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9 Estate of May T. Millete aka Maya Millete
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Superior Court of California,
County of San Diego
3/14/2024 2:38:08 PM

Clerk of the Superior Court
By S. Pacifico, Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN DIEGO
10 CENTRAL PROBATE DIVISION

11 In Re:

12 Conservatorship of May T. Millete aka
13 Maya Millete

Case No.: 37-2023-00017948-PR-CE-CTL
ROA # **50**

PETITION:

- 14 **1. FOR PARTITION OF REAL PROPERTY;**
- 15 **2. TO RETURN ASSETS TO CONSERVATEE;**
- 16 **3. FOR RECOVERY OF DAMAGES FOR BREACH OF FIDUCIARY DUTY; AND**
- 17 **4. FOR EQUITABLE ALLOCATION OF PROCEEDS OF SALE OF REAL PROPERTY**

18 [Cal. Code Civ. Proc. § 872.230; Prob. C. §
19 850; Fam. Code 1100, 721]

20 Date:
21 Time:
22 Dept.:
23 Judge:

1 Petitioner, Kaitlyn Welling, as Conservator of the Estate of May T. Millete aka Maya
2 Millete hereby files this Petition: (1) For Partition of Real Property; (2) to Return Assets to
3 Conservatee; (3) For Recovery of Damages for Breach of Fiduciary Duty; and (4) For Equitable
4 Allocation of Proceeds of Sale of Real Property, as follows:

5 **INTRODUCTION**

6 1. The purpose of this Petition is three-fold: (1) to request the court order partition by
7 sale of the home owned by Conservatee and Respondent Larry Millete, so that the home can be
8 sold in lieu of foreclosure with net sales proceeds deposited to a blocked account; (2) to recover
9 damages from Respondent pursuant to Family Code sections 721 and 1100 for breach of fiduciary
10 duty in managing community assets from January 7, 2021 to present; and (3) to order recovery of
11 those damages from the net sales proceeds in equitable division amongst the parties.

12 2. Petitioner requests that this petition be bifurcated such that the Court order partition
13 by sale and the remaining issues of damages and allocation after time for discovery at a future date.

14 **JURISDICTION AND VENUE**

15 3. The Court has jurisdiction to hear this matter pursuant to Probate Code sections
16 2200 through 2202 on the grounds that Conservatee resides in this County and the real property
17 that is the subject of this petition is located in San Diego County.

18 **BACKGROUND FACTS**

19 4. Conservatee May T. Millete aka Maya Millete (“Conservatee”) and Respondent
20 Larry Millete (“Larry¹”) are married. Conservatee has been missing since January 7, 2021.
21 Respondent is in custody and awaiting trial regarding Conservatee’s disappearance.

22 5. Petitioner Kaitlyn Welling was appointed as Conservator of the Estate of May T.
23 Millete aka Maya Millete (“Petitioner”) on August 16, 2023. At all times since August 16, 2023,
24 Petitioner has served as Conservator of Conservatee’s estate.

25 6. On March 11, 2024, the Court authorized Petitioner to file this petition to request
26 that the Court order sale of the real property that is the subject of this petition in order to protect the
27 _____

28 ¹ Petitioner refers to the parties by their first names to avoid confusion. No disrespect is intended.

1 interests of the Conservatee.

2 7. On or about July 31, 2013, Conservatee and Larry acquired the real property located
3 at 2413 Paseo Los Gatos, Chula Vista, CA 91914 (the “Real Property”), taking title as: “LARRY I.
4 MILLETE and MAY T. MILLETE, Husband and Wife as Community Property”. A true and
5 correct copy of the Grand Deed, recorded as Doc. No. 2013-0482492, in the San Diego County
6 Recorder, is attached hereto as Exhibit A.

7 8. The Real Property is subject to a mortgage with Navy Federal Credit Union in the
8 original principal amount of \$596,380 (the “Mortgage”). Other than the Mortgage, Petitioner is not
9 aware of any other liens or encumbrances on the Real Property.

10 9. The Mortgage is subject to foreclosure as a result of the failure to pay monthly
11 mortgage payments. Petitioner is informed and believes that the Mortgage has not been paid since
12 November 2021.

13 10. As a result of the failure to make ongoing mortgage payments and the likelihood of
14 foreclosure, the Real Property needs to be sold.

15 **PETITION FOR PARTITION**

16 11. Respondent Larry Millete, is, and at all times mentioned in this petition, an
17 individual residing in the State of California, County of San Diego.

