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7

8 **SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY**  
9 **STANLEY MOSK COURTHOUSE**  
10

11 In the Matter of the Conservatorship of the Person ) Case No.: 17STPB06469  
12 and Estate of Theresa Jankowski )  
13 ) ASSIGNED FOR ALL PURPOSES TO: Hon  
14 ) David J. Cowan  
15 ) **RESPONSE TO *EX PARTE***  
16 ) **COMMUNICATION FROM THOMAS**  
17 ) **COLEMAN**  
18 ) **Date:** August 20, 2018  
19 ) **Time:** 8:30 am  
20 ) **Dept:** 3  
21 )  
22 ) Action Filed: July 20, 2017  
23 ) Trial Date: *Unassigned*  
24 )  
25 )  
26 )  
27 )  
28 )

21 TO ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD:  
22 PLEASE TAKE NOTICE that Proposed Conservatee Theresa Jankowski (“Jankowski”)  
23 hereby joins in Thomas Coleman’s requests to the Court that the Court: 1) Strike PVP Robert  
24 Risley’s (the “PVP”) reports from the record; 2) remove the PVP as counsel of record for  
25 Jankowski; 3) recognize Jankowski’s chosen attorneys as counsel of record herein.

26 As set forth in previous filings, Jankowski believes that the PVP has breached his fiduciary  
27 duties to Jankowski by: 1) completely abdicating his role as advocate; 2) taking a position openly  
28 antagonistic to Jankowski’s express wishes; 3) disclosing confidential information to the public; 3)

1 making false representations to the Court regarding his interaction with Jankowski; 4) seeking  
2 compensation for fees based on fraudulent billings; and 5) harassing and antagonizing Jankowski  
3 while she was recovering from a heart attack, and for other reasons.

4 **A. Advocacy Is not “Capitulation”**

5 The PVP argues that Counsel for Jankowski (“Counsel”) wants him to “capitulate.” He has  
6 so distorted his role that he has forgotten his duties require him to advocate *for* Jankowski *and not*  
7 the Petitioner. Acting as an advocate for Jankowski is not “capitulation” – it is just the opposite.

8 The onus is on the Petitioner to advocate for a conservatorship over Jankowski. Because his  
9 client has expressed her wishes not to be under a conservatorship (especially under Petitioner), it is  
10 the PVP’s obligation to do everything in his power to prevent such an outcome. Petitioner should  
11 advocate for the Petitioner and the PVP should advocate for Jankowski. The friction between these  
12 two opposing forces fleshes out the truth. If both the Petitioner and the PVP advocate for the  
13 Petitioner, then Jankowski gets “railroaded” into a conservatorship with no effective assistance of  
14 counsel – a violation of her due process rights.

15 **B. Jankowski’s Capacity is Irrelevant to the Proceedings**

16 In defense of his conduct, the PVP vehemently argues that Jankowski should be conserved –  
17 a violation of his duties in and of itself. As stated in Mr. Coleman’s communication to the Court  
18 and in multiple filings by Jankowski, whether a conservatorship is appropriate under these  
19 circumstances is irrelevant. Mr. Coleman’s letter and the Motion to Disqualify the PVP, and the  
20 objections to his reports do not concern Jankowski’s capacity – *they concern the conduct of the*  
21 *PVP*.

22 Of course, the case the PVP built against his own client is completely compromised by his  
23 own misconduct. The PVP has never at any point been willing to believe that Jankowski need not  
24 be conserved. He aggressively challenged Dr. Stephanie Moore’s opinion that she need not be  
25 conserved in a conversation that left Dr. Moore “flabbergasted.” (See Declaration of Dr. Stephanie  
26 Moore filed June 8, 2018). The PVP requested Dr. Trader (by name) be appointed twice before he  
27 was appointed. (See Compendium of Evidence in Support of Motion to Disqualify the PVP  
28 (“COE”) **Exhibit 3**, 4:21-5:21). The PVP then spent hours communicating with Dr. Trader prior to

1 the filing of his report. He failed to contact Detective DeHart, the detective investigating financial  
2 elder abuse by Jankowski's alleged abusers. He did, however, have numerous conversations with  
3 these alleged abusers. (See Third Report by PVP filed April 13, 2018).

4 **C. The PVP Is Attempting to Shift the Focus away from Himself by Accusing**  
5 **Counsel of Abuse**

6 Again, rather than address the merits of Mr. Coleman's *ex parte* communication, the PVP  
7 attacked Counsel, Sharon Holmes and Elaine Watrous. Counsel has only ever advocated for  
8 Jankowski. In an effort to be transparent, Counsel has filed an accounting with the Court on  
9 December 14, 2017. There has been no objection to the accounting by either the PVP or Petitioner.

