court and the Bankruptcy Court for the Central District of California — have reached contrary decisions on its merits."].)

Though *Barefoot* "stands for the proposition that beneficiaries impacted by acts against the trust settlor such as fraud, forgery, or undue influence must prosecute those claims in civil court but not the probate court," the generally accepted legal practice in California is the opposite. (RAB 9.) Instead, "[i]n practice, trust contest petitions under Section 17200 brought by disinherited beneficiaries are commonplace and adjudicated in the probate court" because "[t]he generally accepted practice is that the probate court is the proper venue for parties whose interests are affected by the challenged trust instrument." (Chambliss et al., *supra.*)

So, the imaginative discord in the California courts proposed by Respondents (RAB 9) flows in a different direction, and with a very different and deleterious effect. Trust contests are relegated by *Barefoot* to the already overtaxed and underfunded general population of the civil departments, where the time from service and filing of motions to hearing dates in many of California's counties can be measured by a leap of several months. Over the past couple

of years, for example, the earliest a motion might be heard in some courthouses in Los Angeles and Riverside Counties, could be up to five to six months. A single motion. Up to half-of-a-year.

The "chaos"-scarecrow offered by Jennings and Wren is therefore really a reification of *Jarndyce and Jarndyce* all over again, in a state where, for over a century, probate matters are to be swiftly resolved exactly as posited by Appellant here. (AOB 46–49.)[4]

SUMMARY OF ARGUMENT

Under fundamental principles of civil procedure and probate law, a trustee or beneficiary who sufficiently alleges that a trust instrument under which she claims standing to sue has been invalidly amended by duress, fraud, undue influence, incapacity, forgery, or elder abuse, shall maintain standing to proceed under Probate Code section 17200 to challenge an allegedly invalid trust amendment. She retains this standing until the allegedly invalid instrument under which she appears to be no longer a current trustee or beneficiary is proven valid, or she cannot prove its invalidity.

---

[4] (Dickens, Bleak House, *supra*, p. 4 ["This scarecrow of a suit has, over the course of time, become so complicated, that no man alive knows what it means. .... Innumerable children have been born into the cause; innumerable young people have married into it; innumerable old people have died out of it. .... [W]hole families have inherited legendary hatreds with the suit. The little plaintiff or defendant, who was promised a new rocking-horse when Jarndyce and Jarndyce should be settled, has grown up, possessed himself of a real horse, and trotted away into the other world. .... [A] long procession of Chancellors has come in and gone out."].)

Any other interpretation attaches a presumptive validity to a *challenged* trust amendment that Respondents Jennings and Wren never identify in their merits briefing because it does not exist in the law. The "chaos" they describe of "meddling" by former trustees or beneficiaries is a scarecrow. (RAB 9) The universe of potential litigants is finite. And, as the Third District recently affirmed, notwithstanding the presumptive truth attached to a pleading subjected to a demurrer, an absolutely baseless lawsuit will not survive.

Jennings and Wren suggest this Court interpret section 17200 by envisioning, for example, wayward self-represented litigants wrongfully claiming themselves to be the heirs or beneficiaries of Howard Hughes or J. Paul Getty, and wreaking "chaos" by "meddling" in the "internal affairs" of trusts to which they have no concrete right but that which they concoct out of whole cloth in their pleadings. (RAB 9.) But the reality is much different, and the universe of potential litigants is extremely finite. That universe can only include a denominated trustee or named beneficiary designated in a trust instrument preceding one that is well-alleged to be wrongfully amended in a claim asserted under section 17200.

The Fifth District Court of Appeal's decision in *Barefoot* depriving her and persons like Amicus Curiæ Sterngold of standing to prosecute trust contests under section 17200 should be reversed.

AMICUS'S INTEREST ARISING FROM THE APPLICATION OF *BAREFOOT* TO PREVENT HER FROM EXPEDITIOUSLY AND INEXPENSIVELY ADVANCING HER TRUST CONTEST

Amicus Curiæ Bonnie Sterngold has a unique perspective on this issue from the standpoint of a litigant stripped, based on *Barefoot*, of her ability to contest an allegedly invalid amendment of her mother's joint trust with her late-in-life marriage to a third husband.