18 12. Respondent Benito Millete, is, and at all times mentioned in this petition, an
19 individual residing in the State of California, County of San Diego. Petitioner is informed and
20 believes that Respondent Benito A. Millete is serving as power of attorney for Larry Millete.

21 13. Pursuant to Code of Civil Procedure sections 872.010 and 872.110, the Superior
22 Court of California has jurisdiction over this action.

23 14. San Diego County is the proper venue for this action because the real property that
24 is the subject of this action is located in San Diego County.

25 15. The Real Property that is the subject of this action and on which partition is sought
26 is located at 2413 Paseo Los Gatos, Chula Vista, CA 91914-4431 in San Diego County, California
27 and identified as follows:

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APN: 595-771-48-00

Lot 58 of Chula Vista Tract 99-04 San Miguel Ranch, Planning Area "I", in the City of Chula Vista, County of San Diego, State of California, according to Map thereof No. 14381, filed with the County Recorder of San Diego County, California on April 29, 2002.

The Real Property is located in San Diego County, California.

16. There exists a mortgage on the Real Property held by Navy Federal Credit Union, with an estimated principal balance outstanding of \$575,000.

17. Partition is sought as to the fee simple estate in the Real Property.

18. Petitioner has a 50% interest as a tenant-in-common in the Real Property.

19. Respondent Larry Millete has a 50% interest as a tenant-in-common in the Real Property.

20. Prior to the commencement of this action, Petitioner was required to obtain a title report. The title report is in the possession of Petitioner's counsel and is available for inspection and copying by the parties to this proceeding.

21. Petitioner requests that the Real Property be partitioned for sale. Such mode of partition is equitable and required because the Real Property is a single-family residence. There is no practical way to otherwise partition the property.

22. This action is brought and partition is sought herein, for the common benefit of the parties, to preserve and secure to each of them his or her respective interests in their rights to the Real Property, and Petitioner has incurred, and will incur, costs of partition herein, including reasonable attorneys' fees, for the common benefit of the parties hereto, in an amount not yet ascertainable.

PETITION FOR ACCOUNTING OF COMMUNITY PROPERTY; RECOVERY OF CONSERVATEE'S INTEREST IN COMMUNITY PROPERTY; AND FOR DAMAGES PAYABLE FROM RESPONDENT'S COMMUNITY PROPERTY INTEREST IN HOME

23. Petitioner is informed and believes that all assets of Conservatee and Respondent Larry Millete are community property. Accordingly, Conservatee has a 50 percent interest in all community property assets.

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<u>Name and Address</u>	<u>Relationship</u>
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	
May T. Millete aka Maya Millete 2413 Paseo Los Gatos Chula Vista, CA 91914	<i>Conservatee</i>
Olga Nazimova, Esq. 1011 Camino Del Mar, #234 Del Mar, CA 92014	<i>Guardian Ad Litem for May T. Millete aka Maya Millete</i>
Larry Millete (21140844) Vista Detention Facility 451 Riverview Parkway, Building "C" Santee, CA 92071	<i>Respondent; Co-Owner of Real Property</i>
Colby Ryan, Esq. Virtus Law Group Wells Fargo Plaza 401B Street, Suite 2010 San Diego, CA 92101	<i>Courtesy Copy; Attorneys for Respondent Larry Millete</i>
Benito A. Millete 2413 Paseo Los Gatos Chula Vista, CA 91914	<i>Power of Attorney for Respondent Larry Millete</i>
Bonita P. Martinez, Esq. 16885 West Bernardo Drive, Suite 108 San Diego, CA 92127	<i>Courtesy Copy; Attorneys for Benito A. Millete</i>

PRAYER

WHEREFORE, Petitioner prays for an Order of the Court as follows:

1. A preliminary injunction to maintain the *status quo* by prohibiting any of the co-owners from leasing or renting the Real Property during the pendency of the partition action;
2. Respondent Larry Millete is ordered to account for income and expenses of the Real Property from January 7, 2021 to present;
3. May T. Millete aka Maya Millete, and Respondent Larry Millete are each co-owners of the Real Property;
4. No other persons have any ownership interest in the Real Property;
5. Entering an Order and Judgment that the Real Property be sold and that from the proceeds of any sale be deposited to a blocked account until further Order of this Court;
6. Respondent Larry Millete is ordered to account for all community property assets of Larry Millete and May T. Millete aka Maya Millete from January 7, 2021 to present;

1 7. Recovery of Conservatee’s interest in community property assets which have been
2 wrongfully used or removed by Respondent Larry Millete, in an amount to be proven at trial, but
3 believed to be in excess of \$100,000;