10 On January 31, 2018, Counsel even requested in a filing to the Court, that a *neutral*  
11 guardian *ad litem* be appointed to make sure that Jankowski's interests were fairly represented by  
12 the PVP. (See Proposed Conservatee Theresa Jankowski's Brief re OSC filed January 31, 2018)  
13 The Court declined to appoint a guardian *ad litem*.

14 Counsel has asked that the PVP not see Jankowski as he has endangered her health and  
15 antagonized her at a critical junction in her recovery from a heart attack to the point that she called  
16 him "a real snake." Jankowski has repeatedly blamed her heart attack on these proceedings and the  
17 conduct of the PVP. He engaged in such conduct with full knowledge that Jankowski did not want  
18 to see him. (See Declaration of Jankowski filed January 31, 2018;

19 Sharon Holmes received compensation for placing Ms. Jankowski in her home (before the  
20 commencement of these proceedings). She has not received any compensation thereafter. (See  
21 Declaration of Sharon Holmes, filed January 31, 2018).

22 Elaine Watrous has never received any compensation from Jankowski at any point. Her  
23 services are rendered at no charge. Both Ms. Holmes and Ms. Watrous are acting out of genuine  
24 affection for Jankowski and concern over her health and welfare if she is not protected from  
25 Petitioner and the PVP.

26 **D. The Court Has Not Recognized Counsel**

27 Counsel is listed on the Court website as a "Personal Representative." Local Rule 4.126  
28 states in pertinent part, that "[o]nly the PVP attorney appointed by the court may render legal

1 services to the client and appear at hearings.” Counsel has never been officially recognized as  
2 Counsel of Record. The PVP, as an apparent agent of the Court, has been anything but “courteous.”  
3 He has repeatedly accused counsel of abuse, argued that the Court should ignore Counsel referring  
4 to them as “intermeddlers,” declined to meet and confer; filed a frivolous and spiteful application to  
5 set OSC re sanctions against Counsel and Elaine Watrous (See Application filed January 2, 2018),  
6 and referred to Mr. Rasch as “Mr. Trash” in Court.

7 Because the PVP is acting as an apparent agent of the Court and the Court has not  
8 recognized Counsel as counsel of record, Jankowski has been denied effective assistance of  
9 counsel.

10 **E. Conclusion**

11 Mr. Coleman’s letter accurately sets forth “brazen” breaches of fiduciary duties by the PVP.  
12 Jankowski joins in Mr. Coleman’s recommendation that the Court 1) Strike PVP Robert Risley’s  
13 (the “PVP”) reports from the record; 2) remove the PVP as counsel of record for Jankowski; 3)  
14 recognize Jankowski’s chosen attorneys as counsel of record herein.

15  
16 DATED: August 10, 2018

17 ALBERT J. RASCH & ASSOCIATES

18  
19 By: 

20 ALBERT J. RASCH

21 BROOK JOHN CHANGALA

22 Attorneys for Proposed Conservatee, Theresa  
23 M. Jankowski  
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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA )  
3 )  
4 COUNTY OF ORANGE )

5 I am employed in the County of Orange, State of California, I am over the age of 18 years and not a  
6 party to the within action; my business address is 1970 Old Tustin Avenue, Santa Ana, CA 92705.  
7 My electronic notification address is bchangala@changalalaw.com

8 On this date, I served on the interested parties in said action the within: **RESPONSE TO EX**  
9 **PARTE COMMUNICATION FROM THOMAS COLEMAN** as stated below:

10 SEE SERVICE LIST

11  
12  
13 X (By Email) by transmitting a true copy of the foregoing documents to the email addresses set  
14 forth above.

15        (By Mail) I deposited such envelope in the mail at Santa Ana, California. The envelope was  
16 mailed with postage thereon fully prepaid.


17        (By Facsimile) In addition to regular mail, I sent this document via facsimile, number(s) as listed  
18 on the attached mailing list.

19        (By Personal Service) Such envelope was delivered by hand to the below addressee.

20        (By Overnight Mail) I arranged for such envelope to be delivered to the following addresses by  
21 overnight mail.

22 Executed on August 10, 2018, at Santa Ana, California.

23 I declare under penalty of perjury under the laws of the State of California that the above is true and  
24 correct. I further declare that I am employed in the office of a member of the bar of this court at  
25 whose direction the service was made.

26   
27 \_\_\_\_\_  
28 BROOK JOHN CHANGALA

SERVICE LIST

<p>Lauriann Wright Wright Kim Douglas, ALC 130 S. Jackson Street Glendale, CA 91205 lauriann@wkdlegal.com</p>	<p>Attorney for Petitioner Jodi Pais Montgomery</p>
<p>Robert Risley The Law Office Of Robert L. Risley 790 E. Colorado Blvd, 9<sup>th</sup> Floor Pasadena, CA 91101-2193 bob@risleylaw.com</p>	<p>PVP Counsel for Proposed Conservatee, Theresa Jankowski</p>