This short background of her interest is offered for illustration of the consequences of *Barefoot*'s erroneous interpretation of standing under section 17200, and a punctuation point for manifest injustice. Based on pleadings filed by lawyers which serve the interests of Sterngold's stepfather and his adult children from a different marriage, the following may be deemed vehemently disputed, but more remarkably, unadjudicated after more than a year, due largely to the intervening publication of *Barefoot*.

Sterngold's mother entered her third marriage with a magnitude of over five times the assets of her third husband as scheduled on their premarital agreement. Both her mother and her mother's third husband had several children from prior marriages and relationships. They agreed that their separate property before marriage was to remain separate. Sterngold's mother naturally wanted Sterngold and her siblings to inherit the assets she had acquired over her lifetime before her late-in-life marriage.

Sterngold's mother and third husband later entered into a "one-size-fits-all" family trust agreement from a franchise called We The People® offering "low cost, accurate, legal document preparation"—everything from green card applications, to divorces ("with" or "without children"), to "step-parent adoptions," and unfortunately, "living wills and trusts." (See <https://wethepeopleusa.com/personal> [as of June 3, 2019].)

In doing so, she never intended for her third husband's son from a different woman to put a trust amendment in front of her third husband while her remains were being cremated and to have him sign the document thereby disinheriting her children and shifting all of her property to him and his children from a different woman.

The Fifth District Court of Appeal's holding in *Barefoot*, decided in August of 2018, ordered published in September 2018, after Sterngold had filed her action in April 2018 against her stepfather as a trustee and beneficiary of her mother's trust with her stepfather, was the basis for denying her access to the probate court's adjudication of her material allegations regarding the invalidity of an amendment to her mother's trust.

Deposition testimony taken on the day Sterngold's action was subsequently terminated in October 2018 showed her stepfather lacked any meaningful understanding of what Sterngold's mother owned or did not own when she died; that he believed her children already received all of her property, even property transferred, ostensibly by him, into a new trust; that he did not know the names of her mother's children or his stepchildren, or the names his

second wife, his doctor, his tax preparer, or his attorneys who drafted his estate planning documents; and that he could not remember even signing the documents but that he admits he did not ever read them.

Sterngold's pleading not only alleged with well-pleaded, material facts that the trust amendment was the product of duress, fraud, and incapacity, but the discovery itself was saturated with evidence that the trust amendment was wildly invalid. In the middle of that discovery, Sterngold's section 17200 cause of action was terminated on demurrer based on *Barefoot* without leave to amend.

LEGAL ANALYSIS AND ARGUMENT

The probate court has general power and duty to supervise the administration of trusts. (*Christie v. Kimball* (2012) 202 Cal.App.4th 1407, 1413 [136 Cal.Rptr.3d 516].) It has "wide, express powers to 'make any orders and take any other action necessary or proper to dispose of the matters presented' by [a] section 17200 petition,' " but it "must exercise those powers 'within the procedural framework laid out in the governing statutes' of the Probate Code." (*Babbitt v. Superior Court (Babbitt)* (2016) 246 Cal.App.4th 1135, 1144 [201 Cal.Rptr.3d 353].)

Whether a party has standing under the Probate Code is a threshold issue independently reviewed by the Court. (*San Luis Rey Racing, Inc. v. Cal. Horse Racing Bd.* (2017) 15 Cal.App.5th 67, 73 [222 Cal.Rptr.3d 453]; *Neil S. v. Mary L.* (2011) 199

Cal.App.4th 240, 249 [131 Cal.Rptr.3d 51] ["standing is a question of law, particularly where ... it depends on statutory provisions conferring standing"].)

1. *Barefoot* is contrary to the fundamental pleadings law in California

It is well-established that in adjudicating a demurrer, the lower courts must assume all well-pleaded facts to be true. (*Los Angeles Memorial Coliseum Com. v. Insomniac, Inc.* (2015) 233 Cal.App.4th 803, 819 [182 Cal.Rptr.3d 888] ["we treat the demurrer as admitting all material facts properly pleaded," "give the complaint a reasonable interpretation," and when a demurrer is sustained without leave to amend, "we decide whether there is a reasonable possibility that the defect can be cured by amendment: if it can be, the trial court has abused its discretion and we reverse"].)

