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19 DONALD T. STERLING

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA

21 COUNTY OF LOS ANGELES

22 In the Matter of

Case No. BP152858

Assigned to Hon. Michael Levanas, Dept. 5

23  
24 THE STERLING FAMILY TRUST.

**RESPONDENT'S REPLY IN SUPPORT  
OF BRIEF RE SCOPE OF EVIDENTIARY  
HEARING**

25  
26 Trial Date: July 7, 2014

Time: 1:30 p.m.

27 Dept.: 5

28 Petition Filed: June 11, 2014



1 This brief addresses a single point: Petitioner Rochelle H. Sterling (“Shelly”) misstates the  
2 essence of the fraud/undue influence (claim asserted by Respondent Donald T. Sterling  
3 (“Donald”). Family Code § 721(b) provides that “in transactions between spouses themselves, a  
4 husband and wife are subject to the general rules governing fiduciary relationships which control  
5 the actions of persons occupying confidential relations with each other. **This confidential**  
6 **relationship imposes a duty of the highest good faith and fair dealing on each spouse, and**  
7 **neither shall take any unfair advantage of the other.”** (Emphasis added). Moreover, as an  
8 incident of this fiduciary relationship there is a rebuttable presumption of undue influence when  
9 one spouse obtains an advantage over the other, i.e., when one spouse improves his/her position,  
10 obtains a favorable opportunity. or otherwise gains, benefits or profits to the exclusion of the  
11 other. *Marriage of Haines* (1995), 33 C. A. 4<sup>th</sup> 277, 297; *Marriage of Mathews*, (2005), 133 C.A.  
12 4<sup>th</sup> 624, 629-630. There is, therefore, as a minimum, a justiciable dispute as to whether Shelly  
13 breached this fiduciary to Donald in connection with terminating his status as co-trustee of the  
14 Trust.

15 There is, in fact, no basis to even assert that a justiciable dispute exists as to whether  
16 Donald was fully informed as to the purpose, nature and consequences of the “medical’  
17 examination conducted by Drs. Platzer and Spar. He was not. Shelly breached her fiduciary duty  
18 as a wife and as a co-trustee by failing to fully and adequately disclose the purpose, nature, and  
19 consequences of the mental examinations. That deficiency was not avoided by either Dr. Platzer  
20 or Dr. Spar. Donald was simply not told the truth by anyone about the purpose of the medical  
21 exams.

22 Donald should have been properly informed that the doctors were evaluating his legal  
23 capacity for purposes of determining his ability to continue to serve as Co-Trustee of the Sterling  
24 Family Trust, a position he had held continuously for many years. Donald should not have been  
25 duped. Contrary to what Petitioner erroneously speculates (Shelly Opp. re Capacity at 6:1-12),  
26 Donald would not have refused to cooperate. Donald would have cooperated in accordance with  
27 the terms of the trust. But he would have also been prepared and chosen a time and place that  
28 would have been more convenient for him than being pulled out of important legal meetings with



1 multiple attorneys. He would have also eaten properly and have been well rested for the  
2 examinations and focused on taking the exam with the full and complete understanding what it  
3 was for and the serious nature of the exam.

4 Because it is undisputed that the "medical" examination arranged for by Shelly (and her  
5 lawyers) were procured by under false pretenses (CC § 1572) and/or by undue influence CC §  
6 1575), these examinations should, to protect the integrity of the Court and the judicial process, be  
7 declared a nullity and of no legal force and effect. If the spouse who benefited from the  
8 transaction cannot demonstrate that the injured spouse had full knowledge of all relevant facts and  
9 a complete understanding of the effect of the transaction, the transaction should be ignored.  
10 *Marriage of Delaney*, (2003), 111 C.A. 4<sup>th</sup> 991, 996-997. Accordingly, Shelly's Petition should be  
11 dismissed.

12  
13 Dated: June 29, 2014

BLECHER COLLINS PEPPERMAN & JOYE, P.C.

14  
15  
16 By:

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DONALD T. STERLING

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**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 515 South Figueroa Street, Suite 1750, Los Angeles, CA 90071-3334.

On June 29, 2014, I served true copies of the following document(s) described as **RESPONDENT'S REPLY IN SUPPORT OF BRIEF RE SCOPE OF EVIDENTIARY HEARING** on the interested parties in this action as follows:

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**BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be sent to the persons at the e-mail addresses listed above.

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

Executed on June 29, 2014, at Los Angeles, California.

\_\_\_\_\_  
Lorelei L. Gerdine