4 8. Recovery of damages for breach of fiduciary duty pursuant to Family Code 721 and
5 1100, *et seq.*, in an amount to be proven at trial, but believed to be in excess of \$100,000;

6 9. The costs and expenses of this action and the sale be paid, and the net proceeds then
7 be divided between Petitioner, Kaitlyn Welling, as Conservator of the Estate of May T. Millete aka
8 Maya Millete, and Respondent Larry Millete in accordance with their respective interests and
9 subject to any reimbursements, damages or equitable allocations of community property pursuant
10 to this petition;

11 10. The costs of partition, including attorneys’ fees, pursuant to Code of Civil Procedure
12 sections 874.010 and 874.040; and

13 11. Any further such orders as the Court may deem just and proper.

14
15 Dated: March 14, 2024

HENDERSON, CAVERLY & PUM LLP

16
17 By: Lisa B. Roper
18 Lisa B. Roper
19 Attorneys for Kaitlyn Welling, Conservator of the
20 Estate of May T. Millete aka Maya Millete
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1 **OLGA NAZIMOVA, ESQ., CSB #129501**
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Superior Court of California,
County of San Diego
5/8/2024 4:41:38 PM

6 Attorney for May T. Millete

Clerk of the Superior Court
By E. SDCourt, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

7
8 In Re: General Conservatorship of)
9 The Estate of:)
10 May T. Millete.)
11)
12)

Case No.:37-2023-00017948-PR-CE-CTL
COURT APPOINTED ATTORNEY REPORT
Date: May 13, 2024
Time: 11:00 am
Dept: 503
Judge: Hon. Olga Álvarez

13 I, Olga Nazimova, am a duly licensed attorney in the State of California, hereby declare the
14 following:

15 I was appointed by the court on May 2, 2023 to represent the May T. Millete, pursuant to
16 California Probate Code §1471. I have been licensed to practice law before all courts in the State of San
17 Diego continuously since September 1, 1987.

18 I am fully competent and qualified to understand and protect the rights of the proposed
19 conservatee with respect to the pending matters;

20 I have met all applicable requirements and am present qualified to serve on the court's roster of
21 court-appointed attorneys;

22 I have no past or present attorney-client relationship with, nor have I served as conservator for any
23 person appearing in these proceedings; and

24 I have no adverse interest(s) to those of the conservator or conservatee in this matter.

25 This is also my notice that I intend to appear at this upcoming and any and all further hearings via
26 Microsoft Teams.

27 I have reviewed the Petition to Determine Claim to Property which was served upon me by
28 Attorney Lisa Roper, Attorney for the Conservator of the Estate of May T. Millete.

1 The real property, the subject of this Petitioner and which is located at 24132 Paseo Los Gatos,
2 Chula Vista, Ca 91914, was the Millete's family home and where the minor children currently reside
3 alongside their paternal grandparents.

4 The house has had a tumultuous mortgage payment history and was set for foreclosure but a
5 forbearance was achieved which saved this major asset from being lost. The real property is a community
6 asset which has value and which value needs to be converted into cash and the Ms. Millete's community
7 property share of this asset must be preserved as it would belong to her estate. Therefore, there is no
8 opposition to this Partition Action and it is fully supported on behalf of Ms. Millete.

9 It is also believed that a large amount of personal property belonging to Ms. Millete in addition
10 to her community share of the personal property has been misappropriated or converted without any
11 accounting for such assets.

12 It is important that recovery of these assets proceed and that if in the course of this investigation
13 these assets are not recoverable then it would be imperative that the value is established for those assets
14 be set off from Mr. Millete's share of the community property, especially if breach of fiduciary duty has
15 been established.

16 Furthermore, it is be imperative that any and all monies obtained via sale of the Real or any
17 Personal Property be put into a blocked account, until further order of the court.

18 There is no opposition to the request for a preliminary injunction to maintain the status quo by
19 prohibiting any of the co-owners from leasing or renting the Real Property, the subject of this Partition
20 Action which could stifle the sale of the property and the investigation into the assets.


21 It is believed that this property must be sold and all assets accounted for and without a court order,
22 this estate will languish with further loss to Ms. Millete.

23 Under the Laws of the State of California, I declare under penalty of perjury to the best of my
24 belief and information that the foregoing is true and correct.

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May 7, 2024

Respectfully submitted



Olga Nazimova, CAA for May T. Millete, a.k.a. Maya Millete