If the trust amendment is invalid based on well-pled factual allegations, which should be taken as true at the pleadings stage, then the settlor lacked capacity to enter into the invalid amendment. This is so because the Court treats " 'the demurrer as admitting all material facts properly pleaded, but not contentions, deductions or conclusions of fact or law. [Citation.] [The court] also consider[s] matters which may be judicially noticed.' " (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318 [216 Cal.Rptr. 718, 703 P.2d 58], quoting *Serrano v. Priest* (1971) 5 Cal.3d 584, 591 [96 Cal.Rptr. 601, 487 P.2d 1241].)

An invalid trust amendment cannot take away the standing of the former trustee and beneficiary under the last *allegedly* valid trust instrument. There are already ample safeguards in the decisional law to protect defendants at the pleadings stage from obviously specious lawsuit. (*Carter v. Prime Healthcare Paradise Valley LLC* (2011) 198 Cal.App.4th 396, 403 [129 Cal.Rptr.3d 895].)

Even at the pleadings stage, the court does not accept as true contentions lacking any specific factual basis. (*Carter v. Prime Healthcare Paradise Valley LLC, supra,* 198 Cal.App.4th at p. 403; see *Hill Transportation Co. v. Southwest Forest Industries, Inc.* (1968) 266 Cal.App.2d 702, 710–711 [notwithstanding the assumption of truth accorded allegations subjected to demurrer, the pleader still does not have "an unlimited license to indulge in fiction"].)

2. *Barefoot* needlessly increases the time and expense of litigating a probate case, an anathema to the Legislature for over a century

Instead of permitting the disinherited trust beneficiary from challenging a wrongfully amended trust in probate court under section 17200, it sends the disinherited beneficiary on a horizontal, juridical journey from one courtroom to another, first to the unlimited civil court to adjudicate the fraud, then on to the probate court to accomplish the very same purpose of adjudicating the "internal affairs" of the wrongfully amended trust. Nothing could be closer to the marrow of "determin[ing] the existence of the trust," in the

words of subdivision (a) of section 17200, than determining the validity of a trust instrument, original, restated, or amended.

This is unreasonably complex and expensive, particularly for the party wrongfully deprived of their anticipated share of an inheritance by an invalid amendment procured by duress, fraud, undue influence, incapacity, or elder abuse. After all, it is the wrongdoer who has the trust assets to outspend the disinherited beneficiary who might dare challenge him in court.

Worse, this interpretation does not serve substantial justice. Under the decision on review, the party who wrongfully disinherits the other party through an invalid trust amendment has the keys to the war chest since he controls the trust assets to defeat any potential, wrongfully-disinherited beneficiary. Prejudicial error does not stop there: the wrongdoer also (implausibly) controls judicial standing to challenge his wrongdoing in probate court under section 17200, and thus also has the keys to the probate courtroom door. This cannot be right.

3. Jennings and Wren's assertion that Barefoot has improperly expanded the issues on appeal is wrong

Jennings and Wren say that Barefoot "presents numerous issues beyond the Court of Appeal opinion, which were also not preserved in the trial court." (RAB 30, original capitalization omitted.) This is simply untrue. They are suggesting this Court take a myopic, narrowly "clinical" view of *Barefoot*, instead of its real-world consequences.

The matters which they say are "far afield" of the issue before this Court (RAB 31) are rather well-cabined within it, and demonstrative of the consequences to litigants who find themselves lacking standing to assert the invalidity of a trust instrument in probate court based on the *Barefoot*'s interpretation of standing under section 17200.

For example, the short 120-day statute of limitations under Probate Code section 16061.8 can be lethal to a pleader who is thrown out of probate court based on *Barefoot*. Yet Jennings and Wren suggest this Court ignore that when rendering its decision. (RAB 31–32.)

The same is true of leave to amend to her pleading. (RAB 31.) They propose that justice should be foreclosed from Barefoot regardless of whether her pleading stated a cause of action under any legal theory. (*Ibid.*) But this Court has long asserted itself as" 'not powerless to formulate rules of procedure where justice demands it" and stands "ready to adapt rules of procedure to serve the ends of justice where technical forfeitures would unjustifiably prevent a trial on the merits.' "(*McDonald v. Antelope Valley Community College Dist.* (2008) 45 Cal.4th 88, 102 [84 Cal.Rptr.3d 734, 194 P.3d 1026], citing and quoting *Addison v. State* (1978) 21 Cal.3d 313, 318 [146 Cal.Rptr. 224, 578 P.2d 941].)p

The balance of the matters identified by Jennings and Wren as the proper subject of rehearing by the intermediate court require an slavishly short-sighted view on appeal, that would never permit this Court to take up an issue and make a decision like *Riverisland*

Cold Storage, Inc. v. Fresno-Madera Production Credit Assn. (2013) 55 Cal.4th 1169, 1172 [151 Cal.Rptr.3d 93, 291 P.3d 316], for example.

The Court's decision here will open or close expeditious proceedings in probate court to trustees and beneficiaries who are invalidly removed or disinherited by a wrongdoer. It examines the legislation before it to be sure, but it ensures the legislation is reasonably applied as well. (*Gray v. Whitmore* (1971) 17 Cal.App.3d 1, 21 [94 Cal.Rptr. 904].)

CONCLUSION

Trust amendments that are the product of duress, fraud, undue influence, incapacity, forgery, or elder abuse, those disinheriting Barefoot as equally as the Cremation Day-Amendment purportedly removing Sterngold as a current trustee and beneficiary, merit expeditious and inexpensive adjudication by judicial courts tasked with the expertise to examine them. The Court of Appeal's interpretation of section 17200 in *Barefoot* itself has created the "chaos" that Jennings and Wren say they seek to avoid. (RAB 9.) Fundamental principles of probate law and public policy favoring access to justice urge reversal of the Court of Appeal's *Barefoot* decision.

This Court should issue an opinion clarifying that a trustee or beneficiary who sufficiently alleges that a trust instrument under which she claims standing to sue has been invalidly amended by duress, fraud, undue influence, incapacity, forgery or elder abuse,

maintains standing to proceed under section 17200 to challenge an allegedly invalid trust amendment. She retains this standing until the allegedly invalid instrument under which she appears to be no longer a current trustee or beneficiary is proven valid, or she cannot prove its invalidity.

Respectfully submitted,

June 3, 2019

ANGLIN FLEWELLING RASMUSSEN
CAMPBELL & TRYTTEN, LLP

By: 
ROBERT COLLINGS LITTLE

AMBER C. HASKETT
HASKETT LAW FIRM, P.C.

Attorneys for Amicus Curiæ
BONNIE STERNGOLD

CERTIFICATE OF WORD COUNT

(CAL. RULES OF COURT, rule 8.520(c)(1))

I, the undersigned appellate counsel, certify this amicus curiæ brief consists of 3,144 words, exclusive of those portions specified in California Rules of Court, rule 8.520(c)(3), relying on the word count of the Microsoft Office 2019 program used to prepare it.

Respectfully submitted,

June 3, 2019

ANGLIN FLEWELLING RASMUSSEN CAMPBELL & TRYTTEN, LLP

By: _____

ROBERT COLLINGS LITTLE

Appellate Counsel for Amicus Curiæ
BONNIE STERNGOLD

CERTIFICATE OF SERVICE

(CAL. RULES OF COURT, rules 8.25(a) & (b)(3), 8.70–8.79, 8.520(f)(5), CODE CIV. PROC, §§ 1013, subds. (a) & (b), 1013a, subd. (2))

STATE OF CALIFORNIA }
} ss.
COUNTY OF LOS ANGELES }

My name is Robert C. Little. I am an active member of the State Bar of California. My business address is Anglin Flewelling Rasmussen Campbell & Trytten, LLP, 301 North Lake Avenue, Suite 1100, Pasadena, California 91101-4158, and my electronic service address is rlittle@afrct.com. I am not a party to the cause.

On June 3, 2019, at Pasadena, California, I served the foregoing documents described as **APPLICATION FOR LEAVE TO FILE AMICUS CURIÆ BRIEF;** and **BRIEF OF AMICUS CURIÆ BONNIE STERNGOLD IN SUPPORT OF APPELLANT** on each interested party in this action as follows:

PLEASE SEE ATTACHED SERVICE LIST

☒ **VIA E-SUBMISSION:** I caused to be uploaded a true and correct copy of the document, in Portable Document Format (.pdf), through the California Supreme Court's electronic submission system under Cal. Rules of Court, rules 8.70–8.79.

☒ **VIA COMMON CARRIER PROMISING OVERNIGHT DELIVERY:** I enclosed the document in a sealed envelope or package designated by the common carrier promising overnight delivery as shown on the carrier's receipt, with delivery fees paid or provided for, addressed as indicated on the attached Service List, and I delivered the envelope or package to the common carrier promising overnight delivery (Golden State Overnight Delivery Service Inc. [GSO]).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on

June 3, 2019, at Pasadena, in the County of Los Angeles, State of California.

Robert C. Little

SERVICE LIST

SUPREME COURT OF CALIFORNIA
№ S251574

CALIFORNIA COURT OF APPEAL
FIFTH APPELLATE DISTRICT
№ F076395

TUOLUMNE COUNTY SUPERIOR COURT
№ PC051396

Via Common Carrier Promising Overnight Delivery & E-Submission

Mr. Jorge E. Navarette,
Clerk/Executive Officer
SUPREME COURT OF CALIFORNIA
Ronald M. George State Office Complex
Earl Warren Building
350 McAllister Street, Room 1295
San Francisco, California 94102-4797
(415) 865-7000

Supreme Court of California

ONE (1) ORIGINAL AND
EIGHT (8) PAPER COPIES;
ONE (1) COPY E-SUBMITTED

Via Common Carrier Promising Overnight Delivery

Nathan Damian Pastor, Esq.
LAW OFFICES OF NATHAN D. PASTOR
2033 North Main Street, Suite 750
Walnut Creek, California 94596-3774
(925) 322-1012 | FAX (925) 322-6320
E-MAIL nathan@nathanpastor.com

Attorneys for Plaintiff and Appellant
JOAN MAURI BAREFOOT

Via Common Carrier Promising Overnight Delivery

Sean M. SeLegue, Esq.
ARNOLD & PORTER
Three Embarcadero Center, 10th Floor
San Francisco, California 94111-4024
(415) 471-3100 | FAX (415) 471-3400
E-MAIL sean.selegue@arnoldporter.com

Attorneys for Defendants and Respondents
JANA SUSAN JENNINGS
and SHANA LEE WREN

SERVICE LIST

(CONTINUED)

Via Common Carrier Promising Overnight Delivery

Eric Thomas Nielsen, Esq.
Michael Louis Gianelli, Esq.
GIANELLI | NIELSEN
1014 Sixteenth Street
Modesto, California 95354-1106
(209) 521-6260 | FAX (209) 521-5971
E-MAIL enielsen@gianelli-law.com
mgianelli@gianelli-law.com

Co-Counsel for Defendants and Respondents
JANA SUSAN JENNINGS and SHANA LEE WREN

Via Common Carrier Promising Overnight Delivery

Mr. Brian Cotta,
Clerk/Executive Officer
CALIFORNIA COURT OF APPEAL
FIFTH APPELLATE DISTRICT
2424 Ventura Street
Fresno, California 93721-3004
(559) 445-5491

California Court of Appeal

Via Common Carrier Promising Overnight Delivery

Mr. Hector X. Gonzalez, Jr.,
Superior Court Clerk/Executive Officer
for Hon. Kate Powell Segerstrom, Judge
SUPERIOR COURT OF CALIFORNIA
IN AND FOR COUNTY OF TUOLUMNE
41 West Yaney Avenue
Sonora, California 95370-4611
(209) 533-5555 | FAX (209) 533-6616

Superior Court Clerk for Delivery to the Trial Judge

SERVICE LIST

(CONTINUED)

Via Common Carrier Promising Overnight Delivery

Dana Anthony Berry, Sr.
5149 Bain Street
Mira Loma, California 91752-1918

COURTESY COPY